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The AAUP, Academic Freedom, and the Cold War

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The Cold War was a tough time for the American Association of University Professors. Unlike today, its dual roles of white-collar union and professional association did not comfortably coexist. Indeed, at key moments, the AAUP's readiness to defend members' interests was noticeably absent. This paper will examine one instance when academic freedom was breached, but the organization remained silent. It will focus less on the AAUP than on the academic freedom case itself; the AAUP entered the story, and partially redeemed itself, five years later when it commenced an investigation, issued a report, and subsequently imposed a censure.

In April 1951, a senior academic at New York University was dismissed. Professor Lyman Richard ("Dick") Bradley had arrived at NYU in 1924 from Harvard University. He completed his PhD in 1930, became treasurer of the Modern Language Association (MLA) in 1931, and became chair of the Department of German in 1942. His deep knowledge of German literature became apparent in an erudite article, "Literary Trends under Hitler," published in 1944.¹ By the time he appeared before the House Un-American Activities Committee (HUAC) in 1946, the modest, soft-spoken Bradley was highly respected, long-

¹ Lyman R. Bradley, "Literary Trends under Hitler," *Science & Society*, 8:2 (Spring 1944), 104-114.

serving, and tenured. That HUAC appearance, which triggered a chain of events that culminated in his dismissal five years later, had nothing to do with his academic position.

Not only was Bradley treasurer of the MLA, established in 1883, he was also treasurer of the less-venerable Joint Anti-Fascist Refugee Committee (JAFRC), formed in 1942. By default, he was also a member of the committee's executive board, and that membership was Bradley's downfall. The academic freedom case of Dick Bradley was inextricably linked with the fate of the JAFRC, so first we must learn why HUAC was investigating that organization. The JAFRC was the brainchild of Edward Barsky, a New York doctor who went to Spain in 1937 to assist the Republic. After the civil war, Barsky and others who fought with the Abraham Lincoln Brigade or supported the Republican cause were concerned for the fate of the half million Spanish refugees who streamed mainly into southern France and were confined in a series of refugee camps. Their plight was the *raison d'être* of the JAFRC. But because Barsky was a communist and the patriotism of the Lincoln Brigadiers deemed suspect, the FBI, and consequently HUAC, declared the JAFRC to be a communist-front organization concerned more with propaganda than relief.

In December 1945, the Cold War began early for the JAFRC. In the first postwar subpoena issued by HUAC, the JAFRC was ordered to produce all of its "books, ledger sheets, bank statements, documents, and records" that would reveal both the names and addresses of all contributors to its funds, as well as the names and addresses of all recipients of such funds for 1944 and 1945.² One by one, the entire seventeen-member board of the JAFRC appeared before HUAC; each refused to surrender the required records. These records contained two politically volatile lists: One was a list of 30,000 Americans who had contributed to relief aid; the other was a list of Republican Spaniards who were receiving that aid, including those hiding inside Franco's Spain. Bradley and the other JAFRC members were convinced that, if these names were disclosed to HUAC (and presumably the FBI), the liberties of each group would be imperilled. The board felt a strong sense of obligation to protect domestic donors from retaliation and Spanish recipients from

² *New York Times*, December 20, 1945; "Proceeding against Dr. Edward K. Barsky and Others," HUAC, 79th Congress, 2nd Session, Report No. 1829, March 28, 1946, 1.

persecution.

When Dick Bradley was interrogated, an AAUP report later noted, HUAC members “were exceedingly abusive in language and demeanor,” and the hearing lacked “dignity and order.”³ The following exchange is illustrative:

The Chairman [J. Parnell Thomas]: You are a man of intelligence, aren't you? You think so at least. Do you know whether you have got these [financial] books or not?

Mr. Bradley: May I consult my counsel?

Mr. Rankin: Not on this question... He has already shown contempt of this committee. Now let us have his answer to this question, 'Yes' or 'No.'

Mr. Mundt: Either refuse to answer or answer it, one way or another.

Mr. Bradley (reading): I have been served with a subpoena requiring me...

The Chairman (interposing): No. I tell you we don't want you to read a statement. Have you got these books with you?

Mr. Bradley: I insist that I read this statement...

The Chairman: Let me see your statement.

Mr. Bradley: Allow me to finish reading the statement...

Mr. Rankin: Give it to the chairman. Now, the next question he refuses, just call up the marshal and send him to jail.⁴

Bradley *was* sent to jail, but not for another four years. In March 1946, he, along with the other JAFRC Board members, was cited for contempt of Congress for refusing to answer his interrogators. On April 16, 1946, the House of Representatives voted 292–56 to confirm the citation.⁵ On June 28, 1947, the Federal District Court convicted the JAFRC members. That

³ [Association of American University Professors], “Report of Investigating Committee” [1957], 5, n. 2, in RG 3.0.6. Records of the Office of President/Chancellor New York University, 1951-1965, Administrative Subject Files, Box 15, Folder 1, NYU Archives. The report continued that Bradley “was not allowed to bring his counsel into the hearing room, he was not allowed to leave the room with his counsel during the questioning, and he was not allowed to read his written statement.”

⁴ “Investigation of Un-American Propaganda Activities in the United States. Executive Board Joint Anti-Fascist Refugee Committee.” HUAC Hearings, 79th Congress, 2nd session, April 4, 1946, 9-10.

⁵ *New York Times*, April 17, 1946 (“17 Foes of Franco Voted in Contempt”).

conviction opened the gates to the federal penitentiary.

Five days later, the Dean of NYU's Washington Square College of Arts and Science, Thomas Pollock, relieved Bradley of his position as head of the German Department. Pollock himself became Acting Chair with the assistance of an advisory committee. This decision was conveyed to members of the German Department, who did not react, and to the University Council, which did. On October 27, on the motion of Chancellor Harry Woodburn Chase, it approved and confirmed Pollock's action.⁶ When the Supreme Court refused to review the conviction on June 14, Bradley was suspended from the University.⁷ Notwithstanding Bradley's lawyer petitioning the Supreme Court for a rehearing, the University Council confirmed the suspension on October 25, 1948.

With the rehearing petition still pending, Bradley remained "unclear" as to why he had been suspended.⁸ Indeed, the Washington Square College *Evening News* report in late 1948, that "the University has as yet not publicly stated the reasons for its suspension of Professor Bradley," was correct.⁹ As Bradley informed his Chancellor, "I have received no complaints concerning my work as an instructor or as an administrator at the University." If his suspension was due to his expected imminent imprisonment, then it was "unwarranted and unjustified," because the Supreme Court had not yet reconsidered the issue and, when it did, could reverse the conviction. Bradley further argued, "To suspend a man without a [university] hearing for taking a stand which may yet be decided by the Supreme Court to be in proper defiance of an unconstitutional agency of the government, is not only unfair but a serious breach of the academic freedom in which we both believe."¹⁰

It was not until May 29, 1950—that is, after nearly two years without salary—that the Supreme Court finally decided, for a second time, not to review the conviction of Bradley for

⁶ Minutes of the Council of New York University, October 27, 1947, Lyman R. Bradley Academic Freedom Case Records, 1947-1961, New York University Archives, RG 19.2 [henceforth Bradley Records], Box 3, Folder 5.

⁷ Correspondence, Chase to Bradley, June 21, 1948, Bradley Records, Box 1, Folder 10; Press release, New York University Bureau of Public Information, June 25, 1948, Bradley Records, Box 2, Folder 15.

⁸ Bradley to Chase, January 29, 1949, Bradley Records, Box 1, Folder 10.

⁹ *The Evening News*, November 22, 1948.

¹⁰ Bradley to Chase, January 29, 1949, Bradley Records, Box 1, Folder 10.

contempt of Congress.¹¹ Thus, on June 7, 1950, he began serving his three-month prison sentence. Upon release, Bradley assumed that he would be reinstated to his teaching position by NYU. Accordingly, he requested the internal hearing promised him in the original letter of suspension in June 1948.¹² From Bradley's perspective, such a hearing would enable him to state his case, but from the University administration's perspective, it would be the mechanism for his "elimination from our midst," as Vice Chancellor Harold Voorhis put it.¹³ If Voorhis had had his way, there would have been no hearing and an immediate firing: Despite no charges being brought, he recommended backdating Bradley's dismissal from the date of the Supreme Court decision.¹⁴

Cooler heads prevailed. Dean Pollock plunged forward himself with the job of preparing charges for an intended hearing. Judging by the specificity of detail, the number of consultations with legal counsel, the amount of correspondence he conducted, and the length of the report, we can assume it occupied him during the summer break and beyond.

On October 23, 1950, Pollock dispatched his thirty-three-page report to Chase. He concluded that Bradley's actions, primarily his deliberate and willful refusal to "recognize the authority of the Congress of the United States," were "adequate cause for terminating his services."¹⁵ A week later, Pollock had crystallized his long report into three specific charges: Bradley was unfit to teach at NYU because "he had been convicted of a crime, to wit, contempt of Congress"; because he had made statements constituting "deliberate falsehoods" to the faculty and students; and because, on October 11, 1948, he "participated in and was responsible for an impetuous, improper, and potentially disorderly demonstration." Events quickly unfolded. In preparation for the hearing, Pollock began the systematic collection of substantiating evidence for each of these charges; on November 9, the Chancellor appointed an advisory committee, consisting of the elected faculty

¹¹ See *Barsky et al v. United States* 339 US 971. The decision was 5-2, with dissenting Justices Black and Douglas supporting the petition for rehearing.

¹² Bradley to Chase, September 23, 1950, Bradley Records, box 2, Folder 4.

¹³ Voorhis to Chase, February 2, 1949, Bradley Records, Box 3, Folder 2.

¹⁴ Voorhis to Chase, June 8, 1950, Bradley Records, Box 2, Folder 14.

¹⁵ Pollock to Chase, October 23, 1950, marked "Confidential - for discussion only," Bradley Records, Box 2, Folder 1.

representatives on the University Senate of each of the twelve colleges and schools, to review the charges and report its findings; on November 13, Bradley was informed of the composition of the committee, the three charges against him, and the procedure of the hearing; on November 27, the University Council approved this course of action; and on December 5, the Senate hearing was scheduled for Wednesday, January 3, 1951. It seemed that Bradley's fate would soon be determined.

The hearing continued for three days. No attempt will be made here to summarize the 310-page transcript or the fifty exhibits compiled by Pollock. In short, Pollock obtained a majority on only one of the three charges. On the most serious charge, being convicted of contempt of Congress, the senate committee found that Bradley "may be dismissed." Seven were in favor, two remained neutral, and one opposed. On behalf of Bradley, it was argued that Bradley had a right to test his constitutional rights in a legal contest with an arbitrary Congressional committee. Pollock's position, which he had never before stated, never mind in such highly charged language, was that Bradley's "concealment" of records sought by HUAC "would have disclosed the source of support for Gerhart Eisler, a top espionage agent for foreign communists." This, Pollock claimed, "was a vicious crime involving moral turpitude."¹⁶ On the second charge, concerning misrepresentations and falsehoods, the committee—despite the detailed case that Pollock made—voted nine to one against dismissal. In deciding the third charge, the committee heard the tape recording of the protest demonstration in which Bradley participated. The vote was deadlocked: Five found the charge proved, while five did not.¹⁷

Just before 5 p.m. on March 26, 1951, Bradley, Pollock, and their legal counsel entered the Council chambers of New York University. It would be Bradley's last chance and his lawyer, Professor Fowler Harper from Yale University Law School, knew it. He spoke passionately and persuasively—less as Bradley's representative, he said, and more in "the

¹⁶ As treasurer of the JAFRC, Bradley had written several checks for \$150, each payable to Eisler, a German communist imprisoned in France in 1940 along with German-born soldiers who had fought for the Spanish Republic.

¹⁷ Riggs to Madden, March 1, 1951, 5-8, Bradley Records, Box 2, Folder 10.

cause of academic freedom.”¹⁸ He argued that the judgment of whether Bradley was fit to teach had nothing to do with Bradley’s political opinions. Yet, Fowler alleged, throughout the three days of the Senate Committee’s hearing, “Over my repeated remonstrations and objections, evidence after evidence, document after document, was presented, incorporated into the record, which were relevant to nothing but the political ideas of Professor Bradley.” In particular, Harper focused on Pollock’s persistent reference to, and tabling of exhibits about, Gerhardt Eisler. Harper challenged the relevance of Eisler’s Immigration Departure Permit and J. Edgar Hoover’s assessment of Eisler, to Bradley’s contempt conviction. If Pollock wished to charge that Bradley was unfit to teach because had associated with communists, “I will defend Bradley but I want another hearing. The one thing we don’t do in this country is to charge a man with one crime and convict him with another.” What Bradley had done was “to exercise the right of every American citizen... to challenge the validity of Governmental action which he deemed venal and evil.” Harper concluded:

Academic freedom is important. It is vital. Without it our institutions will become degraded and corrupted... This is a great institution. It has great responsibilities... to stand up for the things on which it is founded... Let me beg of you... let me plead, do not dismiss this man because he has exercised the right of every American citizen... To my knowledge, the scandal of academic freedom has never touched New York University. I hope it never will. Save yourselves. Save him. Let him leave this institution with honor to himself and honor to the University.¹⁹

It was all in vain. A motion was moved and seconded that “because of conduct involving moral turpitude,” Bradley’s existing suspension be ratified, confirmed, and made permanent, and that his name be “stricken from the roll of the faculty of New York University.”²⁰

Notwithstanding a laudable statement from the AAUP on academic freedom and tenure

¹⁸ “Statements Made Before Meeting of Council,” March 26, 1951, 29-30, Bradley Records, Box 1, Folder 7.

¹⁹ *Ibid.*, 34-45.

²⁰ Minutes, University Council meeting, March 26, 1951, Bradley Records, Box 3, Folder 5.

in 1952,²¹ during the hearings against Bradley, the AAUP went missing. Yet here was a clear breach of academic freedom that the organization would, in normal circumstances, have fought. Although the AAUP may not have had the resources to report on the rapidly escalating number of professors who were fired after investigation by one of the McCarthyist Congressional committees, the quintessential reason was moribund leadership. In considerable detail, Ellen Schrecker describes numerous Cold War–related cases and individual members’ appeals that the national office in Washington simply ignored. She attributes the organizational impotence and administrative negligence primarily to the AAUP general secretary, Ralph Himstead, who was often found “shirking his duties.” Not only was Himstead keen to keep the AAUP politically neutral—which meant dissociation from the Left at the very moment that left-wing academics were being targeted—he also became increasingly lethargic. “It is clear,” Schrecker writes, “that by the time the main wave of political dismissals reached the AAUP, its general secretary had ceased to function” and that “some kind of psychological factors were involved with his inability to perform the professional tasks of his office.”²²

The Bradley case was one of the casualties of such dysfunctional behavior. In July 1951, one month after Bradley’s dismissal, Harper wrote to Himstead. He formally sought an investigation into the dismissal and reminded Himstead that, at Harper’s request, an AAUP observer was present throughout the hearings. Harper continued:

It is Professor Bradley’s contention that his dismissal is a violation of the principles of academic freedom and tenure contrary to the policy of the American Association of University Professors and indeed of New York University itself.

He then requested that Himstead expedite the investigation without delay so that Bradley’s “record may be cleared at the earliest possible opportunity.”²³

It was to be a long wait. Not until Himstead died in 1955 and the new general secretary,

²¹ See “Academic Freedom and Tenure, Statements of Principles,” *AAUP Bulletin* 38:1 (Spring 1952), 116-22.

²² Ellen Schrecker, *No Ivory Tower: McCarthyism and the Universities* (New York: Oxford University Press, 1986), 329-30.

²³ Harper to Himstead, July 16, 1951, Bradley Records, Box 2, Folder 7.

Ralph F. Fuchs (who found Himstead's office "unbelievable"²⁴), was installed was the case exhumed. The context was a lengthy report by an AAUP special committee entitled "Academic Freedom and Tenure in the Quest for Security." In an indirect sideswipe at the inertia of the previous incumbent, the report stated: "The opening weeks of 1956 afford a significant opportunity for the American Association of University Professors to review the vicissitudes of academic freedom and tenure during the past eight years, which have arisen on account of the quest for military security and the need to combat Communism." The committee acknowledged the demands for national security, but more stridently defended the need to uphold civil liberties and intellectual freedoms. It argued, in a way that had resonance in the post-9/11 years under the Bush administration, "Particularly in a time of stress, this nation cannot afford the deterrents to scholarly careers and the restrictions upon contemporary learning which the events of the past eight years and the prevalent climate of opinion have imposed." In the final section of the report, the committee focused on NYU's dismissals both of Bradley and Edwin Berry Burgum, a Professor of English. It was concerned that "the precise reasons for [Bradley's] dismissal have not been disclosed" and recommended that the AAUP investigate both cases and issue a full report.²⁵ When NYU Chancellor Henry Heald read the proofs of the final report, sent to him by Fuchs prior to publication in the *AAUP Bulletin* of spring 1956, he was outraged. He claimed that the section on Bradley and Burgum "does considerable injustice to New York University" and that "unless the AAUP has new relevant evidence, I see no reason for a new investigation."²⁶

By the time an AAUP committee did investigate the Bradley case, it was January 1957. NYU had a new president, Carroll V. Newsom, and Fuchs was about to be succeeded by Robert K. Carr, Professor of Government at Dartmouth College. Indeed, Carr chaired the investigative committee that interviewed Newsom, Voorhis, Pollock, three faculty members who served on the committees that conducted the hearings, other members of the faculty, Bradley, and Burgum, on January 18 and 19, 1957. Pollock was disappointed that the

²⁴ Cited in Schrecker, 329.

²⁵ Draft Report of a Special Committee of the American Association of University Professors, "Academic Freedom and Tenure in the Quest for Security" [1956], 2, 5.

²⁶ Heald to Fuchs, March 15, 1956, Bradley Records, Box 1, Folder 8.

committee had not read the transcripts of the University hearings in either case before meeting him, but the meeting seemed cordial and a second meeting was held the following day.²⁷ The next contact was nearly seven months later (“The preparation of our committee report on the Bradley and Burgum cases has moved along very slowly, as you may have guessed”) and it was to request clarification from Pollock about particular administrative details.²⁸ In thanking Pollock for his reply, Carr foreshadowed the committee’s conclusions: “You may well disagree with our interpretation and evaluation of the handling of the Bradley and Burgum cases....”²⁹

In fact, the entire NYU administration disagreed with this comprehensive report. Most would have agreed with Vice President for University Relations Arthur Brandon (“We would all wish that these cases... could be forgotten”), but others wished to confront the AAUP. For Voorhis, it “strikes at the heart of our practice and should not be ignored.”³⁰ What did the investigating committee find? It concluded that, in regard to the “ambiguously worded” first charge, there was “some justification” for Professor Harper’s claim, cited earlier, that Bradley was charged with one crime (defiance of HUAC) and convicted of another (association with Eisler); that the second charge was “trivial” and “inconsequential” and did not provide sufficient basis for “such drastic disciplinary action” as dismissal; and that Bradley’s role in the student demonstration, the third charge, did not involve “improper intentions” and did not “result in any real mischief.” It also criticized the failure of the University Council to *explain* its adverse decision against Bradley.

Despite the repeated allegations by NYU’s administrators of “moral turpitude” and the implication that this underpinned the terminations, the AAUP committee stated, correctly, that there was no charge of moral turpitude, no evidence presented of moral turpitude at the hearings, and no finding of moral turpitude. These facts compromised NYU’s claim that its

²⁷ Pollock, “Memorandum for Bradley-Burgum Files,” January 22, 1957, Bradley Records, Box 1, Folder 10.

²⁸ Carr to Pollock, July 9, 1957; Pollock to Carr, August 2, 1957, Bradley Records, Box 1, Folder 9.

²⁹ Carr to Pollock, August 8, 1957, Bradley Records, Box 1, Folder 9.

³⁰ Brandon to Newsom, September 19, 1957; Voorhis to Newsom, September 20, 1957, Records of the Edwin Berry Burgum Academic Freedom Case, 1934-1961, New York University Archives, RG 19 [henceforth Burgum Records], Box 6, Folder 3.

conduct of the hearings and its adherence to due process had been impeccable. These facts also made it “hard to understand,” to use Robert Carr’s understatement, why the University refused to provide Bradley with severance pay, given “there was no formal finding of moral turpitude by either the Faculty Committee or the University Council.”³¹ Finally, given that NYU chose “vigorously” to resist Bradley’s efforts “to secure a court determination of his right to severance pay” (a mere \$4,900 was sought), the AAUP committee was “compelled to note with apprehension the University’s continued insistence that its Academic Freedom and Tenure Policy statement has no legal standing.”³² Leaving aside its equally trenchant comments on the Burgum case, this report was an indictment of how NYU handled and judged Professor Bradley.

Despite a series of extremely strident letters from President Newsom to the new AAUP general secretary, William P. Fidler,³³ the AAUP remained steadfast. On the basis of its 1957 report, it proceeded to place NYU on its censure list in 1959.³⁴ Without this sword of Damocles, it is unlikely that NYU would have attempted to improve its procedures. After several delays, on October 24, 1960, the University Council adopted revised and improved “New York University Rules of Tenure and Related Provisions.” Fidler wrote to Newsom to congratulate the University on this “excellent set of new regulations.” On April 21, 1961, Fidler sent Newsom a telegram advising that the censure was lifted.³⁵ NYU was again placed on the censure list in 1990, a censure that was removed in 2003.

Thus, although the AAUP went missing during the Lyman R. Bradley academic freedom case—and it was not alone in ducking for cover during the darkest days of McCarthyism—this is a story of partial redemption. Its emergence from the shadows under new leadership in 1955, its thorough investigation of the case in 1957, and its consequent censuring of NYU in 1959 meant that a small measure of belated justice was achieved. For Bradley, however,

³¹ Carr to Newsom, May 9, 1958, Burgum Records, Box 6, Folder 3.

³² [Association of American University Professors], “Report of Investigating Committee” [1957], 13-20, 38-9.

³³ See Burgum Records, Box 6, Folder 4.

³⁴ *AAUP Bulletin*, 45 (1959): 274, 393-4.

³⁵ Fidler to Newsom, January 31, 1961; April 21, 1961, Burgum Records, Box 6, Folder 4; *AAUP Bulletin*, 47 (1961): 144.

whose academic career had been destroyed, such small victories were Pyrrhic. By 1961, when he applied for a passport, he listed his occupation as “freelance writer.” In reality, he was eking out a living, exhibiting educational books for publishers at conventions. Moreover, despite the AAUP’s recommendation in 1958 that Bradley receive back-dated severance pay, no payment was ever made by NYU. Generosity of spirit was not a feature of Cold War academic freedom cases.