

Poul Andersen (1888-1977) – The Son of a Tenant Farmer

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In August 1910, a young man arrived at Copenhagen Central Station. All day he had traveled from his parent's farm on Funen all day, and now he was ready to go to his lodgings. He had enrolled in the Law Faculty of Copenhagen University and acquired a room at a desired dormitory, *Valkendorf Kollegium*, next door to the auditoriums.

His name was Poul Andersen, later to become the law professor that founded Danish administrative law. I view his life and background, his work in public law, and the development of the Danish political transition. In this, I claim to illustrate how, at the beginning of the 20th century, he took it upon himself to transform Danish public law to serve a democratic society. In doing so, his profound inspiration was the great democratic politician and thinker Frederik Severin Grundtvig. It brings to light the function of the lawyer, not as a neutral technician but as an agent of societal change.

He had serious odds against him. Less than 10 years before, Denmark had undergone a constitutional struggle (1885-1901). In the *Rigsdag* (Parliament), two powerful groups fought over the allocation of funds and government power. The landed nobility, represented by the political party *Højre* ('Right'), had held government in spite of the majority in the lower house, the Folketing, which belonged to the farmers' party, *Venstre* ('Left'). Not until 1901 did the King appoint a *Venstre* government backed by the majority of the *Folketing* (then the lower chamber of the Parliament). During the constitutional struggle, the law faculty professor of public law, Henning Matzen, had legitimized the political practice of *Højre* as constitutional, and another law professor, Johannes Nellemann, held the ministry of justice that employed government officials against rebellious farmers. Nellemann had only scorn and contempt for members of *Venstre*, referring to them as 'farmers, deacons, school teachers of independent schools and other incompetent persons' (Tamm 1996:192). Matzen's textbooks were still in use at the 1910 Law Faculty (Waaben 2005: 218-219). Standing there on the platform, Poul Andersen probably knew right then that a number of his co-students would see eye to eye with Johannes Nellemann. They would target their prejudice against him. Because Poul Andersen was the son of a tenant farmer. Moreover, he had his basic school training at an independent school (*friskole*), adhering to Grundtvig's ideas. To top it all, his parents had raised him as a congregation supported by the ideas

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of Grundtvig who vehemently opposed to the constitutional order that gave the nobility the majority of the seats of the upper house, the *Landsting* – and who also inspired both ‘independent free schools’ (*friskole*) for children and the school tradition for young people, *højskole*. Grundtvig saw both schools as necessary steps to forging ‘the people’, the constituency as a precondition for a democratic society.²

Poul Andersen succeeded in acquiring his law degree, his doctorate, become a professor of public law (constitutional, administrative, and international public law), and he saw his books become textbooks at the law faculty. His career represents not only a personal victory but also the triumph of the farmers’ class. More importantly, it represented a revolt in the thinking of law from being a system of dominance into becoming an instrument of rights in a liberal democracy.

Upbringing on the Island of Funen

Poul Alfred Andersen, born on 12 June 1888, was the eldest son of Anders Andersen and Ane Knudsen. His parents had him christened at Dalby Chapel, a modest building in the village Dalby on the Hindsholm peninsula. The chapel was part of a Grundtvigian optional congregation, which emerged from a revival in the area and guaranteed by the freedom of religion instituted with the constitution of 1849 (Parish Register Mesinge 1888; Nedergaard 1956: 130-132 and 150-157; Christoffersen & Gregersen 2011: 206-241).

When Poul Andersen was born, his father, Anders Andersen, was a tenant farmer in Midskov under the Scheelenborg estate in Mesinge Parish. The estate belonged to Baron Juel-Bockdorff. The family had been tenants on the farm since the 1760s (Census Mesinge 1890, 1901, 1911, 1926; Mesinge Local Archive A51). If Anders had not bought the farm in freehold in 1906, the 1919 land laws would have dissolved the tenure. The tenancy contract stated the tenant’s obligations: he had to work for the baron during sowing and harvesting. Moreover, he was obliged to obey the baron’s bailiff. The contract repeated the system of government stated in the Danish Law of 1683, in itself a copy from Renaissance law.

Thus, being a tenant farmer was a demeaning position in 19th-century Denmark, especially to people with sympathies shared by the Andersen family. They supported the liberal wave sweeping over Denmark in the middle of the 19th century. They shared ideals with the political party *Venstre*. Grundtvigian religious awakening was an integral component of this

2 The free schools (*friskole*) were not free of charge. As opposed to the public school (*folkeskole*, see n2), the parents payed a fee. The freedom consisted in the freedom of the individual school to form curriculum and encourage the students to think independently and engage in discussion instead of learning the curriculum by heart.

political position (Berntsen 1921: 109-113; 175-77; 191-99). A local struggle was playing out parallel with the one in the capital. The parties *Left* and *Right* took opposing stands in religious matters as well as education, politics and law. Grundtvig founded his concept of the liberal state on the requirement of keeping the religious center separated from the secular one. Only through this would the state respect religious freedom. The secular centers should contribute to educating ordinary people ('the fourth estate') to enter public life and struggle for politics and livelihood. Grundtvig's inspiration came from England, a country he visited several times as a young politician (Korsgaard 2012: 20-24).

In Mesinge Parish, there were disputes between the dissidents i.e. revival supporters and opponents. Violent conflicts occurred in the 1850s under Reverend Lehn, who opposed the revival and the *friskole* movement. Denmark had just escaped autocracy, and the state church was strict. Rev. Lehn zealously controlled *friskole* exams, leading to sharp exchanges with its local head. Awareness of state authority and religious persecution was strong in the Andersen family's area (Nedergaard 1956: 150-152; Andersen 1940 b; Andersen 1940 a: 55- 72). Neither Ane nor Anders had been christened at the parish church. They came from a family of dissidents, their families adhering to Grundtvig's ideas. They found their religious support from the dissident congregations.

Poul Andersen was the eldest of six siblings. Their parents opposed the parish church and the state school. As a church, they chose an optional congregation situated in Dalby and they admitted their children to the Dalby *friskole*. In 1852, schoolmaster Kresten Kold founded the school for children and later opened it for young men, studying to become teachers of the *friskole* – the kind of school teachers that minister Nellemann loathed. Kold took inspiration from Grundtvig's ideas and he opposed traditional rote learning and punishment. The school should build on oral leaning and encourage the students to speak their own minds. Teachers from Kold's college were in high demand and he tried to expand. This proved impossible, since the landowner, Juel-Brockdorff, refused to sell the land. This showed the landowner's power through ownership (Andersen 1940 a: 58; Inge Jarmbæk; Nedergaard 1956: 132; Berntsen 1921: 48). It also showed the dismay of the landed nobility of the *friskole* movement.

After Kold, Anders Jensen Klinkby became a teacher at the free school and stayed for over 40 years. He taught Poul Andersen and his siblings. Klinkby was well known and respected in the community, keeping track of his students' progress. The school became a hub for the region's Grundtvigian youth (Nedergaard: 132 and 156; Ny Carlsberg Fondet; Dalby Local Archive B121).

Poul Andersen and his siblings walked 5 km to school from Midskov, wearing button boots instead of clogs. Anders Andersen and Ane could afford leather boots and the fees



Illustration No. 1: Dalby Friskole where Andersen went to school with his siblings, before 1898 at the time when Andersen attended the school. The photo demonstrates an important point in Grundtvig's state program. The school is to the left and the church is the building to the right. The two buildings are separate to secure the secular quality of the school. *Dalby Sogns Lokalhitoriske Arkiv B359.*

for Dalby *Friskole*. Like in public schools,³ *friskole* students were home every other day to help on the farm. Poul likely did his share of fieldwork and mucking out the stables (Inge Jarmbæk).

Although Poul Andersen was academically strong and his family well-off, pursuing higher education was a giant leap. It is not that they were poor. They were not. In 1901, the Andersen household had six children, a forager, a servant, and three female workers. Anders and Ane were employers running a manufacturing business (Census, Mesinge 1901). However, their outlook on state, church and school differed from the dominating, traditional one; Andersen had to adjust to a different world. He moved to Odense to attend the *Katedral-skole*, the school to prepare him for the university (Census Mesinge 1901). The journey from North Funen to Odense marked a significant change. Like a student from the village Brenderup years later, Poul probably felt outside the circle of nobility and officials' sons and

3 I use the term 'public school' in the US sense of the word, as a school, free of fees, financed by taxes, regulated by law and open to everybody in the district.

connected more with farmer's sons (Paabøl). Besides, he had to subordinate himself to a regime of learning that his parents had opposed so vehemently.

His *Katedralskole* diploma allowed him to enter law school. However, his upbringing in the Dalby *Friskole* and the optional congregation provided his ethos and reason for joining.

Andersen paid homage to his upbringing almost 50 years later, in 1958, when he retired from his university position. In a *Festschrift* article, his colleague Max Sørensen revealed Andersen's political sympathies. The source of this information probably is Andersen himself. Sørensen was a judge of the European Court of Justice and law professor and thus more receptive to human rights than Andersen's colleagues at Copenhagen Law Faculty at the time. Andersen wanted to measure his magnum opera against the liberal heritage. An unknown fact is that Andersen's father was a tenant and not a free farmer. Andersen's biographers glossed over this information, probably due to the demeaning ring of its status and perhaps because Andersen himself did not want to reveal it.

Illustration No. 2: Inside the living room of Anders Klinkby, the liberal school master of *Dalby Friskole*. The youngsters return to their teacher to discuss life and politics. Photographer N. Bøgely *Dalby Sogns Lokalhistoriske Arkiv B141*.



The Law Student

When Poul Andersen started law school, it was different from the one in the 1890s. Poul Johannes Jørgensen, interested in legal history, had replaced Matzen. Knud Berlin later modified Matzen's views and in 1910 he became professor of public law. The Faculty of Law was changing, with new voices like H. Munch-Petersen calling for reforms (Munch-Petersen 1906: 289-297). From a Grundtvigian family, Poul likely found himself in opposition to traditional doctrines. He formed friendships at *Valkendorf Kollegium*, living with like-minded students like Jens Himmelstrup (Census 1916). Poul showed promise as a lawyer, receiving Hurtigkarl's scholarship in 1912 and 1913 (RA: Hurtigkarls Legater).

Civil service career?

After graduating in 1917, Poul Andersen became an assistant in the Ministry of the Interior. He married Berta on 2 March 1917, and their first child, Niels Erik (called Erik), was born on 25 December 1917 (Census Hørsholm 1940).

In 1917, the Ministry of the Interior, led by Ove Rode, managed Denmark's war economy and price regulation. Poul Andersen worked on administering these restrictions and served as secretary of the Corn Board from 1917-20. The government faced criticism from prominent wholesalers (Jansen, Chr. R.; Jensen, P.). The uproar from the other side of the political spectrum was equally loud. Workers, upset by rising prices and unemployment, protested, culminating in *Stormen på Børsen* (The Raid on the Stock Market) in February 1918, when syndicalists attacked the stock exchange (Arbejdersmuseet).

The regulatory legislation was likely tricky for Poul Andersen, a tenant farmer's son, as it limited producers' business opportunities. He may have felt aligned with employers rather than the growing working class. In his first article, published in 1918, he did not criticize price regulation directly but he pointed out inconsistencies and the need to protect freedom of contract (Andersen 1918: 193-199). The article appeared in *The Weekly Law Gazette* (*Ugeskrift for Retsvæsen*). At this time, the editor was Hans Munch Petersen, one of the new generation of law professors.

The Ministry of the Interior trained county officials, but Poul Andersen did not want to be a county governor (*amtmand*). Instead, as a travel grant for legal candidates, he received Hurtigkarl's scholarship in 1920 and 1921, worth almost DKK 138,000 today. Poul Johannes Jørgensen processed the case (RA, Københavns Universitets Stipendier. Hurtigkarls Rejsestipendium. Korrespondance).

Study Tour Choices

On his study trip to Paris and Heidelberg, Poul Andersen sought out the liberal schools in both France and Germany (Kraks Blå Bog 1938: 52-53).

From Léon Duguit, he learned that the state was not an elevated entity but a plurality of individuals, and from Jèze, that the state officials must serve not just the prince but the community. Therefore, the state could become liable to compensate its citizens. That line of thought emerged in the following article 1921 on the French compensation claims after World War I, written in Paris in February 1921. The article heralded a new relationship between the state and its citizens, a relationship that took color from the Declaration of Human Rights and the experience of the European governments in the war. It was Paul Andersen's reasoning for treating such an exotic theme in a Danish context (Poul Andersen 1921: 129-136).

In Germany, Poul Andersen studied the Weimar Republic and German constitutionalism. Instead of supporting Carl Schmitt's anti-constitutional views, he followed Richard Thoma and other liberal-democratic jurists who developed the Weimar Constitution's legal theory (Stolleis 2017: 75-76 and 87). The experience likely helped him understand the role of jurisprudence in interpreting and disseminating court decisions (Poul Andersen 1928: 177-205; 199).

The reason for Poul Andersen's travel to Italy remains unknown. He might have been curious about Italian fascism, especially after the growth of Mussolini's fascist movement in the 1920s.

The Defense of the Thesis in 1924

In 1924, Poul Andersen experienced significant changes. In 1923, he and Berta had a daughter, Karen. He was promoted to clerk in the Ministry of the Interior. After returning from abroad, he wrote a thesis on invalid administrative acts instead of earning an extra salary, thus prioritizing his studies.

On October 21, Poul Andersen defended his doctoral thesis in front of a large and distinguished audience in Copenhagen. Officials, journalists, students, and staff filled the auditorium. Notable attendees included his friend from *Valkendorf*, Jens Himmelstrup, both lawyer and philosopher (Mogens Blegvad). In the audience reporters spotted department head (*departmentschef*) Martensen-Larsen and the Social Democratic Minister of the Inte-



Illustration No. 3: Family celebration July 1925. The Andersen family – brothers, sisters and in-laws, in 1925, a year after Poul Andersen had defended his doctoral thesis. Poul Andersen stands in the back row in the middle of the photo, between his mother Ane and father Anders. Berta sits on the garden bench, second woman from the left. Berta holds Karen and Erik sits on the grass, dressed in a sailor's shirt. Jacobsen Photo. Private Ownership.

rior, C. N. Hauge.⁴ Reporters described Poul Andersen as pale but composed, with a dignified appearance.

During Poul Andersen's thesis defense, the opponents faced the president, creating a courtroom-like atmosphere. Poul Johannes Jørgensen, the first opponent, reprimanded the failure of the state administration to publish its decisions, a long-standing issue. The presence of the Interior Minister highlighted the significance of both this remark and the event. In his defense, Andersen confronted the administration and his own head of department, indicating his shift towards a more independent role. Newspapers reported that Andersen was the sole applicant for a docent position at the university, offering him a chance to continue his work with greater independence (*Berlingske Aftenavis* 1924; *Berlingske Tidende* 1924).

4 The word 'department head' refers to the chief executive of the ministry.

In the following years, Poul Andersen translated his thesis into German to engage with continental administrative law, leading to a new scientific area in Denmark. This brought him into contact with Nils Herlitz, a newly appointed docent in administrative law at Stockholm University (Stockholm Högskola). In 1925, Herlitz reviewed Andersen's thesis, pointing out some misunderstandings about Swedish law. This led to their collaboration and friendship, which lasted for decades through the Nordic Administrative Federation (*Nordisk Administrativt Forbund*) and direct Danish-Swedish cooperation (RA Stockholm, *Nils Herlitz arkiv*, vol. 31).

In 1928, at age 40, Poul Andersen was appointed an extraordinary professor (Kraks Blå Bog 1958: 52-53). His family proudly believed he was Denmark's youngest law professor, (Inge Jarmbæk) though Hans Munch-Petersen had been appointed at 32 (Stig luul). The family took pride in their learned son.

Poul Andersen's life path was quite different from that of his family members. While his father and brothers stayed in agriculture, marrying local women and running farms in Meseinge Parish and nearby areas, Poul pursued an academic career. His sisters, Birgitte and Ingeborg, married men within the Funen Diocese, maintaining their local ties (Johannes Andersen; Inge Jarmbæk).

Forum for politics and the public Law

From 1924 to 1934, Poul Andersen worked as a legal generalist while serving as a part time professor (*docent*) and extraordinary professor. He taught enforcement, wrote books on citizenship and economic rights and he was scheduled to lecture on civil law (RA. KU. Det Rets- og Statsvidenskabelige Fakultet, dekanatssager, studieordningen 1931). He also pursued his interests in administrative law with Nordic colleagues in the Nordic Administrative Association.

The Nordic Administrative Association (*Nordisk Administrativt Forbund*) formed in 1918, provided a forum for public administrators in Denmark, Norway, Sweden, and Finland (Herlitz 1965: 74-76, 87-95). It emerged partly due to the dissolution of the Russian Tsardom. Despite the unsuccessful reception of Poul Andersen's German thesis in 1927, the association facilitated the exchange of ideas on public administration (Hippel 1929: 239-41). From 1926 to 1935, Andersen published six articles in the Nordic Administrative Journal (*Nordisk Administrativt Tidsskrift*). The journal was crucial in disseminating knowledge of administrative law judgments (Nordisk Administrativt Tidsskrift 1935 Register 1920-1934: 5; Nordisk Administrativt Tidsskrift (1944) Register 1935-43: 5; Jørgensen 1927: 223-227).

Administrative law became an exam subject in 1931, and Poul Andersen prioritized writing a textbook in 1930 based on his doctoral thesis (Anordning nr. 116 af 11. april 1931 om indretning af de juridiske eksaminer ved universitetets rets – og statsvidenskabelige Fakultet). Despite heavy work pressure, he focused on spreading knowledge of administrative law, thus engaging in extensive travel and educational activities. In this, he proved Grundtvig's educational ethos true: he spent time spreading the spoken word (Himmelstrup (1958) 447-451; RA Stockholm, Nils Herlitz arkiv. Vol. 31, letters from Poul Andersen February 27 and May 30 1930).

The Nordic Forum and Social Sciences

After their initial contact, Poul Andersen and Nils Herlitz developed a solid professional relationship and close friendship. In letters, Andersen often reflected on their early interactions, expressing gratitude for the warm hospitality Herlitz and his wife showed him and Berta in Stockholm (RA Stockholm, Nils Herlitz arkiv. Vol. 31, Poul Andersen's letters of December 28 1928; September 14 1930; May 10 1956).

In early September 1930, the Swedish *Statsvetenskaplig Förening* held a significant cross-professional meeting in Stockholm, initiated by Herlitz, who had formed the association in 1928. The goal was to foster collaboration and public debate on methods and current issues (Herlitz 1965: 140-143). This included pressure on liberal states. Herlitz invited Poul Andersen, who was initially reluctant but eventually participated. Foreign Minister P. Munch wanted Andersen to co-sign Danish invitations, aligning with his efforts in the League of Nations for a peaceful, law-based world order (Skjoldager).

Before the conference, Herlitz asked Michael Kofoed, department head of the Ministry of Finance, to sign off on Danish participation. Still, Kofoed refused, possibly with Munch's agreement, due to concerns about Kofoed's focus on numbers and statistics. Munch then connected Herlitz with the History Institute at the University of Copenhagen. Poul Andersen recognized a perspective in Munch's aim to link historians with Nordic politicians. Despite initial reluctance, Andersen got involved, seeing it as a chance to influence the state's legal order and collaborate with politicians. He diligently ensured that he conveyed all communications, not trusting Munch to remember everything (RA Stockholm, Nils Herlitz arkiv. Vol. 31, letter from Poul Andersen of May 20 1930; letters from Michael Kofoed March 26 1930; April 5 1930 and April 15 1930; letter from Poul Andersen of April 11, 1930).

Poul Andersen was not entirely compliant with Munch's requests. Although Munch wanted him to present on citizenship, Andersen found the topic irrelevant. Instead, he proposed a comparative discussion on the courts' role in verifying the constitutionality of laws in Nordic countries. Poul Andersen had scheduled Justice Minister, social democrat K.K. Steincke

to participate; but Steincke canceled (RA Stockholm, Nils Herlitz arkiv. Vol. 31, Poul Andersen's letters of April 11, 10 and June 30; July 12 1930).

In 1930, Hitler's rise to power was indirectly present in Stockholm. Ernst Wolgast, a public law professor from the University of Rostock, attended the conference and he set strict conditions for his participation: to avoid repercussions, he would not discuss German politics publicly. Also, he assured that he would not spread German propaganda during his presentations. Herlitz who had met Wolgast in 1929 sought his insights on Northern Europe's security situation (RA Stockholm, Nils Herlitz arkiv. Vol. 47, letters from Wolgast August 8 and 13, September 13 and November 26 1930).

Munch had more presentation plans, including one by Georg Cohn on the League of Nations. Cohn declined, possibly due to his work on a doctoral thesis he defended the following year. Alf Ross stepped in, delivering a speech criticizing the League's principle of unanimity (Ross 1930: 414-445).

The conference touched on interwar domestic and foreign policy issues, showing the link between law and politics, which Herlitz embodied. He joined the Swedish *Riksdag* for the *Höger* party in 1933 (Gunnar Christie Wasberg). Frede Castberg planned a follow-up conference in Oslo, but Poul Andersen suggested postponing it by a year to coincide with the Nordic Administrative Federation meeting. The meeting was postponed, merging the Nordic interdisciplinary forums that year (RA Stockholm, Nils Herlitz arkiv. Vol. 40, letter of June 5 1931).

In the summer of 1933, Castberg influenced the Oslo meeting's theme (Modéer 2021: 345-356), focusing on the rule of law versus the administrative state. This debate was inspired by Scandinavian crisis solutions, like Denmark's Kanslergade settlement that was poised to deal with farmers' problems as well as unemployment. Castberg advocated for norm-bound management to ensure the rule of law despite recognizing the limitations in practice of judicial control (Castberg 1933: 123-137; Nissen 1988: 258-61; 249-52; 65-67). Wolgast contributed by emphasizing administrative management over legal aspects (Wolgast 1933: 145-148).

Poul Andersen did not attend the 1933 Oslo conference but no doubt, he would have supported judicial control measures against dictatorship systems. In 1935, Herlitz and Andersen corresponded about civil servants' freedom of expression, inspired by a case involving a Danish civil servant who functioned as a 'whistleblower' in cases concerning refugees from Germany. This led to Andersen's influential work on civil servants' freedom of speech, emphasizing the people's role in a democratic state (Andersen 1935). Andersen believed this issue showed the need for more action in *Nordisk Administrativt Forbund* and later included his views on civil servants' freedom of speech in his 1936 textbook on admin-

istrative law (Andersen 1936: 139-142). This case connected Andersen's ideas with broader public and political discussions.

The friendship between Andersen and Herlitz allowed Andersen to develop his thoughts on legal philosophy. Andersen viewed his professional role as a continuation of his predecessor, Knud Berlin and the 10 year younger Alf Ross. He criticized Berlin for a national prejudice for Danish national interests and was skeptical of Ross's logical system, which he found impractical. Andersen preferred an empirical-social reality to Ross's abstract, universal approach, inspired by Austrian legal philosopher Hans Kelsen. He used a phrase from Erich Kaufmann to describe Ross's views as "leaderless on the sea of reality" (Stolleis 2017: 84-85). Andersen privately strongly criticized Ross's work to Herlitz, finding it curious and easily refutable (RA Stockholm, Nils Herlitz arkiv. Vol. 31, letter from Poul Andersen October 22 1933).

Struggle for the division of power

In 1937, Justice Minister K.K. Steincke proposed a law to improve the right of appeal, allowing for the resumption of criminal cases and disciplinary actions against judges. This was partly due to accusations against him by Danish Nazis, which he had successfully countered in court (Jensen, Michael G. D.). The bill created a closed appellate system with no Supreme Court appeals and fixed-term judges, against the Judicial Council's advice. Supreme Court President Troels G. Jørgensen later described this process as influenced by party interests while a contemporary historian labeled it a struggle between the constitutional powers (Bagge 1947-49: 556-559; Jørgensen (1938: 181-98).

The law professors at the Faculty of Law and Political Science protested against the bill, fearing it would undermine judicial independence and the constitution (Det Juridiske Fakultet 1938). A collective action like this was rare, last seen in 1919 (Pedersen 1992: 113-118). Poul Andersen argued that the bill was unconstitutional, unnecessary, and modeled after Nazi legislation (Andersen 1938 c: 17-23). Despite his usual inspiration from Grundtvig who opposed a constitutional tradition, Andersen took a firm stance (Jørgensen 1940: 182-184; Andersen 1940: 47; Korsgaard 2012: 57-61). A compromise proposed by law professor Stephan Hurwitz allowed for Supreme Court appeals in cases of judge dismissals. This helped pass the bill (Hurwitz 1938: 23-38).

The debate over the bill extended beyond its specifics, touching on freedom of expression, the courts' relationship with the *Rigsdag*, and judicial review of laws. In 1936, the Social Democrats and Radical Left gained a majority, and Steincke argued that courts could not declare laws unconstitutional. He proposed that the *Rigsdag's* Law Council provide legal ex-

pertise, aligning with the standpoint that the *Rigsdag* could declare laws unconstitutional (Christensen 1998: 256-267; Pürschel 1938: 325-335).

The Court of Appeal debate revealed a power struggle between state bodies. In 1938, Poul Andersen argued against creating administrative courts, believing that existing judicial control was sufficient (Andersen 1938: 203-207). Probably, he feared changes might weaken judicial power. However, after the war, he advocated for administrative courts (Andersen 1952: 83-87).

They were far-reaching discussions since they not only coincided with a build-up of authoritarian regimes in Europe but also concurred with a 1939 proposal to amend the Danish constitution. Administrative courts were not included in the constitutional proposal that failed in a 1939 referendum (Trommer, Aage; Kaarsted, Tage). The revision aimed to unify forces and prevent conflict, partly due to fears of external pressure on Danish sovereignty.

The conflict over regulation versus conservatism mirrored the power struggle over the Court of Appeal. In 1938, Poul Andersen criticized the Constitutional Commission's report for not considering the impact of institutional designs (Folketinget 1938-39). He argued for including political scientists, not just lawyers, and noted that parliamentary practices had become more entrenched (Tage Kaarsted 1991: 146-152).

The constitutional proposal included creating a legal secretary under the *Rigsdag's* Presidency to handle petitions and monitor court cases. Poul Andersen was not supportive, seeing this as a sign of distrust of the courts. He regretted the lack of an office to check the administration but did not directly call for administrative courts (Poul Andersen 1938 a: 246 and 256-60). Possibly, this was a tactical step in avoiding an authoritarian influence on the constitution to replace the liberal 1915 constitution.

Life changes in the 1930s

Around 1930, Poul Andersen's wife, Berta, contracted the Spanish flu. She did not recover and this affected the family's living conditions. The family moved from Copenhagen to a large villa North of the city, in Hørsholm, where they had space for a domestic helper to care for Berta and the family (Susanne Pouline Svendsen; Census 1930; Kraks Blå Bog 1931: 43-44; Kraks Blå Bog 1930: 53; Inge Jarmbæk).

When Poul Andersen visited his family on Funen, now he often came alone. Previously, the whole family joined for summer and Christmas at Midskov, staying in a large villa built by Anders Andersen. This changed since Berta was unable to travel. Besides, Andersen's

brother, Niels Gerhard, moved into the villa with his children after his wife's early death. Niels had to return to Midskov to help on the family farm.

Later in the 1930s, Erik fell ill. However, the family still visited Midskov, even after Anders Andersen died in 1932 and a younger brother took over the farm. However, the visits changed. Karen often spent summer holidays there, enjoying the differences in Danish and Funen dialects with her cousin Inge. Music and joy remained at Midskovgård, with the gramophone adding to the fun. Yet, Poul Andersen's presence brought a sense of seriousness (Inge Jarmbæk and Johannes Andersen).

After 1945, Poul Andersen continued to visit the family, often bringing books as gifts. He had deep conversations about society and politics with his nephew Anders Harding. His son, Johannes Andersen, would listen intently. Poul also visited his niece Inge, bringing books for her daughter, Birgit (Johannes Andersen; Birgit Hutters). He had a strong sense of family.

Reflections on Grundtvig's conception of the state

In 1934, Poul Andersen became a full professor of public law. Despite his workload, he strengthened his social position, joining the board of directors of Gyldendal Publishing Company (Da.: *Gyldendals Forlag*). In 1936, he became the dean of his former dormitory *Valkendorf Kollegium* (RA Stockholm, Nils Herlitz arkiv. Vol. 31, Poul Andersen letter of March 24 1935). He was elected vice-rector at Copenhagen University in 1938-39 (Kraks Blå Bog 1936: 55; Ibid 1937: 57-58; op. cit. 1958: 81). At the university's opening in 1939, his opening address was on Grundtvig, presenting his views on administrative transparency and judicial review (Andersen 1940 b: 50-53). Andersen warned against European authoritarian trends, echoing Grundtvig's concerns about excessive order and coercion (Andersen 1940 b: 9-54 & 16).

Politicians and officials closely monitored his address amid the crisis following Germany's invasion of Poland and the subsequent declarations of war by England and France (Nationaltidende 1939: 5). Poul Andersen published the address in 1940, along with three other articles on school freedom, equality, and civil servants' freedom of expression. These articles reflected Poul Andersen's commitment to liberal principles during the politically charged climate of the 1930s. The article on civil servants' freedom of expression came as a reprint from a 1935 piece in the *Nordisk Administrativt Tidsskrift*, while the articles on equality and school freedom originally represented two of Andersen's many contributions to the Nordic collaboration, published in *Journal of the Law Society of Finland* (Andersen 1935: 193-209; Andersen 1939: 231-246; Andersen 1937: 479-497).

I see Poul Andersen's publication as his effort to present the Grundtvig state order to a general audience – at a time when the liberal state order was under pressure in Europe. He published it at Gyldendal, where he became board chairman the same year, solidifying his cultural influence (Kraks Blå Bog 1940: 65; Poul Andersen 1940 c). Additionally, he joined the board of *Carlsen-Lange's Legatstiftelse*, a cultural, Christian foundation which owns *Gl. Kjøgegård*, Grundtvig's burial place (Haugsted, Ida).

With his speech and publication on Grundtvig, Poul Andersen entered the public debate, addressing liberal principles in response to Nazi and Fascist pressures. President of the Danish Supreme Court Troels G. Jørgensen noted Andersen's effort to present Grundtvig's political ideas to a broader audience (Jørgensen 1940: 182-184). In his thesis on equality, Andersen argued that equality is inherent in Western legal order, using examples like women's equal testimony rights in 1908 and the US Constitution's "equal protection" clause. He believed that while equality laws prevent discrimination, they do not dictate specific administrative decisions.

Poul Andersen believed the principle of equality did not guarantee women's employment, leading to disappointments for those advocating for it. He cited examples of gender discrimination in public employment, showing his support for equal rights. This aligned with Grundtvig's view of women participating in public life (Korsgaard 2018: 170-75). However, Andersen doubted the extent of the discrimination ban, recognizing the era's gender role patterns and the practical inequality women faced, similar to today's discussions on women's "mental load" (Andersen d 1940: 73-93).

Poul Andersen's article on equality demonstrated his historical-comparative method and egalitarian mindset. He opposed denying women public positions during the 1930s crisis, arguing it violated equal access laws. While he valued gender equality, he struggled to envision its practical implementation (Andersen d 1940: 73-93 & 89-90).

In his article on civil servants' freedom of expression, Andersen categorized states into authoritarian (Nazi, Fascist, communist), semi-authoritarian (German Empire), and democratic-liberal. He asserted that civil servants should have the same freedom of expression as other citizens in democratic-liberal states, contributing to "modern objectivity." However, he acknowledged the risks of unequal power dynamics between civil servants and politicians, which could unjustly restrict expression. Andersen argued that while civil servants should not advocate for the violent overthrow of the democratic state, mere membership in an authoritarian party or factual argumentation was not enough to limit their freedom of expression.

In his article on education freedom, Poul Andersen noted how liberal politicians wanted constitutional protection of the independent *friskole* in the 1915 Danish constitution (An-



Illustration No. 4. Anders Andersen's and Ane Knudsen's farm

The building of the tenant farm where Poul Andersen was born. The artist is Troels Trier who was son of one of the most prominent Danish *højskole* principals, Ernst Trier. It testifies to the close affiliation of the family to the *højskole* movement. 1947. Private ownership.

dersen 1940: 56). From this historical understanding, he criticized a 1935/36 bill requiring the School Commission's prior approval of educational offers, arguing it was unconstitutional. Andersen claimed that the constitution allowed parents to choose education methods if they met the standards of the Danish public school system, *Folkeskolen*, opposing prior control (Poul Andersen 1940 a: 65-67 & 55). His liberal interpretation faced opposition from other law professors (Andersen 1940 c: 67; Andersen 1940 a: 67).

The theme remains relevant today. In 2016/17, Jens Elo Rytter, a constitutional law professor, responded to the Danish Free School Association (*Dansk Friskoleforening*), referencing Poul Andersen's arguments against prior control of private education (Jens Elo Rytter 2016: 226-238). However, Andersen's successors, like Ross, took a different stance, focusing on the provision's objective wording rather than its historical context (Ross 1966: 766-767; Christensen et al. 2012: 387-88). Rytter indicates that the issue is still undecided, with a tendency towards allowing some prior public examination to ensure educational requirements are met (Rytter, 2016: 235).

The tenant farmer's son and public law

Poul Andersen embodied Denmark's transition from a society of estates to one of individual liberties. Coming from a Grundtvigian family and trained at Dalby *Friskole*, he chose law over theology or economics. He saw a niche in administrative law, aligning with the 1915 constitution. In his first article on WWI regulatory legislation, he advocated economic freedom rather than a strong or authoritarian state.

Thus, he was part of a tidal wave that swept over the law faculty at the beginning of the 20th century. However, as authoritarian regimes took a stronghold in the 1930s, he represented a steady liberal voice, and in his liberal collaboration, he chose liberal parliamentary states to the North as inspiration rather than dictatorship to the South and East. A strong support for this alliance was the emergence of new professional associations and periodicals.

Grundtvig's liberal ideas of the state were undoubtedly his inspiration. They were so simple: the separation of church and civil society and the protection of the individual by constitutional individual freedom—combined with access to education. Holding on to these few basic ideas, he delivered the legal foundation for a democratic society as opposed to the unfree society of the preceding generation.

His story illuminates the close relationship between law and politics. It also attests to some 'hidden sources of law' – a country's heritage or tradition embodied in its people. Without the separation in the civic society of learning and religion and the *højskole*, liberal ideas might not have had the same resonance.

Through his work, Poul Andersen rose to an elevated position in society compared to his origin. However, his family advanced with him—for other reasons. Tenancy was abolished, farmers created strong production associations, and due to export interests, they came to influence Danish farm policy. In the 1950s, Andersen's brother Johannes traveled to Copenhagen to deliver input to export policy for farming produce. Denmark had changed.

This article is an English version of Helle Blomquist: *Poul Andersen. Fæstebondens søn*, in Poul Andersen, *forvaltningsretten og retsvidenskaben. 100 året for en disputats*, Rasmus Grøntved Nielsen (ed.), København: Djøf Forlag 2024, p. 15-53. English translation: Rubya Mehdi.

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