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# Twilight of Consensus: The American Association for Labor Legislation and Academic Public Policy Research

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Arguments over what characteristics constituted historical Progressivism, and the Progressive spirit, are commonplace among historians. However, it seems universally conceded that the politics of the late 19<sup>th</sup> and early 20<sup>th</sup> centuries in the United States were characterized by groups organized around specific issues to promote reform legislation, as well as by an increasing appeal to expertise – particularly expertise in the nascent social sciences. The American Association for Labor Legislation (AALL) sat at a peculiar nexus of these domains. It began as a group of social scientists, dedicated by and large to careers in economics. Yet they behaved in many ways like other Progressive reformers, publicly advocating for very specific policy positions and even drafting potential legislation. They pushed a new and active role for the academic social scientist.

In addition to its backward-looking historical valence as a new development in professional social science, the AALL also had a forward-looking valence as an extra-academy public policy research institution composed of academic researchers. That is, the AALL was one of the first organizations that might be classified as a think tank. The appellation of first think tank is usually given to the Brookings Institute, the forerunner to which was founded in 1916.<sup>1</sup> Given the subsequent development of that region of the public sphere, it is probably correct to say so. The AALL, however, was a historical alternative to the Brookings model of the think tank. Organized as a quasi-professional association rather than a foundation entrusted by philanthropists or corporate interests, the leaders of the AALL viewed policy involvement as an aim and requirement of academic social science. They justified this stance with a belief that academic research in the social sciences would be able to reach effective consensus – a belief, generated by a number of historical causes, which would prove

not to be long-lasting. In the end the AALL could not sustain its claims to represent professional consensus, academia did not displace other players in the public policy sphere, and academic positions became a matter of personal reputation rather than professional license. The failure of the AALL's mission highlights important trends within Progressive reform.

THE LITERATURE:

A few extended treatments of the AALL have been published. The most extensive is David A. Moss's *Socializing Security: Progressive-Era Economists and the Origins of American Social Policy*.<sup>2</sup> Prior to that, the most comprehensive had been a 1953 University of Wisconsin doctoral dissertation, by Lloyd F. Pierce, entitled "The Activities of the American Association for Labor Legislation in Behalf of Social Security and Protective Labor Legislation."<sup>3</sup> As the title implies, Pierce focused more on producing a chronicle than an analysis of those activities. The most extensive scholarly analysis, prior to Moss, had been one complete chapter, and portions of others, in Theda Skocpol's *Protecting Soldiers and Mothers: The Political Origins of Social Policy in the United States*.<sup>4</sup> While many books have been written about the origins of welfare legislation in the United States, these treat the AALL most fully.

By and large, they hew fairly close to the details, not offering an excess of interpretation. Pierce's dissertation in particular does little more than narrate the events of the organization's history. Skocpol treats the AALL as a classic "investigate-educate-legislate" reform activist group, not dominated by corporate interest but fitting neatly into the middle-class "elite expert" model. Her last word on them appears to be that "...the predominantly male experts of the AALL leadership remained entranced by their view of politics as a rational conversation among elites."<sup>5</sup> Moss's book, meanwhile, finds the AALL's significance to be its ahead-of-the-times advocacy of social insurance, a dream that would come to partial fruition in the New Deal. For these three authors the historical importance of the AALL lies mostly in the policies it advocated, and much less in its structure and self-conception.

Three books dominate the literature on the late-19<sup>th</sup> century rise of social science in the United States. The first, Thomas Haskell's *Emergence of Professional Social Science*, documents the rise and decline of the American Social Science Association.<sup>6</sup> Thus, it takes place immediately prior to the period of the AALL, which began in 1906. Haskell, building heavily on Robert Wiebe, advances two principal theses. The first is that professional social science emerged in response to an intellectual crisis generated by industrialization, growing social "interdependence," and a decline in a naïve faith in the perfectly free individual. Secondly, this new and complicated world needed specialized communities of inquiry to research, understand, and explain social processes.<sup>7</sup> Thus, social science was profoundly rooted in both a social and an intellectual shift.

The other two books place more weight, comparatively speaking, on social than on intellectual factors. Mary O. Furner's *Advocacy and Objectivity* has a slightly more contemporaneous timeline than Haskell's book, as well as a slightly more institutional perspective. She concludes that "The academic professionals, having retreated to the security of technical expertise, left to journalists and politicians the original mission – the comprehensive assessment of industrial society..."<sup>8</sup> On this analysis, late-19<sup>th</sup> century political disputes gave way to a narrow consensus which could both address policy questions and avoid the specter of class conflict (or of conflict with benefactors). Dorothy Ross, in *The Origins of American Social Science*, finds that social science has historically rested on a belief in American exceptionalism – that is, the idea that the United States has at least partially uncovered a special way of organizing society which exempts it from the historical impediments faced by countries in Europe and elsewhere. Thus, U.S. social science has a scientific quality, rejecting as it does the need for close historical scrutiny of empirical claims.<sup>9</sup>

Finally, there is the literature on the public policy research industry. The history of the think tank has been less well-explored than that of Progressive-era reform organizations or social sciences. However, valuable work can be found. James G. McGann, in "The Competition for Dollars, Scholars, and Influence in the Public Policy Research

Industry,” ably synthesizes the sociological and policy research on the think tank, while providing a brief historical chapter.<sup>10</sup> McGann also provides a clear set of characteristics delineating different sorts of public policy research organizations from each other – independence and funding structure, for example.<sup>11</sup> Edward Silva and Sheila Slaughter, on the other hand, focus on the political influences involved in shaping academic participation in the policy world in the late 19<sup>th</sup> and early 20<sup>th</sup> centuries. They largely follow Furner in believing that the academy constricted the range of available opinion in response to pressure from moneyed interests.<sup>12</sup> As a whole, the public policy research literature has put forward a vision of politicized ideology as the driving factor behind think tanks and the knowledge they produce.

If we consider these three domains – Progressive reform group, professionalizing social science department, and nascent public policy think tank – the American Association for Labor Legislation sits nearby, though not neatly, at the intersection. Not neatly, because key qualities of each category distinguish it from the others. Most importantly, the members of the AALL retained a faith in their organization to act as the professional arbiter of social-scientific knowledge, rather than as a participant in oppositional, competitive debate. That is not to minimize the disagreements which took place within the group, but to note that the economists, sociologists, and political scientists of the day operated under an expectation of eventual expert consensus. This faith in consensus exemplified the belief, sometimes held up as a quintessentially Progressive ideal, in the perfectibility of society. If any organization were to take up the Progressive mantle into the middle space between ivory tower and public square, it ought to have been the AALL. That the mantle was taken up by other models of public policy, which drew from academia for personal credential rather than professional cachet, suggests a weakness – or at least a complication – in the perfectibility theory of Progressivism.

#### A BRIEF TIMELINE OF THE AALL:

The International Association for Labor Legislation had been active for a number of years in 1906, with Carroll D. Wright (the president

of the American Statistical Society) as its U.S. correspondent, when a group of academic economists decided to form a dedicated American chapter. The initial group included Richard T. Ely, Henry R. Seager, Henry Farnam, William F. Willoughby, and John R. Commons. While not an economist, noted law professor Ernst Freund was highly involved. A number of professional social scientists with government jobs, such as Adna F. Weber and I.M. Rubinow, joined also.<sup>13</sup> Members of the General Administrative Council included Jane Addams, Samuel Gompers (though he would part ways), Florence Kelley, and Louis Brandeis. Beginning with thirty-five, membership expanded by the early 1910s to around 3,000, staying roughly there until the group's demise in 1945. The presidency tended to rotate among the various economists, but the full-time secretary ended up having the most impact on the organization. John B. Andrews, a PhD student of Commons and Ely's at the University of Wisconsin along with his wife Irene, served as secretary from 1908 until the end.<sup>14</sup> Beginning in 1911, the AALL began to publish a quarterly journal, the *American Labor Legislation Review*, which served not only as a forum for reformist academics but also as a clearinghouse for information on the progress of legislation in the states and abroad.<sup>15</sup>

The AALL devoted itself to concrete legislative reforms. Its first and most successful campaign resulted in the elimination of the use of poisonous phosphorus in matches, which had resulted in serious illness at match factories. This sort of project is a good example of AALL advocacy – legislation on the subject from other countries was compiled and analyzed, and quantitative data were gathered to demonstrate the severity of the “phossy-jaw” problem (as phosphorus poisoning was called).<sup>16</sup> The AALL's leaders and scholars mounted a multi-year campaign which included articles in its own journal, the *American Labor Legislation Review*, as well as editorial pieces in newspapers and magazines. The *New York Times*, for example, ran four articles on phossy-jaw referencing the AALL in 1911 and the beginning of 1912.<sup>17</sup> The campaign also included significant lobbying of Congress and the president, which eventually resulted in the Esch Act of 1912. This law placed a prohibitive tax on the use of white phosphorus in

industrial production, thereby shifting match producers to the use of sesquisulphide, the next best alternative. In conjunction with the Esch Act, the AALL negotiated with the Diamond Match Company, first to allow the patent on sesquisulphide to be held in trust by a trio of experts (consisting of E.R.A. Seligman, the chief attorney for the AFL, and the U.S. Commissioner of Labor) – and then to waive the patent entirely.<sup>18</sup> These negotiations eliminated the fear that a tax on white phosphorus would grant monopoly to those with access to sesquisulphide. The method of scientific legislation appeared to be a grand success. A universally acknowledged labor problem had been resolved consensually with subtlety and concern for the operation of market forces.

The AALL's other major cause was workmen's compensation. The organization advocated for laws which would compensate workers for injuries suffered on the job, framing the idea as one of corporate responsibility. Unemployment insurance, maximum hours laws, and minimum wage laws were also picked up as means of ensuring adequate living conditions for workers. In these matters the AALL cooperated extensively with the National Consumers' League.<sup>19</sup> These campaigns were marked by the same methods as the phossy-jaw campaign, but they took place at the state rather than the federal level. Among other developments, state-by-state campaigning saw the AALL drafting "uniform bills" for multiple states to adopt simultaneously, in order to avoid what Moss refers to as "degenerative competition" between the states for labor.<sup>20</sup> The AALL spent much time discussing the constitutionality of these measures: whether they fell under the states' police powers, whether the 19<sup>th</sup> century concept of liability was still sufficient, etc.<sup>21</sup> While AALL-penned articles lost no opportunities to skewer the courts for building law on unscientific theories, the organization also tailored their bills to fall within the Supreme Court's bounds of acceptability. Wages and hours bills applied mainly to women, for example, following *Muller v. Oregon*, though the economists of the AALL advocated restrictions for all employers and employees.<sup>22</sup>

The AALL has been remembered primarily for being the first organization to mount a campaign for compulsory health insurance.<sup>23</sup>

Twilight of Consensus



Photograph of Richard T. Ely (1854-1943), published in *The Comrade*, a New York newspaper, in 1903.

It began to advocate for this sort of social insurance shortly before U.S. entry into World War I. In contrast with the anti-phosphorus campaign, the health insurance campaign resulted in almost total failure. The same methods were employed – a *New York Times* article noting the first bill’s introduction to the state says that they “distributed over 13,000 copies of the tentative bill” – but it was the AALL’s most controversial proposal to date. The same *New York Times* article, for example, refers to it as “one of the most radical proposals in the interests of the wage earner ever made in this country.”<sup>24</sup> The campaigns were vigorous, but ultimately to no avail.

THE RESPONSIBILITY OF THE SOCIAL SCIENTIST:

In 1910, the association amended its constitutional statement of purpose to include the actual advancement of “desirable” rather than merely “uniform” legislation. It did so against Ely’s and Commons’s advice, although both men went along with the new direction.<sup>25</sup> This change coincided with John B. Andrews’s acceptance of the secretary position. Having a full-time executive secretary allowed the organization to advance its political agenda with far more dedication, and the new mission – “To encourage the study of labor conditions in the United States with a view to promoting desirable legislation” – gave it license to do so.<sup>26</sup> All told, the organization took a major step “into the ring,” as it were, becoming on both of those fronts less removed from the political fray. That is not, however, to say that the academics kept out of advocacy, for the AALL’s new role allowed the other academics to advocate all the more strongly. The idea of professorial involvement in the public square would come to be commonplace in later decades, and the AALL represents a crucial moment in that transition.

Some researchers, notably Furner, believe that the social science academic was effectively neutered by academic freedom controversies in the 1890s. Economists who had found themselves on the wrong end of subversion charges felt entitled to undertake advocacy within “reasonable” content boundaries, but were unwilling to go further. Furner would interpret these changes as a highly correlated decline of professorial involvement and increase in advocacy. Certainly, Furner

demonstrates, Ely and Commons sharply restricted the range of their political opinions following their academic freedom ordeals. Yet even for those two, the forcefulness of their advocacy for labor laws, their willingness to criticize the courts, and other noisy tendencies do not fit well with this interpretation. AALL members were not afraid to make nontechnical pronouncements about the role of law in society, or the nature of contract, or many other issues relevant to the cause of labor. Very shortly after the events recounted in *Advocacy and Objectivity*, a laundry list of academic economists – including Ely and Commons – could be found making pronouncements about the need for social science expertise to settle questions of legislation. Nor were these merely radicals: Farnam in particular was known as an economic conservative.<sup>27</sup>

The question is more complicated than it might at first appear, because the advocacy of the early 20<sup>th</sup> century was of a different sort than that of the late 19<sup>th</sup>. The AALL did not justify its advocacy negatively, by cautiously not stepping outside narrow disciplinary boundaries. Rather, the members of the AALL found justification for policy advocacy in a different conception of legislation. Government on their view fell properly within the domain of the social sciences – to be informed, naturally, by experts well-versed in those sciences. Members of the AALL were prolific writers, publishing often in a great number of venues. Journal publications authored by the professors can be found in the *American Journal of Sociology*, the *American Political Science Review*, *The Survey*, the *American Economic Review*, and most notably in the AALL's own journal, the *American Labor Legislation Review*. These papers show a semi-public face of the AALL, presented to the academic and labor reform worlds. Accordingly, they provide excellent examples of the style and mode of argumentation favored by the Association's members. Many of them, especially presidential remarks at annual meetings, address the questions of the AALL's role in promoting legislation specifically.

The overriding concern is, of course, that the laws be improved. By the AALL's understanding, this means that laws should have a scientific character, informed by "the facts" and by expert consensus.

As the Andrews couple wrote, “It will soon be recognized that the utilization of all available knowledge and experience in securing intelligent regulations...is a problem worthy of the most careful attention.”<sup>28</sup> Farnam followed in the same vein, saying that “The first thing to emphasize is that every law should be preceded by a careful investigation of the facts, economic, industrial, and medical.”<sup>29</sup> Richard T. Ely was even more explicit when he addressed the first meeting of the AALL: “The International Association for Labor Legislation... has as its special function the impartial scientific examination of labor measures and investigation of actual conditions underlying labor legislation...Its activities are directed by men trained in economics and they give a good idea of the relation between economic theory and labor legislation.”<sup>30</sup>

Beyond promoting legislation of a high quality, the members of the AALL saw themselves as an integral and necessary part of the legislative process. “No one will question the propriety of a discussion of a program of social legislation by this Association,” said Henry Seager, for “Unlike the Economic Association and the Sociological Society, it is committed by its very name to a program: the study and promotion of wise labor laws.”<sup>31</sup> In Adna F. Weber’s opinion, “the promotion of labor legislation [has been] left mainly to the laboring classes without the assistance and guidance that they should have had from the professional classes,” which organizations such as the AALL could provide.<sup>32</sup> Farnam, in a similar vein, referred to “... our State legislation which is prodigious in its mass [but] is mainly the product of unskilled labor.”<sup>33</sup> In that sense, the AALL appointed itself to help the state legislatures transition from unskilled to skilled labor. Farnam went on to analogize economic regulation to medicine, saying that economics had moved out of the primitive past and could now be confidently and safely applied to social problems.<sup>34</sup> Elsewhere, he was more explicit about what this would look like, expressing his optimism in the following trends: “Expert commissions are being used more and more. The development of such an institution as the Legislative Reference Library in Wisconsin is doing much to educate our lawgivers. But the fact still remains that of all the industries of the

United States lawmaking is perhaps the most backward.” The AALL, in his mind, extended and refined the ability of expert commissions to advise government, and of lawmakers to get the facts from experts.<sup>35</sup>

This active role, however, rested on a highly optimistic faith in the social-scientific community to reach consensus about real-world policy questions, as well as a conception of the university as a public servant. These attitudes came very clearly to the fore in 1915, when the American Association of University Professors made its famous “General Declaration of Principles” concerning academic freedom. The committee which drafted the document, as rightly noted by Silva and Slaughter, had a significant plurality of social scientists, with no outside disciplines sending multiple members.<sup>36</sup> For our purposes, it is highly significant that E.R.A. Seligman chaired the committee, and that two other AALL presidents – Richard T. Ely and Henry W. Farnam – sat on it.<sup>37</sup> The committee’s document vigorously defended the right of professors to freedom of inquiry both inside and outside the academy, basing its defense on the public role of higher education. It first notes that the basis of the university, with the exception of some private universities, is as a “public trust.” It goes on to describe “the nature of the academic calling” as a “social function,” which is “to impart the results of...investigation and reflection, both to students and to the general public, without fear or favor.”<sup>38</sup> Finally, the role of the university as an institution is through-and-through a social and political one:

The third function of the modern university is to develop experts for the use of the community. If there is one thing that distinguishes the more recent developments of democracy, it is the recognition by legislators of the inherent complexities of economic, social, and political life, and the difficulty of solving problems of technical adjustment without technical knowledge...in almost every one of our higher institutions of learning the professors of the economic, social, and political sciences have been drafted to an increasing extent into more or less unofficial participation on the public service...To be of use to the legislator or the administrator, he must enjoy

their complete confidence in the disinterestedness of his conclusions.<sup>39</sup>

One could hardly imagine a better statement of the AALL's attitude toward academic involvement in public life: the disinterested pursuit of objective standards for legislation by a community of technical experts. Note that even after the AALL had made a routine practice of lobbying Congress and state legislatures, drafting bills, writing editorials, and otherwise directly promoting their own legislation, they continued to insist on the disinterested nature of their work.

#### THE AALL AS PROTO-THINK TANK:

With respect to the role of special interests, several scholars bring up the issue of possible corporate influence on the AALL. Silva and Slaughter maintain that the academic reform organizations of the period were, if not corporate shells, at least beholden to the "centralist" capitalist agenda of the corporate order. They rely heavily on G. William Domhoff's variation of C. Wright Mills's "power elite" theory in this regard – in particular, noting that for more information on the AALL one should visit his book *The Higher Circles*.<sup>40</sup> Most specifically, they note that organizations such as the National Civic Federation and the AALL counted names such as Rockefeller and Morgan among their donors.<sup>41</sup> Indeed, for Silva and Slaughter the NCF characterizes the role of the academic in public policy discussion: dominated by corporate money, and dedicated to mediation of conflict within the existing order rather than effective social change.

Scholars who have researched the AALL in depth reject this corporate view of the organization. Skocpol first of all places the onus on Domhoff and others to demonstrate the influence of corporate money in the actual positions taken by the AALL; secondly notes that the AALL actually had "bitter conflict with...such business peak associations as the National Association of Manufacturers [and] the National Civic Federation;" and thirdly suggests that the AALL mounted an effective social critique despite its acceptance of capitalism.<sup>42</sup> Moss corroborates the first point, contending that "there is no evidence

that they consciously catered their policy proposals to either [capital or labor].”<sup>43</sup> That the AALL’s leadership had occasionally bitter fights with that of other reform groups, both capital- and labor-centric, is well-documented. The fight over health insurance in particular, which will be discussed later, brought out differences between the AALL and other organizations, both capital- and labor-oriented.

Furthermore, a comparison of the missions of the AALL and the NCF will reveal significant differences between the two organizations. The NCF stated its aim “to organize the best brains of the nation in an educational movement towards the solution of some of the great problems related to industrial and social progress...to aid thus in the crystallization of the most enlightened public opinion; and when desirable, to promote legislation therewith.”<sup>44</sup> The AALL’s mission statement, contained in Article II of its constitution, enumerated three aims: “1. To serve as the American branch of the International Association for Labor Legislation...2. To promote the uniformity of labor legislation in the United States. 3. To encourage the study of labor legislation.”<sup>45</sup> In 1911, the third aim was amended to read “To encourage the study of labor conditions in the United States with a view to promoting desirable labor legislation.”<sup>46</sup>

Evidently, the two groups placed discussion at the center of their respective missions, and likewise analysis of real-world conditions. The AALL additionally placed the promotion of legislation at the center of its mission, while the NCF located it peripherally. The AALL conceived of itself as a quasi-professional association, with a defined group of experts addressing a defined problem: labor laws. The NCF, by contrast, outlined a vague program of arranging “the best brains” to discuss “the great problems related to industrial and social progress.” While a broader mandate may initially appear to leave more room for effective critique and foundational questions, in fact the AALL’s well-defined mission allowed it to position itself as the singular source of expert judgment on the subject. This positioning further allowed the AALL to present its findings as expert consensus rather than as a high-level debate.

It is all well and good that the academics of the AALL could think



Photograph of John R. Commons (1862-1945), undated. Image courtesy US Department of Labor.

of themselves as a body of experts in agreement about the plain facts of the social order. But it is another matter to be presented that way in the papers. A survey of the *New York Times's* coverage of AALL activities from the period 1905 to 1917 shows that while the paper did not perfectly conform its presentation of the AALL with the organization's self-conception, it did treat it more as a professional association than as a reform group. AALL positions, for example, are often presented as reports on academic conferences rather than as lobbying endeavors (although the *Times* did report bills when they were introduced). They are often reported on in conjunction with the American Economic Association or the American Sociological Society. Indeed, the treatment seems very similar to the treatment of the other disciplinary associations. For example, over the period 1905 to 1917 the American Association for Labor Legislation is mentioned in sixty-six articles. The American Historical Association is mentioned seventy times, the American Economic Association fifty-nine, and the American Political Science Association thirty-one. By contrast, the National Civic Federation, the Consumers' League, the Trade Union League, and the Municipal League are each mentioned in between 300 and 500 articles for the same period. By comparison, the most prominent professors associated with the AALL received between forty and sixty mentions.<sup>47</sup> The cause of the discrepancy is that the different types of organization were reported on for different reasons – in the case of the professional organizations, to announce lectures and conferences, to receive an occasional expert quote, and to report on particular lobbying efforts.

Yet the AALL, whose leaders perceived it to be both a professional association and a reform group, would not fit into today's public policy research typology. McGann identifies 10 axes along which to place public policy research institutions, concluding that to be a think tank an organization must be "'nonprofit,' 'nongovernmental,' 'non-affiliated,' and 'non-degree-granting.'"<sup>48</sup> The AALL did meet all of these criteria, so it would fall within the scope of McGann's work. Yet it did not conform to patterns within that sample. Most importantly, it blurred the distinction observed by McGann between academic and policy orientations.

McGann contrasts the National Bureau of Economic Research with the Heritage Foundation, describing the former as more academic and the latter more policy-oriented:

The National Bureau of Economic Research, for example, is primarily interested in conducting applied research in economics that it hopes will have some relevance for policymakers, while the Heritage Foundation in Washington is primarily interested in conducting research that is directed toward influencing policy. This scholarly-versus-policy division can be seen in the staffing patterns of these institutions. The National Bureau of Economic Research is staffed entirely by academics with advanced degrees in economics and solid academic credentials and publication records, while the Heritage Foundation is staffed almost exclusively by young professionals and less well-established scholars and is structured more like a newspaper than a university.<sup>49</sup>

The AALL's activities did not respect this distinction. While its staffing remained almost exclusively academic – even John B. Andrews, while not a professor, earned a PhD from Wisconsin under John R. Commons's supervision – the organization did not restrict itself to applied research. Indeed, the *American Labor Legislation Review* placed equal emphasis in its publications on policy recommendations and the distribution of relevant statistics and news. The organization itself, of course, conducted well-publicized lobbying efforts. In short, the AALL was like the NBER in its composition, like Heritage in its aims, and like both in its methods.

Secondly, the AALL did not broadcast to an academic audience in the way that the Brookings Institution does. McGann contrasts Brookings with the Cato institute, which "...relies more on ideological policy advocates than on the independent-minded academic types that Brookings relies on."<sup>50</sup> At the same time, "the [Brookings] research is used more by professors and students than by policymakers," despite the stated objective of the think tank to influence policy.<sup>51</sup> The AALL's authors consisted largely of "academic types," yet these were clearly

also policy advocates. Their publications may have circulated widely in academia, if only because a great deal of academics belonged to the AALL or similar organizations, but they primarily served others in the policy sphere.

Ultimately, then, it may be said that the leadership of the AALL aimed not just to blur but to erase the academic-policy divide, on the basis of the vision of publicly responsible social science discussed above. This characteristic is primarily what distinguishes the AALL from most quasi-academic public policy research institutions operating today. As per its mission statement, its aimed to combine the “study of labor conditions” and the “promotion of desirable legislation” into one process. Its leadership, primarily composed of social science professors or statisticians working in government departments of labor, aimed not just to influence policy decisions through academic arguments, but to make policy an academic matter.

#### TROUBLES

“They met with success, however, only when they operated within the nebulous realm of acceptability established by capital and, to a lesser extent, by organized labor. When they moved outside that realm, they consistently failed to turn their model bills into law”<sup>52</sup> This statement reveals both the occasional ineffectiveness of the AALL and its willingness to speak outside the boundaries of normal discourse. Indeed, the group renowned for its early advocacy of social insurance, and of mandatory health insurance policies in particular, ought not to surprise us by the latitude of its opinions with respect to its contemporaries. Rather, an examination of the response to its boundary-crossing should help us to see more clearly the difficulties with the AALL’s vision of a unified and academic policy process.

The failure of the AALL to effectively promote social insurance and the minimum wage, among the more ambitious parts of its program, had many causes. First among them was the perennial battle with the courts over the limits of the states’ police powers. But not far behind was the AALL’s inability to position the opinion of its scholars as definitive and representative of expert consensus when it touched on

contentious issues. In the case of phossy-jaw, much of the coverage had consisted of editorials by individuals or the newspaper in favor of proposed regulation, citing the AALL for support. “Horrors of Lead Poisoning Astound Investigators” was a typical title for an article.<sup>53</sup> That same month, however, would see the title “Hotchkiss Doubtful of State Insurance,” presaging the much more two-sided approach to emerge in the contested compulsory health insurance debate.<sup>54</sup>

Over the course of the years 1916 and 1917, an intermittent debate raged over a compulsory health insurance bill introduced by Ogden L. Mills in the New York State legislature. The *New York Times* announced the bill on January 24, 1916, describing it as a joint effort of the AALL and the American Medical Association. The article quotes the chair of New York’s Industrial Commission that “the time is not far distant when a system of health insurance will be devised by the Legislatures of the various states and by the Federal Government which will meet the needs of our present social life.” According to the AALL’s statement, “much of the best informed opinion of the country is in favor of these proposals.” Henry R. Seager is also quoted, reminding the reader that the proposed legislation will help the United States to catch up to European countries that have already enacted similar measures.<sup>55</sup> The AALL, in proposing compulsory health insurance, followed the same plan as before: draft a piece of legislation in cooperation with relevant experts, position the bill as the product of expert consensus, and use national efficiency rhetoric to stress the bill’s importance.

The response, however, was far from acquiescent. The first sign of dissent appeared in March, in the form of a statement by Ralph Easley – chairman of the NCF – blasting the bill for advancing the pecuniary interests of doctors at the expense of labor.<sup>56</sup> Two days later, the New York Senate Judiciary Committee recommended that a commission be set up to investigate the possibility of compulsory health insurance. Reporting on the hearing with the title “Health Insurance Plan Under Fire,” the *New York Times* stated that medical doctors did not support the bill for corrupt reasons – in fact, they opposed the bill as a restriction of their rights. While the eruption of debate was hardly according to plan, the recommendation of a commission to investigate the bill’s

prospects – which was appointed in April<sup>57</sup> – was even worse, running entirely counter to the function of the AALL as legislative participant rather than mere advocate.

Moreover, the arguments raised by opponents of the Mills bill frequently challenged the AALL's expert status. When the *New York Times* gave Frank Dresser, a Massachusetts lawyer opposing the bill, an extended interview in which to explain his views, the profile's author suggested that "There is perhaps no one in this country better prepared to discuss this question than Frank F. Dresser." Moreover, Dresser focused not on legal but on economic issues, alleging that the bill would cost more than it saved – challenging the AALL on its own ground.<sup>58</sup> The Society of Medical Jurisprudence, in a report opposing the bill, described the AALL not as a professional organization but as a group "with which some eminent sociologists of this country are connected in an advisory capacity."<sup>59</sup> The debate produced several alternative plans for better health insurance.<sup>60</sup> When the bill finally reappeared before the Judiciary Committee in March of 1917, it met with "the widest possible divergence of opinion as to [its] merits and demerits" and another investigatory committee was proposed.<sup>61</sup> The story noted that "the bill probably will never come out of committee," and indeed it did not – nor did similar measures achieve any more success elsewhere.<sup>62</sup>

Samuel Gompers, who left the organization as a result of the dispute, showed a particularly biting sense of disdain for the AALL's mission as well as its policies. Writing in the *American Federationist*, the American Federation of Labor's monthly magazine, he described the health insurance movement as paternalistic and arrogant and exhorted its advocates to recognize "one of the difficult, important and heart-breaking facts of life – the limitations upon our capacity to help our fellows."<sup>63</sup> Of the plan itself, he said, "It would inevitably build up a bureaucratic system which would be under the control and perhaps domination of agents not directly responsible for the people."<sup>64</sup> The AALL could conceive of such a plan because it operated on the defective "theory that the workers of America are still in the condition where they must be led by some 'intellectual.'"<sup>65</sup> He wrote at length

against the very idea of the expert:

They have a vision of a new world with themselves as the creators. The work of these creators and renovators has become commercialized and dignified by the title of profession – they are experts – experts in social welfare, experts on home life, domestic relations, child life, and the thousand and one problems that arise out of the lives of the poor... All [their] solutions are formulated along lines that necessitate governmental machinery and the employment of experts...<sup>66</sup>

In 1906, Samuel Gompers had told the founders of the AALL, “I need scarcely assure you that I am in sympathy with the purposes of the meeting” to establish the organization.<sup>67</sup> Yet when the philosophy behind the AALL came to show itself fully, he could not have been more fundamentally opposed. Gompers believed in an economic order defined by negotiation between interested parties, who had a right to deliberative self-determination – not by a cadre of experts who could reach special knowledge through special training. He advanced personal rights claims against social justice claims.

Moss suggests several causes of the health insurance proposal’s demise, including a high concentration and organization of interests against it, poor timing with respect to World War I, and the voluntaristic ethic of labor organizations.<sup>68</sup> Skocpol highlights the divided structure of United States government, with both federal-state-local and executive-legislative-judicial splits.<sup>69</sup> All these explanations are valid, but it is important to emphasize the AALL’s signal failure in this debate to establish its expert position, which it had done successfully in less controversial cases. That the AALL was seen as just one group agitating among many undermined its entire premise. Moreover, in seeking the roles of “skilled labor” for legislation and the surgeon for society, the AALL prompted a backlash against the existence of those roles. On the one side, various other “experts” popped out of the woodwork to challenge their numbers. On the other, labor advocates advanced claims that whatever the numbers, only the workmen themselves could determine what was best for labor.



Photograph of Samuel Gompers, 1911. Image courtesy Library of Congress.

No reasonable definition of Progressivism would exclude the AFL, the AALL, or (probably) the NCF. Indeed, while the NCF might be seen as an advocate of business, neither the AALL nor the AFL could be described that way. That the AFL's vision overtook that of the AALL's labor scholars, I believe, gives a sense of the give and take within different Progressive strands. To follow Daniel Rodgers's ever-helpful model of three rhetorics,<sup>70</sup> the failure of the health insurance movement represents a victory of anti-monopoly rhetoric over efficiency rhetoric. Opponents, whether disinterested or not (mostly not), refused to accept the AALL's claims to definitive expertise, challenging them for making those very claims as well as on the merits of their arguments. Other opponents challenged the AALL's claims to impartiality, or questioned the idea that legislation could be scientific enough to direct certain kinds of economic activity. This general rebuff demonstrates at least one instance in which a resistance to elite control trumped a support for social order, once the two were placed into conflict. In order for the academy to maintain its position of authority, it could not speak with a unitary voice. Its reputation had to be distributed among the various scholars it credentialed, or else it would face resentment and resistance.

The American Association for Labor Legislation represented one possible step forward from the professional associations – the AEA, the ASS, the AHA, the APSA – that had splintered off from the American Social Science Association in the preceding decades. It was sustained by a vision of public policy in which each discipline could adequately maintain consensus about all relevant policy matters, to the degree that even the democratic process of legislation could be considered scientific. Such an extreme vision was not likely to prevail even had the health insurance movement found victory. After all, internal disciplinary battles were prevalent then and would continue to be so. Such battles were vital to the perceived objectivity of the social sciences.<sup>71</sup> But it is not difficult to imagine a world with a much larger role for the university as an institution at the policy level. In such a world, phenomena such as the Chicago Boys of the 1970s would be much more common. Schools of thought would not only cluster

in departments but be represented by them in the public square – as professional activities and in discharge of their scholarly duties. In the world that does exist, scholars move between academia and politics all the time, but as a matter of full-time employment. In the AALL's world, scholars would influence policy substantively from within the ivory tower.

The tendency for elite knowledge producers to assume control of national policy has waxed and waned over the subsequent course of United States history. As the AALL's failure shows, it has always faced anti-elitist opposition. One need not look as far back as the Kennedy and Johnson administrations to see this dynamic at work. It is happening today, in the continued resistance to compulsory health insurance, and in the enormous backlash against the responses of the Bush and Obama administrations to the economic crisis that began in 2008. Few can tell exactly how much those policies have helped employment or GDP numbers, but that is not the point. If we pay attention to the historical efforts of economists and social scientists to apply themselves to policy, we can see that the United States has resisted, from the first days of those disciplines, the implementation of economic policy by experts who are not answerable to the public. The test of legitimacy has not been scholarly; it has been democratic.

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<sup>1</sup> James G. McGann, "The Competition for Dollars, Scholars, and Influence in the Public Policy Research Industry" (PhD diss., University of Pennsylvania, 1991), iv.

<sup>2</sup> David A. Moss, *Socializing Security: Progressive-Era Economists and the Origins of American Social Policy* (Cambridge, MA: Harvard University Press, 1996).

<sup>3</sup> Lloyd F. Pierce, "The Activities of the American Association for Labor Legislation in Behalf of Social Security and Protective Labor Legislation" (Ph.D. diss., University of Wisconsin, 1953), 12-13.

<sup>4</sup> Theda Skocpol, *Protecting Soldiers and Mothers: The Political Origins of Social Policy in the United States* (Cambridge, MA: Harvard University Press, 1992).

<sup>5</sup> Skocpol, *Protecting Soldiers and Mothers*, 183.

<sup>6</sup> Thomas L. Haskell, *The Emergence of Professional Social Science: The American Social Science Association and the Nineteenth-Century Crisis of Authority* (Chicago, IL: University of Illinois Press, 1977).

<sup>7</sup> *Ibid.*, 42-47.

<sup>8</sup> Mary O. Furner, *Advocacy and Objectivity: A Crisis in the Professionalization of American Social Science, 1965-1905*. (Lexington, KY: University Press of Kentucky, 1975), 32

<sup>9</sup> Dorothy Ross, *The Origins of American Social Science* (Cambridge: Cambridge University Press, 1991)

<sup>10</sup> McGann, "The Competition for Dollars, Scholars, and Influence," 103-136

<sup>11</sup> *Ibid.*, 64

<sup>12</sup> Edward T. Silva and Sheila A. Slaughter, *Serving Power: The Making of the Academic Social Science Expert*. (Westport, CT: Greenwood Press, 1984)

<sup>13</sup> "Report Covering the Period 1902-1907," in *Proceedings of the First Annual Meeting. American Association for Labor Legislation*. (Madison, WI: American Association for Labor Legislation, 1909), 3-5

<sup>14</sup> David A. Moss, *Socializing Security: Progressive-Era Economists and the Origins of American Social Policy*. (Cambridge, MA: Harvard University Press, 1996), 3-6

<sup>15</sup> *Ibid.*, 178

<sup>16</sup> *Ibid.*, 77-96

<sup>17</sup> John B. Andrews, "Phosphorus Poisoning: Use of Harmless Substance for Matches Awaits Passage of Esch Bill." *New York Times*, June 14, 1911. "Fight Poison in Matches: Association for Labor Legislation Explains Danger of Phosphorus." December 4, 1911. "Poisonous Matches." December 7, 1911. "Menace of the Phosphorus Match." January 28, 1912.

<sup>18</sup> Moss, *Socializing Security*, 79. John B. Andrews to John Dalzell, 13 January 1911. *Microfilm Edition of the Papers of the American Association for Labor Legislation, 1905-1945* (Glen Rock: Microfilming Corporation of America, 1973), reel 4. Hereafter AALL Papers

<sup>19</sup> John B. Andrews, "Report of Work 1910." *American Labor Legislation Review* 1 (1911), 95

<sup>20</sup> Moss, *Socializing Security*, 10.

<sup>21</sup> Ernst Freund, "Constitutional Limitations and Labor Legislation." *American Association for Labor Legislation: Third Annual Meeting* (NY: American Association for Labor Legislation, 1910); Henry W. Farnam, "Practical Methods in Labor Legislation." *American Labor Legislation Review* 1(1911), 8-9

<sup>22</sup> Pierce, "Activities of the American Association for Labor Legislation," 368-377. Note that Pierce's sections on hours and wages legislation fall under the heading of "Legislation for Women"

<sup>23</sup> Theda Skocpol, *Protecting Soldiers and Mothers: The Political Origins of Social Policy in the United States* (Cambridge, MA: Harvard University Press, 1992), 198-203

<sup>24</sup> "Health Insurance for New York's Workers." *New York Times*, January 30, 1916

<sup>25</sup> Moss, *Socializing Security*, 5

<sup>26</sup> *Proceedings of the First Annual Meeting*, 6

<sup>27</sup> Furner, *Advocacy and Objectivity*, 88-89

<sup>28</sup> John and Irene Andrews, "Scientific Standards in Labor Legislation," *American Labor Legislation Review* 1(1911), 134

<sup>29</sup> Henry W. Farnam, "Practical Methods in Labor Legislation." *American Labor Legislation Review* 1 (1911), 10

<sup>30</sup> Richard T. Ely, "Economic Theory and Labor Legislation." In *Proceedings of the First Annual Meeting*, 35

<sup>31</sup> Henry R. Seager, Outline of a Program of Social Legislation with Special Reference to Wage-Earners." In *Proceedings of the First Annual Meeting*, 90

<sup>32</sup> Adna F. Weber. "Labor Legislation, National and International." *Journal of Social Science* 45 (1907), 36

<sup>33</sup> Farnam, "Practical Methods in Labor Legislation," 7

<sup>34</sup> *Ibid.*, 10

<sup>35</sup> Henry W. Farnam, "Some Fundamental Distinctions in Labor Legislation." In *Proceedings of the Second Annual Meeting* (Madison, WI: American Association for Labor Legislation, 1909), 40

<sup>36</sup> Silva and Slaughter, *Serving Power*, 279

<sup>37</sup> American Association of University Professors, "Practical Proposals."

*American Political Science Review*, vol. 10, no. 2 (1916), 29

<sup>38</sup> American Association of University Professors, "General Declaration of Principles." *American Political Science Review*, vol. 10, no. 2 (1916), 8, 10-11

<sup>39</sup> *Ibid.*, 14-15

<sup>40</sup> Silva and Slaughter, *Serving Power*, 212

<sup>41</sup> Skocpol, *Protecting Soldiers and Mothers*, 183. (Referring to Domhoff).

<sup>42</sup> Skocpol, *Protecting Soldiers and Mothers*, 184-5

<sup>43</sup> Moss, *Socializing Security*, 8

<sup>44</sup> National Civic Foundation. Quoted in Silva and Slaughter, *Serving Power*, 186

<sup>45</sup> *Proceedings of the First Annual Meeting*, 6

<sup>46</sup> *American Labor Legislation Review* 1 (1911), 121

<sup>47</sup> Searches were performed using Proquest Historical New York Times Database

<sup>48</sup> McGann, "Competition for Dollars, Scholars, and Influence," 75

<sup>49</sup> *Ibid.*, 66

<sup>50</sup> *Ibid.*, 150

<sup>51</sup> *Ibid.*, 170

<sup>52</sup> Moss, *Socializing Security*, 10

<sup>53</sup> "Horrors of Lead Poisoning Astound Investigators." *New York Times*, March 2, 1913

<sup>54</sup> "Hotchkiss Doubtful of State Insurance." *New York Times*, March 30, 1913.

<sup>55</sup> "Health Insurance for Workers Asked." *New York Times*, January 24, 1916

<sup>56</sup> "Mills Medical Bill Assailed By Easley." *New York Times*, March 13, 1916

<sup>57</sup> "Study Health Insurance." *New York Times*, April 18, 1916

<sup>58</sup> MacAdam, George. "Do We Want to Pay the Health Insurance Bill?" *New York Times*, March 11, 1917

<sup>59</sup> "Report Condemns Social Insurance." *New York Times*, January 14, 1917

<sup>60</sup> MacAdam, George. "Do We Want to Pay the Health Insurance Bill?" *New York Times*, March 11, 1917. "Suggests Health Service." *New York*

*Times*, April 23, 1916. “Doctors Discuss Forced Insurance.” *New York Times*, January 23, 1917

<sup>61</sup> “Urge More Study of Health Insurance.” *New York Times*. March 8, 1917

<sup>62</sup> Moss, *Socializing Security*, 148-151

<sup>63</sup> Gompers, Samuel. “‘Intellectuals,’ Please Take Note.” *The American Federationist*, Vol. 23, no. 3 (March, 1916)

<sup>64</sup> Gompers, Samuel. “Labor vs. its Barnacles.” *The American Federationist*, Vol. 23, no. 4 (April, 1916)

<sup>65</sup> *Ibid.*

<sup>66</sup> “‘Intellectuals,’ Please Take Note.”

<sup>67</sup> Samuel Gompers to Adna F. Weber, 14 February 1906. In AALL Papers, Reel 1

<sup>68</sup> *Ibid.*, 156-157

<sup>69</sup> *Protecting Soldiers and Mothers*, 253-4

<sup>70</sup> Rodgers, Daniel T. “In Search of Progressivism.” *Reviews in American History*, Vol. 10, no. 4 (1982)

<sup>71</sup> Ross, *Origins of American Social Science*, 159-160