



A.L. Goodhart

William Goodhart, QC

LSE Law, Society and Economy Working Papers 1/2010

London School of Economics and Political Science

Law Department

This paper can be downloaded without charge from LSE Law, Society and Economy Working Papers at: www.lse.ac.uk/collections/law/wps/wps.htm and the Social Sciences Research Network electronic library at: <http://ssrn.com/abstract=1536089>.

© William Goodhart, QC. Users may download and/or print one copy to facilitate their private study or for non-commercial research. Users may not engage in further distribution of this material or use it for any profit-making activities or any other form of commercial gain.

A.L. Goodhart

William Goodhart, QC*

My father, Arthur Lehman Goodhart, was born in New York City on the 1st of March 1891 into a wealthy Jewish family. He was the last of the three children of Philip and Hattie Goodhart.

Both his parents came from families which had profited greatly from the astonishing economic growth of the USA. Arthur's paternal grandfather, Julius Goodhart, came from a Jewish family which had originally settled in Holland – Goodhart is a Dutch name – but which had moved to Germany by the time of his birth. He emigrated to the USA in 1837 and settled in Cincinnati. When he got established he sent home to Germany for a wife, and Rosa Rosenbaum was duly supplied. He became a prosperous grain dealer and remained in Cincinnati for the rest of his very long life. He was a founding member of the first Reform Synagogue in the USA. Two of his sons – one of whom was Arthur's father Philip – moved to New York and together set up a successful stock broking firm.

The story of my father's maternal grandfather, Mayer Lehman, was much more dramatic. He too came from Germany. He emigrated to the USA in 1848 to join two of his elder brothers, one of whom died of yellow fever not long afterwards. They settled in Montgomery, Alabama. They started business as pedlars, going round to plantations with a horse and cart selling goods needed by the plantations. The plantation owners had a lot of cotton and not much cash, so they preferred to pay in cotton rather than cash. Mayer and his brothers, as a result, became within a few years cotton dealers on a very large scale.

* This is the text of a lecture delivered by Lord Goodhart to the Law Department of the London School of Economics, under the auspices of the Department's Legal Biography Project, on 1 December 2009.

A few years before the start of the Civil War, Mayer's surviving brother Emanuel moved to New York and developed the family business into general commodity dealing and from that into merchant banking, leaving Mayer to manage the cotton business in Montgomery. The bank was founded in 1858. As you will have guessed by now, it was called Lehman Brothers. I must explain that the Lehman family, for many years past has had no connection with the management or ownership of Lehman Brothers. I disclaim any personal responsibility for the financial crisis. Of course, had the family remained in charge my brother Charles would have been running Lehman Brothers and there would have been no crisis.

To return to the 1850s, Mayer married Babette Newgass, a member of a family from Wurzburg with which the Lehmans were closely associated. My grandmother Hattie was born in 1861 in Decatur, Alabama – the eldest of their seven children. Mayer and his family remained in Alabama during the Civil War, and he was sufficiently respected by the Government of Alabama to be asked to visit its soldiers held in Union prisoner of war camps and to arrange funding to help them, though the Union Government refused to permit the visit. However, the economic collapse of the South at the end of the Civil War led to his moving himself and his family to join his brother in New York. Some years later, Philip Goodhart married Hattie Lehman, and at the time my father was born, his parents were living in a house on West 88th Street in Manhattan just west of Central Park. That was then – and to a certain extent still is – a fashionable area.

The community into which my father was born had two notable features – wealth and Judaism. The first of these was relatively unimportant to him. He was never interested in making money, though with his abilities he could easily have done so. Nor was he a great spender of the considerable wealth he inherited. He lived comfortably but not luxuriously. Unlike several other members of his family, he did not collect art. His favourite foods were pork pies and milk chocolate - rather inappropriate for a Jew.

Judaism affected him, but in a different way. His parents regularly attended religious services on the Sabbath, but they belonged to Reform Judaism, which had rejected observance of the dietary laws and many other rules of Orthodox Judaism. I am sure that my father gave up religious belief at an early age, but he remained faced with anti-Semitism, which was active in the USA. It was exacerbated at about the time of my father's birth by the influx of poor Jews fleeing the pogroms of Eastern Europe (ironically, anti-Semitism was less prevalent in the southern states). Of course Jews and Gentiles did business with each other, but banks and law firms tended to be either Gentile or Jewish. There was little social contact between Jews and Gentiles. Gentlemen's clubs in New York excluded Jews, and Jews had their own clubs. Some holiday resorts were for Gentiles, and others for Jews. Most of the leading private schools and universities admitted Jews, but within strict quota limits.

My father went to one of these schools – Hotchkiss. In 1908 he went to Yale. He was a sociable and popular young man, and was elected to membership of one of the student fraternities which had a branch at Yale. He was the first Jew to have been elected. The outcome of this was that the Yale branch of the fraternity was expelled by its national headquarters. He was a successful student, getting high marks in his examinations. He was also a member of the cross-country running team, though his poor eyesight ruled him out as a success in ball games.

He graduated in 1912, and then took what turned out to be a life-changing decision. It was assumed by his family – and indeed by himself – that he would go to work in Lehman Brothers. However, he decided that he was in no hurry to do that, and he chose to come to England and the University of Cambridge to do a second degree. He got a place at Trinity College and, on arriving, went to see the tutor to whom he had been allocated, a Mr Morley Fletcher. According to my father the tutor said to him, "Now you are here, Mr Goodhart, what do you want to read?" My father replied, "I am supposed to be becoming a banker, so I guess I had better read economics." Mr Morley Fletcher said, "Unfortunately the College fellow in economics is away this year. If you really want to read economics, we can arrange for you to be taught by a young Fellow of Kings called Keynes, but nobody thinks he's very sound. Why don't you read law instead?" My father took this excellent advice. His law tutor was Harry Hollond, a young fellow of Trinity only a few years older than my father, who later became a Professor and Vice-Master of Trinity and was a lifelong friend of my father. My father claimed that many years later he told the story to Keynes. Keynes was not amused.

My father arranged to do a two-year degree course. He greatly enjoyed his time at Cambridge and became an enthusiastic Anglophile. His closest friends among the graduate students were George Thomson and Lawrence Bragg, both of whom, together with their fathers, were later to receive Nobel Prizes for Physics.

In June 1914 my father was awarded First Class honours in his examinations and received his Cambridge degree. He returned to New York, where he joined the City Corporation Counsel's office. His decision to follow a legal career rather than banking is unlikely to have caused any upset in his family, since one of his uncles, Irving Lehman, was a distinguished lawyer who later became the Chief Judge of the New York State Court of Appeals, the highest judicial post in the State. Following the outbreak of the First World War, Arthur sought to volunteer for service in the British army, but fortunately, he was rejected because of his poor eyesight. Following American entry into the war in 1917, he joined the American army and, again because of his poor sight, served in the Ordnance Service rather than on the front line.

Shortly after the end of the War, my father met Harry Hollond in Paris. Harry asked him if he would be interested in a lectureship in law at Cambridge, starting in the following year when the University reopened after its closure during the War. My father said he would, and in due course he was appointed to a University lectureship and to a fellowship at Corpus Christi College.

Why did Arthur take this decision? The family view is that an important reason was to put the Atlantic between him and his mother. Hattie was the archetypal Jewish matriarch. She was a small but formidable woman. Some thirty years ago a book called "Our Crowd" was written about the grand Jewish families of New York. It started with a chapter about "Granny Goodhart", as she was called in the book, and her division of the world into "People we know" and everybody else. I remember her because during the Second War my brothers and I were evacuated to the USA and spent about three months a year with my father's parents. She was kind to me and taught me how to play gin rummy, but I could see her force. Her husband Philip was a delightful and entertaining man but pretty much under her thumb. Her elder son, my Uncle Howard, was required by her to come to their apartment every day to report on his day's activities. It would not be surprising if my father wanted to keep the Atlantic between him and Hattie. The Atlantic was in those days much wider than it is now – seven days to cross, instead of seven hours.

Another reason – and again it is conjecture, but a very probable one – is that anti-Semitism was much less a problem for him at Cambridge than it had been in New York or at Yale. There was of course anti-Semitism in England at that time, but it was not strong in the academic community. My father never made any attempt to conceal his Jewishness, but his friends in England were both Jews and Gentiles; he was not a practising Jew; and Arthur Goodhart is not an obviously Jewish name. The film *Chariots of Fire* suggested that there was serious anti-Semitism in Cambridge University in the early 1920s, but I think that was overplayed. There may of course have been other reasons for my father's decision; perhaps he simply did not want to go back to the City Counsel's Office in New York and jumped at the offer of an appointment which he thought he would enjoy.

There was, however, one further activity which Arthur undertook before his release from the army and which led to his first book. He was appointed to be a junior member of an American Commission sent, at the request of President Paderewski of Poland, to investigate reports of wholesale killings of Jews in Poland. The mission spent two months in Poland, from mid-July to mid-September 1919. Poland had, of course, only just re-emerged as an independent state after being partitioned for more than a century between Germany, Austria-Hungary, and Russia. My father kept a diary of the mission, an edited version of which was published under the title *Poland and the Minority Races*. The mission was led by Henry Morgenthau Sr, a Jew who had earlier been the American Ambassador to Turkey and whose son, Henry Jr, married my father's favourite cousin and later became Roosevelt's Secretary of the Treasury. The mission conducted its work thoroughly. It found no evidence of organised massacres, but there had been murders and looting by Polish troops a few months earlier, and relations between Poles and Jews were bad, particularly in the parts of Poland previously governed by Russia. Ironically, in view of what was to happen later, the

book reported that Jews in Poznan and other parts of the country previously governed by Germany felt that they had been better treated by the Germans than by the Poles, and many of them had emigrated to Germany.

Shortly after the end of the Mission Arthur took up his post as Lecturer at Cambridge University and was elected to a fellowship at Corpus Christi College. Corpus Christi was a small college, but it had a number of young and lively fellows, including Rab Butler (though he and my father were not particular friends) and Kenneth Pickthorn, who was a good friend and later became an MP for Cambridge University in the days when the universities elected MPs. My father took the English Bar Examination and was called to the Bar by Lincoln's Inn. He was instructed as junior counsel in a few cases but never sought to develop a regular practice.

In 1921 Arthur, together with Harry Hollond, started the *Cambridge Law Journal*, a legal periodical. He wanted to model it on the legal periodicals published by Harvard and other leading American law schools, where students administer the journal, write the case notes – that is, comments on significant recent court decisions – and commission articles from established legal scholars. This did not work because law was an undergraduate subject at Cambridge, and the undergraduates were not willing to do the amount of extracurricular work which the postgraduate students at American law schools were prepared to undertake. As a result, my father started writing the case notes himself.

In 1924 Arthur married Cecily Carter, whose father and grandfather had owned the leading firm of Chartered Accountants in Birmingham. She had been an undergraduate at Newnham College, Cambridge. She was not a student of my father, as she read history. They met when one of her examiners, who was a Fellow of Corpus Christi, invited her to tea because, as he claimed, she had written the best papers he had ever read written by someone who clearly knew nothing about the subject. The examiner asked my father to the same tea.

The marriage of a non-practising Jew and a devout Anglican seems not to have created a problem on either side. My father was only the second of the many descendants of Mayer Lehman to marry out of Judaism, but as my father had reached the age of 33, his parents may have felt that it was time for him to get married, whether to a Jew or a Gentile. Cecily's parents, as far as I know, also did not demur. My father bought a house in Cambridge from the widow of George Mallory, the famous mountaineer who had just died on Mount Everest. My brother Philip was born in 1925, I followed in 1933, and my brother Charles in 1936.

The marriage was not a happy one until its later years. Cecily was an exceptional beauty and had many suitors, but she had difficulty in forming personal relationships and took a prudish view about proper behaviour. Arthur, by contrast, had perhaps too broad a view. During the War, when my brothers and I had been evacuated to the USA, my parents lived separate lives – my father in Oxford, my mother in London. They came together again when we returned from the USA in 1945. However, the real turning point came when my father was

elected the Master of University College Oxford in 1951. My mother took great trouble in arranging hospitality for the undergraduates, graduate students, and Fellows of the College. My father was very grateful for this, and until his death in 1978 they lived quite happily together.

I return to 1925. The *Law Quarterly Review*, which was the leading legal periodical, had been founded some fifty years earlier by Sir Frederick Pollock, a famous legal scholar. Pollock had edited the LQR until some three or four years previously, when he retired and appointed a young academic to succeed him. However, the new editor died unexpectedly, and Pollock returned as editor while looking for another successor. Arthur's experience with the *Cambridge Law Journal* made him an obvious candidate, and Pollock duly appointed him. Arthur, who was a total workaholic, continued to be the editor of the LQR and the author of most of its case notes for 45 years. He then took the more or less honorary post of editor-in-chief for five years. In 1975 there was a great celebration of his 50 years as editor. He became the honorary editor for the rest of his life.

There can be little doubt that Arthur's editorship of the LQR was the most important element of his professional life. He was a very good lecturer, with a style, clarity, and wit which guaranteed full attendance at his lectures in Cambridge and Oxford. However, his case notes in the LQR and the longer articles which he wrote – mostly also for the LQR – reached far beyond the world of students. They were read by many senior judges and practitioners. His clear and careful analysis of decisions and his trenchant criticisms where he thought judges had gone wrong were very effective. Most of the great legal scholars of the previous two generations, such as Pollock, Maitland, and Holdsworth (who was a good friend of Arthur) were historians rather than commentators on current developments. I think it is fair to say that my father's case notes and articles had far more influence on the current thinking of the judiciary than the work of any previous academic. In addition, his sociability led to his personal friendship with many of the leading judges of his time. These included Lord Wright, Lord Greene, Lord Cohen, Lord Asquith, and above all Lord Evershed, who was probably his closest friend. This provided an informal route for his influence.

Although my father never wrote a textbook, he wrote many articles in the LQR and elsewhere, and some of them, together with a number of lectures which he gave, were printed and published in books. These books included *Essays in Jurisprudence and the Common Law*, printed in 1931; *Precedent in English and Continental Law*, 1934; *English Contributions to the Philosophy of Law*, 1949; and *Five Jewish Lawyers of the Common Law*, 1950.

Returning to the chronology of my father's life, he and my mother spent the academic year 1928-29 at Yale, where he was a visiting professor. In 1931 there was a major change in my father's life when he was elected to the Chair of Jurisprudence at Oxford. Since in Oxford – unlike Cambridge – Chairs are attached to particular colleges, he became a Fellow of University College, or "Univ".

Jurisprudence is a word which can be interpreted in a number of ways. One of these is the philosophy of law. Arthur's successor when he retired from the Chair of Jurisprudence, Herbert Hart, was a philosopher of international renown, as was made clear by Prof. Lacey's brilliant biography. My father however was not a philosopher, and his approach to the subject was pragmatic. He was concerned with the way in which legal systems operated and the analysis of legal principles such as judicial precedent and *ratio decidendi*. Probably his most notable work is contained in the Hamlyn Lectures, which he gave in 1952, a year after his retirement from his Chair. These were a series of four lectures which were later published under the title *English Law and the Moral Law*. In it, he argued that the strength of English law was based to a large extent on the fact that citizens "recognised that they are under an obligation to obey the law, and that this sense of obligation is based not on force or fear, but on reason, morality, religion and the inherited traditions of the nation".

In 1938, Arthur was elected an honorary Bencher of Lincoln's Inn. He remained in Oxford throughout the war. The University did not shut down, as it had done during the First World War. It took in a number of young men of 17 for a first year of study before joining the armed forces. It continued to take in female students – including, of course, Hilda Margaret Roberts, though she did not study law at that stage. My father helped to organise short courses for American officers who were stationed in England waiting for D-Day. He joined the Home Guard, and according to his stories, "Dad's Army" was pretty realistic. In 1940, he was appointed Chairman of the Southern Region Price Regulation Committee, a tribunal which enforced price controls during the war and the post-war years until 1951. In 1943, to his great pleasure, he was appointed an honorary QC, and in 1948, to his even greater pleasure, he was awarded a knighthood in recognition of his services to Anglo-American relations during the war. As an American citizen – as he remained throughout his life – it was an honorary knighthood which did not permit him to call himself "Sir Arthur". This much annoyed my mother. He also served as a member of a number of important Committees, including the Monopolies Commission and the Law Revision Committee. The most important of these posts was his membership of the Royal Commission on the Police, where he wrote a dissenting report expressing the view that there should be a single police force for the whole of England.

In 1951 a vacancy arose for the Mastership of Univ, and Arthur was elected as the new Master by the Fellows of the College – I believe unanimously. He claimed that he had accepted the post on two conditions – that he did not have to attend services in the Chapel and that he did not have to attend the meetings of the College Musical Society. His interest in music and the arts was non-existent.

On becoming Master he resigned as Professor of Jurisprudence but continued to be active in the legal world through the LQR, articles and lectures on legal issues, and letters to newspapers. My parents greatly enjoyed their time in the Master's Lodgings at Univ and led a busy social life. The high point of this happened in 1953, when my parents were asked to entertain the Crown Prince of

Japan – the present emperor – who had come to Britain to attend the Coronation and was paying a visit to Oxford where his uncle had been a student before the War. The visit was not a great success – the Crown Prince was supposed to stay for two nights, but after the first night he claimed to have developed a cold and retreated to London. However, my father became a good friend of the Crown Prince's tutor. A few years later my parents visited Japan and were warmly welcomed.

In 1956 Arthur became a prominent supporter of the British and French seizure of the Suez Canal and argued that it was justifiable in international law – a view with which I strongly disagreed then and now. He became an informal adviser to Anthony Eden and a personal friend who used to visit Eden in his retirement.

Arthur, with a contribution from his sister Helen's husband, Frank Altschul, gave the funds for a residential building for undergraduates to Univ. It is called the Goodhart building, and has been a valuable addition to the College buildings. My father was due to retire on reaching the age of 70 in 1961, but his term of office was extended for two years so that the Goodhart building could be opened while he was still the Master.

During the three years following his retirement Arthur successively held visiting professorships at the law schools of Harvard, the University of Virginia (which my parents particularly enjoyed), and McGill University in Montreal. After that, my parents divided their time between Oxford (where they lived in a penthouse on top of the Goodhart Building) and an apartment in Manhattan. The New York City Bar Association provided him with an office.

My father had many friends and a large cousinry in New York, and to a lesser extent elsewhere in the USA. In fact, one of his most notable features was his remarkable Transatlanticity. He had by this time acquired 18 honorary degrees, 12 of which were from American universities (the others were 4 from the UK and one each from Canada and Australia).

There were no lawyers of his time, and few people from other walks of life, who were as deeply embedded as Arthur in both sides of the Atlantic. He spent most of his working life in England, but remained closely in touch with events and thinking in the USA, and had considerable influence there. This was partly through his family. His uncle Herbert Lehman was successively Governor of New York State, head of UNRRA (the United Nations Relief and Rehabilitation Administration), and a US Senator for New York State. Frank Altschul was the Chairman of the influential Council on Foreign Relations. Arthur's sociability gave him many friends among the legal community – lawyers, academics, and judges – and indeed beyond it among diplomats, bankers, and politicians. Arthur's most influential connection was, I think, with Felix Frankfurter. They became close friends when Frankfurter was a visiting professor at Oxford in 1935. Frankfurter, who was a professor at the Harvard Law School, had been very active in support of Roosevelt's New Deal and was later to become a Justice of the

Supreme Court. Arthur was an active member of the American Law Institute. As was, I think, inevitable all Americans thought Arthur spoke with an English accent, and all Brits thought he spoke with an American accent.

In 1971 Arthur reached the age of 80. In his honour, Frank Altschul donated the Goodhart Professorship to the University of Cambridge. This is a Chair which is awarded for a year at a time to distinguished academics, judges, or lawyers from any part of the world. It provides them with a residence in Cambridge and a very flexible opportunity to play their part in the University. The University gave my parents a lunch to celebrate Arthur's 80th birthday and the Goodhart Chair. My parents almost died the night before the lunch because they had been staying at a hotel in Cambridge which caught fire. They were rescued with some difficulty, and their clothes were burned. My parents attended the lunch in borrowed clothes. After the speech in his honour, my father rose to reply and started by saying, "I expected a warm welcome in Cambridge, but not as warm as I got."

Until the last few weeks of his life my father remained active and interested in legal and international events. In old age he became committed to two views which were surely impossible to support. One was the right of Israel to ownership of the West Bank; the other was the innocence of President Nixon in connection with Watergate. Fortunately, he never completed any writing on either issue.

In August 1978 the English Bar was invited to attend a joint meeting in New York with the American Bar Association. My wife and I attended this, and my father, who was then back in New York, of course attended it. We were invited to a function arranged by a law firm with which Arthur and I both had contacts. He gave a short but lively and amusing speech of thanks. Only a couple of days later he had a severe stroke from which he never recovered. My brothers and I arranged for him to be flown back with us to London. We had quite a difficult time persuading the immigration officers at Heathrow to allow him into the UK. We eventually persuaded them that we were not bringing him in for the purpose of taking advantage of the NHS, and we pointed out his numerous British honours. Arthur was cared for in a London nursing home. He suffered no pain and died on the 10th of November 1978, one day short of the 60th anniversary of the Armistice.