

The Law Courts
Halifax, N. S.,
February 23, 1961.

Dear Sir Arthur:

I have ventured to send you (under separate cover) a pamphlet containing lectures given by me at Osgoode Hall on our Supreme Court and the B.N.A. Act.

Dean Read tells me that the Privy Council has recently buried the Polemis Case so repeatedly slain by yourself. This prompts me to say that I doubt if you have any true realization of the tremendous value of your own written contributions in directing, deflecting and, sometimes, reversing the trend of judicial decision. As an ex-teacher I can testify to the indirect effect your writings have had in shaping the minds and accents of lecturers on law, and through them of the Bar, and ultimately of the Bench. There is so much conservatism innately present in lawyers as a class, and so much in the judicial life to enhance that quality and to narrow one's outlook, that contact with the minds of scholars of more spacious range is indeed a "must". As you may have discovered in re Federalism, communication between the English and the North American lawyer is not always easy; but in the happy circumstances of your own career, we in Canada find an interpreter who speaks of things British in an idiom both clear and persuasive to us.

And so I wish to close by expressing my own lively sense of gratitude for the help I have received from you as a teacher and later as a judge. The great case of first impression still eludes me; but I still try to prepare myself so as to be able to recognize it when it comes. Many of us would welcome the chance to play the Denning role even if his lifetime batting average as an iconoclast is not so hot; but even so, judicial caution keeps breaking through and stultifying our valorous aspirations.

With sincere regards,

Arthur L. Goodhart, K.B.E.,
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COPY

From THE MASTER

University College
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4 April 61

Dear Judge:

Your letter gave me more pleasure than any other I have received in many years. I cannot tell you how much it meant to me. I had it photostated and sent it to each of my three sons. I also sent a copy to Megarry, the assistant editor of the Law Quarterly. In due time the L.Q.R. will have to publish a notice about me, and I have suggested to him that when that occasion arises they should consult your letter.

By good luck your letter coincided with my 70th birthday which I rather dreaded. One can't help looking back on the things one hasn't done, and it is too late to do much in the future years. I hope that you realize, therefore what it meant to me to have you say that my work had been worthwhile and had had a useful influence.

You will be wondering why I have been so slow in writing to thank you. The reason is an idiotic one. You had said in your letter that you were sending me a pamphlet so I thought that I would wait for a few days until it arrived. When it did not come I suppose that it slipped my memory, but I suddenly remembered about it last week when Sir Edward Herring, the Chief Justice of Victoria, Sir David Keir and Kenneth Wheare (the Rector of Exeter) were having dinner with me. One of them - I cannot remember which one - said that he had read your pamphlet and that he had found it intensely interesting. The next morning I asked my secretary whether she was sure that I hadn't received it, and she said that it had arrived some weeks ago and that she had put it with various articles and off-prints which she arranges so that I can read them during the Easter vacation. Unfortunately she had not noticed that there was an inscription on the article.

I have found your pamphlet most useful and interesting. It has called my attention to a number of cases that I shall read in the Reports. In particular I did not know of Roucarelli v. Duplessis which is a striking illustration of the Rule of Law. When I was in Ottawa last September I heard Sommer v. City of Quebec discussed at some length, but I am still uncertain concerning its exact ratio

For me the most interesting part of the pamphlet is Part III. I had no idea that there were dissents in nearly half the cases decided by the Supreme Court. I was also surprised to find that there was not more consultation among the judges.

This summer a team of American judges and lawyers, including Mr. Justice Brennan of the Supreme Court and Chief Justice Lombard of the Circuit Ct. of Appeals, is coming to England to discuss Appellate practice with the English Bench and Bar. This shows how much interest there is in the subject. It has occurred to me that Part 3 in an expanded form would make a most interesting article for the Law Quarterly Review. There would be no obligation on the ground of repetition. It would, of course, require a considerable amount of explanatory detail for the English

reader, but that would be of value as comparatively little is known about the Canadian courts here by most English lawyers. I hesitate to make this suggestion, but I hope that you will consider it. There would, of course, be no immediate hurry.

Again my deepest appreciation for your charming letter, and my apologies for the delay in answering it which is unpardonable.

Yours very sincerely,

(Sgd.) Arthur Goodhart