

IN SEARCH OF THE COMMON GOOD:  
THE CATHOLIC ROOTS OF AMERICAN LIBERALISM

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When the Republican Party took control of both houses of Congress in 2002, the view that “values matter,” once marginal in Democratic circles, suddenly became the talk of the town. Some analysts continued to argue that the Democrats had plenty of good policy ideas and simply required a better campaign strategy and effective policymaking once in office. But a new conversation had started, beginning from the premise that Democratic success depended on reclaiming the moral high ground.

John Kerry’s defeat in 2004, assumed by many to be the product of perceived Democratic deficiencies in “moral values,” gave this conversation renewed energy. While some in the “new values” camp pointed to the importance of a specifically religious morality, others urged the Democrats to focus on a more secular vision of the “common good.” In the spring of 2006, Michael Tomasky argued in *The American Prospect* that the Democratic Party should restore the idea of the common good to its proper place at the core of the party’s political identity. This argument provoked a widespread debate, and the term is now increasingly visible in the liberal apparatus of bloggers, think tanks, and even consulting groups.

The idea of the common good is the right place to start, but it is not well understood. More often than not it is used as a decorative term, a sound bite. Consider

even Tomasky's description. The liberalism of the Democratic Party, brought to power by Franklin D. Roosevelt's New Deal and upheld for three decades thereafter, he says, "was built around the idea—the philosophical principle—that citizens should be called upon to look beyond their own self-interest and work for a greater common interest."

As a definition of the common-good tradition, this is uncontroversial, if somewhat redundant. Probing further, however, he describes the common good as the "moral basis of liberal governance—not justice, not equality, not rights, not diversity, not government, and not even prosperity or opportunity." The contrast he ultimately makes here, separating the common good from concepts of justice, equality, and rights, is jarring, and the argument loses its bearing. In what seems like a throwaway line, it becomes clear why. The common good, he claims, is a matter of "faith" rather than ideology—but "not religious faith." It's about "faith in America and its potential to do good."

The common good of New Deal liberalism was certainly about faith in America and its potential to do good, but so was, for example, Herbert Hoover's idea of the common good, which "penetrates and profoundly modifies all the forces in the modern world in which we live," Hoover said. What distinguished Roosevelt was his "deep conviction," as he put it during his fiery 1936 campaign, "that democracy cannot live without that true religion which gives a nation a sense of justice and of moral purpose." The major religious bodies stood behind him in this, despite his own rather indifferent religious life (he was a nominal Episcopalian). Roosevelt's seemingly casual faith was not, in fact, a reliable indicator of what his followers felt or understood about the New Deal and its mission. No president who preceded him in the 20th century had so religious

a following, or anything close to it. And none had so much support from religious leaders and particularly from Catholic thinkers.

Today we are so inured to the opposite problem of religious fundamentalism in the White House that the New Deal looks positively secular by comparison, but that was not how contemporary interpreters saw it. The Catholic press had little doubt that the New Deal's vision of social justice was rooted in Christian thought. As *Commonweal* magazine urged readers to recognize, Roosevelt's presidential victory in 1932 was "likewise the Catholic opportunity to make the teachings of Christ apply to the benefit of all." The Christian journalist and editor Stanley Hoflund High, who organized the interdenominational Good Neighbor League to mobilize religious support for Roosevelt in 1936, similarly argued that "the fundamental objective of what we call the New Deal is religious." This is the first time in modern history, he stated, "when a Government in any nation has set out to give practical application to the principles of the Sermon on the Mount."

At a minimum, it should be clear that the common good of New Deal liberalism involved much more than the bland commitment to self-sacrifice proposed by Tomasky. Indeed, it was in many ways a product of extraordinary developments in religious thought (if not "religious faith"). We cannot ignore or deny the religious roots of the common good if we want this ideal to motivate significant changes today.

### **The Rise of the "Social Question"**

The four decades surrounding World War I fundamentally altered the American balance of power, property, and rights. At the turn of the century, a tiny minority controlled most of the wealth of the country. In fact, as a share of national income, the

great industrial fortunes of the age—topped by John D. Rockefeller—dwarfed even the billions held today by Bill Gates and Warren Buffett. At the same time, the average annual income of the bottom 90% was less than \$400, leaving most people in poverty. It was literally a case of a few people hoarding nearly the entire wealth of the country.

As a result of these conditions, the great “social question” of “poverty amid plenty” erupted into history, and there was a war of moral ideas pitting the needs of the majority against the dominant ideology of the elites. This ideology, a concoction of laissez-faire economic theory, self-help mythology, and the mystique of constitutional law, was exposed and ultimately discredited by a new popular understanding of democracy and social rights, one that was heavily leveraged by developments in religious thought.

In the dominant view, the market was a self-executing system that distributed goods and services and allocated rewards by its own internal laws of supply and demand. The conditions of voluntary exchange, free of physical or political coercion on the part of all parties, guaranteed “natural” results according to the value of contributions (a concept economists formalized in the so-called “marginal productivity theory of distribution”). As Amy Dru Stanley demonstrates in her disturbing study *From Bondage to Contract*, those seeking to justify the power of employers drew, in part, on of the “free labor” ideology of slave emancipation. She cites an 1866 report of the Massachusetts legislature rejecting demands for legal establishment of an eight-hour workday. “The long struggle for the abolition of slavery. . . . consisted in nothing but setting up the principle that it shall take two to make a bargain,” the report announced. “It is for *man*, not the *State*, to say how many, or how few hours in the day he will use hand or brain.” In fact, “it was not till the

capitalist was left free as the laborer, that labor was really emancipated.” This “liberty of contract” was the “badge of a freeman,” wrote Christopher Tiedeman, a leading Gilded Age legal authority on the limits of state power.<sup>1</sup> Juxtaposed with the “forced” inequalities of slavery, rewards resulting from juridically “free” exchange could only reflect natural differences in the skill, intelligence, effort, etc., of individual market actors. Unequal rewards were thereby morally justified. Add to this the prevailing economic view that the free market sets prices (whether for raw materials, products, or labor) by its own internal laws of supply and demand, and you had the makings of the perfect legal storm scholars call “laissez-faire constitutionalism.”

The architects of laissez faire subsumed their economic and natural-right assumptions about labor relations in a constitutional framework of freedom. As Tiedeman wrote, natural rights of property cannot “in themselves” restrict the state, but they “play an important part in determining the exact scope and extent of constitutional limitations.” Rising up through the state courts, the final crystallization of laissez-faire constitutionalism came in *Lochner v. New York*, a 1905 U.S. Supreme Court decision throwing out a New York State law setting maximum hours for bakers. The decision codified the theory that state labor laws violated the liberty of employers under the due process clause of the Fourteenth Amendment. To regulate work hours violated the employer’s constitutional right to set terms as a party to a “free exchange.”

Justice Oliver Wendell Holmes’ stinging two-paragraph dissent set the precedent (although not the terms) for progressive legal theory after *Lochner*. As he famously wrote, “The 14th Amendment does not enact Mr. Herbert Spencer’s *Social Statics*. . .”—a reference to the famous British philosopher’s laissez faire-economic theories but also to

his nearly anarchic view that the “equal freedom” due individuals by natural right is ground for invalidating most public laws, which are no less “coercive,” Spencer argued, for being enacted democratically. Holmes defended democracy against natural-right individualism, as long as decisions accord reasonably with prevailing custom: “[T]he word ‘liberty,’ in the 14th Amendment, is perverted when it is held to prevent the natural outcome of a dominant opinion, unless it can be said that a rational and fair man necessarily would admit that the statute proposed would infringe fundamental principles as they have been understood by the traditions of our people and our law.” Holmes clearly believed that setting maximum work hours in certain professions met this customary democratic standard in America.

Following *Lochner*, progressive theorists sought to expose the abstract legal edifice shielding business from needed reforms as a circular, self-justifying myth. At the heart of this critical analysis was the question of coercion. Turning the laissez-faire concept on its head to confront the implicit limits placed on freedom of contract by unequal bargaining power and the exclusionary power conferred by property rights, the progressives argued that such disparities of power empty contractual “freedom” of any substantive meaning. Ultimately, shielding disparities of private power behind freedom of contract was no different than leaving individuals unprotected from the power of the state. In the words of the lawyer and economist Robert Hale, “we live, then, under two governments, ‘economic’ and ‘political.’”

Hale’s response, as legal scholar Barbara Fried argues in her probing study *The Progressive Assault on Laissez Faire*, was to reformulate the problem of coercion as something encompassing both “visible” and “invisible” power, public and private. For

Hale, this reality meant that “when the government intervened in private market relations to curb the use of certain private bargaining power, it did not inject coercion for the first time into those relations. Rather, it merely changed the relative distribution of coercive power,” Fried writes.<sup>2</sup> The philosopher Morris Cohen brilliantly summarized this approach in his famous essay “Property and Sovereignty,” published in 1927. “The character of property as sovereign power compelling service and obedience,” he wrote, “may be obscured for us in a commercial economy by the fiction of the so-called labor contract as a free bargain and by the frequency with which service is rendered indirectly through a money payment.” But there is actually little freedom to bargain in most employment relationships, he simply noted. Indeed, “in some cases the medieval subject had as much power to bargain when he accepted the sovereignty of his lord.”

As the legal historian Morton Horwitz has argued in *The Transformation of American Law, 1870-1960*, in the background of the new constitutional “freedom of contract” lay a corresponding shift in natural-law reasoning: by the late 19th century, the traditional “communitarian” thrust of Christian natural law had been completely supplanted by theories of individual “natural right” attached to private property and the prerogatives of business corporations.<sup>3</sup> As we will see, this was not the final word on natural law and the economy; developments in Catholic thought, particularly, would challenge laissez-faire constitutionalism and natural property rights, alongside the more sociological theories of Progressivism. But it is important to understand the added leverage and scope supplied by developments in religious thought.

The progressive challenge to laissez-faire constitutionalism, by removing legal barriers to legislative reform of the private economy, perhaps implicitly embraced the

substance of such reform. Yet how these new powers of intervention should be used—for what purpose and for whose benefit and to what extent—remained an open question and one that begged for moral guidance. What the state *could* do was increasingly clear, but what it *should* do was not. Prophetic Protestant voices, led by Walter Rauschenbusch, filled the public realm on this account, in what is known as the rise of the Social Gospel. More surprisingly, however, it was Catholicism, an embattled minority faith with a long history of passive neglect on social problems, which emerged as the major religious voice and supplied the basic moral design of the New Deal ascendancy. The moral foundation of that whole policy edifice was undoubtedly a theory of the “common good,” as Tomasky asserts, but it was also, specifically, a religious theory of the common good. Failing to recognize this not only distorts the history of liberalism but greatly weakens any prospect of reviving it in the coming years.

### **Catholic Democracy**

One key part of the story of the Catholic Church and the New Deal was the dramatic exodus of urban Catholic voters from the Republican Party that began in 1928 behind Al Smith, the first Catholic presidential candidate on a major-party ticket. The trend was enlarged and consolidated by Roosevelt in 1932 and 1936.<sup>4</sup> Another factor, less well known, was the extraordinary maturation of Catholic thought in this period, beginning with the late 19th-century pontificate of Leo XIII. American Catholic thinkers influenced by Leo (and themselves increasingly influential within American Catholic institutions) emerged as a distinctive presence in public life in the decade before World War I. This intellectual trend was part of a broader evolution of Catholic communities

along two distinct but related paths: gaining acceptance within a majority Protestant culture, and embracing government action on the basis of Catholic social teachings.

Catholic support for McKinley-era Republicanism was fairly consistent across the first three decades of the twentieth century, but this was in fact a relatively brief interlude between two great eras of Catholic allegiance to the Democratic Party. Immigration patterns and religious identity played an important role in both eras of Catholic-Democratic allegiance, but the latter, New Deal-era grew out of a dramatic transformation in Catholic attitudes toward the state.

Coming in large numbers from Ireland and Germany in the 1840s and 50s, and in subsequent waves from Southern and Eastern Europe by the end of the century, Catholics were loyal supporters of the Democratic Party from the Jacksonian era through most of the Gilded Age. Like the Southern bloc of the Democratic Party, they feared losing their culture and way of life at the hands of the “big-government” Whigs and Republicans, with their culturally dominant Protestant churches.

Strong religious identity (often with strong ethnic divisions within confessions as well) was politically segmented in the 19th century in a way that is hard to appreciate today.<sup>5</sup> The basic division was between the “pietists” and the “liturgicals.” Pietists were the evangelicals of their day, based mainly in the British-derived churches of the Northeast and their pioneer mission plantings in the Midwest—Presbyterians, Congregationalists, Methodists, Northern Baptists, and Quakers. Socially and culturally dominant, pietist voters were reliably Whig and Republican in the 19th century. Spurred by spreading revivalism in the 1830s, the pietistic churches pursued social reform as a method of saving souls. They promoted coercive regulations such as temperance and

Sabbath laws (while also fighting slavery and defending workers in more radical circles). But by removing liquor and other carnal obstacles to personal salvation, they also sought to absorb the “ravellings from the Old World” into the dominant Protestant culture. Their main targets were Irish and German Catholic immigrants, as well as German Lutherans: the so-called “liturgicals.”

The liturgicals were ritualistic and creedal, placing responsibility for salvation in the doctrinal and sacramental ordering of the church. For the German liturgicals, stopping at a beer garden after church on Sunday posed no threat to salvation—what biblical commandment or church ordinance did it violate? Pietistic regulation of such things was viewed as fanatical and oppressive, and this, along with the Republican Party’s nativist elements and sweeping anti-Catholic bias in the drive for common schools, kept most liturgicals, Catholic and Lutheran, solidly behind the Democratic Party from the 1830s on. As newer Catholic immigrants streamed into Eastern cities such as Boston, Philadelphia, and New York, and as Northeastern Protestants inspired by revivalism moved west to establish new churches and settlements in areas populated by older-stock immigrants, mainly German (Catholic and Lutheran), the religious contours of party politics became more defined.

The regular pattern changed dramatically in 1896, when William Jennings Bryan won the Democratic nomination for president on a fusion ballot endorsed by the Populists. Bryan’s pietistic biblical oratory, the Democratic platform’s inflationary silver plank, and the prohibitionism of many of Bryan’s Populist followers (although not of his own campaign), alienated Catholic and Lutheran voters, most importantly in the growing cities of the Midwest. Bryan’s Republican opponent William McKinley, in turn, made

inroads with liturgical voters by refusing support from the anti-Catholic American Protective Association. As a matter of personality, moreover, McKinley's working-class background (his father worked furnaces) and his rather non-pietistic Methodism deflated fears among the liturgical blocs, particularly German Catholics and Lutherans.

Together these shifts created unprecedented fractures in the liturgical-Democratic alliance, and the McKinley campaign carefully and successfully exploited them.

Campaign chief Mark Hanna's legendary winning strategy was built around swinging urban laborers in heavily Catholic Midwestern and Northeastern cities into the Republican column. The shift in 1896 (by as much as 20 points for Catholics, according to some estimates) was news back then, as one German-American paper made clear:

[The German voters] have many complaints against the Republican party, which. . . sought to combat the influence of Germans in every way, and annoyed them continually with Prohibition laws, Sunday closing laws and school laws. The Germans consequently turned their backs on the Republicans . . . and if the Democrats had not inscribed repudiation, bankruptcy and dishonor on their colors as a result of the union with the Populists, the Germans would have supported them this time also . . . <sup>6</sup>

Heavily Catholic states Bryan failed to hold for the Democrats in 1896 included Wisconsin, Illinois, California, New York, Maryland, Delaware, and Connecticut.

### **A Leading Figure**

One Midwestern Catholic who did not vote for McKinley in 1896 was John A. Ryan, the man who would lead the Catholic Church into the Progressive Age and the New Deal coalition. Ryan was born into a large Irish farming family in Vermillion, Minnesota. His interest in economic issues was ignited when he read the *Irish World and American Industrial Liberator* at age 11, and then Henry George's worldwide bestseller on land reform, *Progress and Poverty*. In 1892, as a seminary student in St. Paul, Ryan

cast his first presidential vote for James Weaver, the candidate of the populist People's Party.

Among the attractions of populism for an Irish farm boy from Minnesota was the heroic Ignatius Donnelly, a congressman from Nininger (a few miles from Vermillion), and one of the few Catholic leaders of the populist movement (later to embrace spiritualism). Donnelly wrote the famous Preamble to the People's Party national platform of 1892, which included a statement that expressed Ryan's own developing point of view: "We believe that the power of government—in other words, of the people—should be expanded (as in the case of the postal service) as rapidly and as far as the good sense of an intelligent people and the teachings of experience shall justify, to the end that oppression, injustice, and poverty shall eventually cease in the land." When Ryan read Leo XIII's groundbreaking "labor encyclical," *Rerum Novarum*, shortly thereafter (it was issued in 1891), the die was cast for Ryan's life's work of melding Catholic moral theology and social thought with American progressivism.

Ryan received his Holy Orders for the priesthood from John Ireland, Archbishop of St. Paul, whose lament in 1889 at Catholic silence on the "social question" had inspired Ryan along with his other readings. ("What has come over us that we shun the work which is essentially ours to do? These are days of action, days of warfare . . . Into the arena, priest and layman! Seek out social evils, and lead in movements that tend to rectify them," Ireland declared.) Although Ryan ardently supported William Jennings Bryan in 1896 (and witnessed his famous "Cross of Gold" speech at the Democratic Convention in Chicago), the mainstream of the Catholic Church, increasingly urban and industrial, was cautious if not fearful of the radical agrarian grievances at the core of

Bryan's support. It therefore remained caught between a Democratic Party now controlled by Bryanist populism, with its strong Protestant identity, and a Republican Party seemingly more tolerant (for a change) and sympathetic to urban immigrant workers, but essentially wedded to laissez faire. Faced with resurgent nativism as well, the Church's transitional political identity at the end of the 19th century left its social mission in disarray—"confused, ineffective, and devoid of passion and intellectual depth," as historian Joseph M. McShane writes.<sup>7</sup>

Ryan's first magazine article, published in *Catholic World* in 1900, was a review of Henry Demarest Lloyd's *A Country Without Strikes*, a study of New Zealand's 1894 compulsory labor arbitration law. Here Ryan formulates a defense of "state interference with freedom of contract," anticipating the arguments of progressive legal theory. At the time there was a more fundamental labor critique that rejected not only unequal bargaining power but the wage system itself (which "commodified" labor and thereby stole the worker's humanity just as slaveholders once did). Sometimes this view drew on radical interpretations of John Locke's labor theory of property.

But Catholic social teaching, beginning with *Rerum Novarum*, did not view the wage contract as intrinsically evil. In the Leonine approach developed by Ryan, what was important was the natural right of the worker. This was not defined by his labor but understood as the "moral means or opportunities by which the individual attains the end appointed him by nature." A natural right is the right a person has to fulfill his God-given purposes. To this end, as Ryan stated in his first book, *A Living Wage* (1906), every person deserves a "right and reasonable life," meaning a life consistent with the moral

worth of the person as measured by his intrinsic and equally given (God-given) faculties of reason, self-improvement, and love of God.

Ryan regarded the wage system skeptically—even despairingly—for its separation of workers from the productive resources that could best secure prosperity for themselves and their families. Leo XIII believed workers need to be restored to ownership of productive wealth in some form, and both Ryan and Pope Pius XI, Leo’s great intellectual successor, strongly supported strategies to give workers a proprietary stake in the appreciating wealth of industry. But they did not draw a line against wage labor in principle. Instead they argued, as Ryan put it, that “human needs constitute the primary ethical title or claim to material goods.” This standard cannot be applied “to all possible human needs,” but to those basic needs the satisfaction of which safeguards a reasonable life as measured by the faculties of self-improvement that all human beings share (making them equal in their right of basic sustenance).

So defined, “the validity of needs as a partial rule of wage justice” rests ultimately on the foundational principle that “God created the earth for the sustenance of *all* His children; therefore, that all persons are equal in their inherent claims upon the bounty of nature.” The subsistence wage of modern business practice (justified by abstract “marginalist” theorems linking wages to productive worth) did not meet this standard. Only a living wage met this standard, supporting the person, not just the labor; supporting the person in his faculties of self-development, not just in his service to capital.

In his major ethical work *Distributive Justice* (1916), Ryan argued that when a worker “accepts a wage insufficient for his needs under the compulsion of avoiding the worse evil of starvation,” his contract is “no more free than the contract by which the

helpless wayfarer gives up his purse to escape the pistol of the robber . . . Like the wayfarer, he merely submits to superior force. The fact that the force imposed on him is economic does not affect the morality of the transaction.”<sup>8</sup>

Ryan’s growing influence reflected a broader shift in Catholic teaching, reaching from Leo XIII to the more radical views of Pius XI. At the heart of this shift was an evolution in Catholic natural-law thinking, a tradition revived in the wake of the French Revolution. At base, Catholic natural-law thinking in this period moved beyond the essentially political problems of revolutionary liberalism (with its strong governmental encroachments on religious institutions and authority, as typified in France) toward a more communitarian critique of the *economic* domination at the core of the liberal state. Drawing on this deeper intellectual transformation, Ryan constructed a consistent moral defense of state intervention in the economy, as well as a specific legislative framework in support of workers and their families—one that, in many respects, would ultimately be ratified under the New Deal.

### **Christian Natural Law and Social Reform**

At the center of the natural-law revival that fueled Ryan’s thinking stood the great 13th-century moral theologian Thomas Aquinas. Thomas had defined natural law as “the rational creature’s participation in the eternal law,” the eternal law being God’s law as it directs the whole universe to its appointed end. As applied to political order, Thomistic natural law is the grounding or set of principles that orient human laws to what is right and good in God’s eyes. Thomas said that the fundamental objective of natural law is that the good be done, and evil avoided. Thus, the law of a people is “nothing else than an ordinance of reason for the common good, made by him who has care of the

community.” The fundamental orientation of natural law in ordering political society is the preservation of life, out of love for God’s creation and out of the unique responsibility God gave humanity regarding its care.

In its economic dimensions, this approach is guided by the biblical understanding that God gave the earth to all human beings in common. The law codes of the Hebrew Bible, defended by the prophets, established a comprehensive system of economic security and restoration based on the principle of the earth being a common gift. This included provisions for the control and remission of debt, the release of slaves, and the periodic return of alienated lands in order to restore family stability and prevent concentrated wealth. Thomas viewed the latter policy of the “Old Law” as especially significant and compared it favorably with Aristotle’s views of property. For Thomas, private property is notably an integral feature of the common good and useful for human society, but it is a conventional institution fully subordinate to the directives of God’s law, which is oriented to the common welfare. Thus, property is defined as having a twofold nature of private possession and common use. “Man may fully possess [material goods] as his own,” Thomas wrote. But “as regard their use . . . a man ought not to look upon them as his own, but as common, so that he may readily minister to the needs of others.”

In Catholic thought, these mandates are encapsulated by a principle termed “the universal destination of goods,” which is deemed “primordial” in the church’s Catechism. Leo XIII established the modern template for Catholic teaching from this principle in *Rerum Novarum*, cautiously recognizing the need for state intervention to secure it. Although seemingly a bold departure from the dominant laissez-faire ethos of the period,

the interventionist thrust of *Rerum Novarum* was in fact deeply rooted in Catholic thought. In his great work *De Legibus*, the 16th-century Jesuit philosopher Francisco Suárez argued plainly, for example, that “the object of civil legislation is the natural welfare of the community and of its individual members, in order that they may live in peace and justice, with a sufficiency of those goods that are necessary for physical conservation and comfort, and with those moral conditions which are required for private well-being and public prosperity.”

While Leo vigorously condemned political liberalism for its philosophical individualism and its vesting of sovereignty in the people or its representatives rather than God, it is important to understand how Catholic thought in this period, as noted earlier, became increasingly concerned with economic liberalism (much more directly so than today’s “communitarian” critics of liberalism, it should be stressed). As Ryan’s work illustrates, in the wake of *Rerum Novarum*, with its defense of “isolated and helpless” workers against the “hardheartedness of employers and the greed of unchecked competition,” the dangers of economic liberalism, anchored in the unencumbered reign of “freedom of contract,” became much more pronounced in Catholic teaching.

### **A New Course**

On the path opened up by Ryan’s ethical works, the decisive turning point for Catholic progressivism in the United States came in 1919, with the release of the Bishops’ Program for Social Reconstruction, written by Ryan himself. Here, the “American Catholic search for social justice” truly began, writes McShane, growing out of earlier episcopal efforts to mobilize support behind the U.S. entry into World War I.

The National Catholic War Council had been formed in 1917, and when the Council received accreditation as an official government war agency in 1918, many Catholics began to see the importance of having a national organization to represent their views in the corridors of power. There was a growing sense that Catholic teaching was convergent with American ideals, and, even as President Wilson signed the armistice ending the war, conversations had begun about how to continue the work of the war council in another form.

The Bishops' Program for Social Reconstruction was released on Abraham Lincoln's birthday, February 12, 1919. As McShane stresses, this connection was meant to align the new age of social reconstruction with the spirit of the great emancipator. The program contained a set of immediate reforms, including the establishment of a legal minimum wage, public housing for workers, labor participation in industrial management, and social insurance for illness, disability, unemployment, and old age, funded by a levy on industry. It also contained a set of "fundamental" reforms for the future, including worker ownership of capital, universal living wages, and the abolition (or strong regulation) of monopolies. Citing Leo XIII's view that "society can be healed in no other way than by a return to Christian life and Christian institutions," the Program ended with a strong admonition to the "capitalist":

He needs to learn the long-forgotten truth that wealth is stewardship, that profit-making is not the basic justification of business enterprise, and that there are such things as fair profits, fair interest and fair prices. Above and before all, he must cultivate and strengthen within his mind the truth which many of his class have begun to grasp for the first time during the present war; namely, that the laborer is a human being, not merely an instrument of production; and that the laborer's right to a decent livelihood is the first moral charge upon industry. The employer has a right to get a reasonable living out of his business, but he has no right to interest on his investment until his employees have obtained at least living wages. This is

the human and Christian, in contrast to the purely commercial and pagan, ethics of industry.

As McShane notes, conservative bishops did not publicly voice their dissent when the program was released; it seemed like a foregone conclusion that Catholic progressives had captured the church and “charted a new course for her.” The program (and its widespread promotion) was the most important official act of the American Catholic Church in its history to that point, and in the years to come it would remain a major touchstone both in the development of social policy and in the rebirth of Catholic loyalty to the Democratic Party in the pivotal years of 1928–1936.

Bolstered by the Bishops’ Program, Ryan’s public influence grew even as his own thinking was sharpened by the U.S. Supreme Court decision in *Adkins v. Children’s Hospital* (1923), which launched a new stage of judicial anti-reformism by invalidating a 1918 federal law establishing minimum wages for women and children in the District of Columbia. For Ryan, the reasoning of the decision perfectly crystallized the insidious role of economic liberalism in distorting constitutional interpretation for immoral ends, and the case was prominently featured in subsequent editions of *Distributive Justice*.

In the background to *Adkins* lay a 1917 Supreme Court decision, *Bunting v. Oregon*, which upheld a state maximum-hours law, defined as a legitimate exercise of government police power for the protection of public health and safety. Implicitly (if not directly) overturning *Lochner*, *Bunting* did not pave the way for broader wage reforms, as many hoped it would. Instead, it gave the conservative justices a platform for distinguishing the regulation of wages from the regulation of hours, and excluding the former from any consideration under the public health justifications of the former, now increasingly accepted by the Court. Essentially, the 5-4 decision in *Adkins* (delivered by

Justice Sutherland) distinguished between harmful effects arising directly out of employment itself (such as poor employee health due to long work-days) and the adverse effects of contractual exchange in a free market. That a worker does not receive an adequate livelihood from his wages has “no causal connection with business or the contract of the work,” but rather is a natural outgrowth (an “extraneous circumstance”) of free exchange and so constitutionally protected from interference under due-process restrictions.

In dissent, Chief Justice William Howard Taft (the former Republican president) argued that regulating hours and regulating wages “both enter equally” into the employer’s calculation of his costs and production needs and so they cannot be legally distinguished as qualitatively different forms of regulation. Ryan drove deeper, however, arguing that unexamined economic assumptions led the Court to assume the very thing it needed to prove—namely, that wage contracts are indeed a form of “free exchange,” and furthermore, even if they are considered as such (ignoring vast disparities of power involved in setting wages), that no further considerations exist in this fundamental realm of society.

In common with Progressivism, the basic thrust of Ryan’s ethical work was to eject economic liberalism from legal thought, revealing liberty of contract to be an ideological construct and thus no moral basis at all for judging the constitutionality of government reforms. But going further than many of his legal allies, Ryan sought to build new inroads for radical reform by morally expanding the requirements of freedom to encompass the needs of the person and not just the fairness of his bargaining position:

In the doctrine of the majority of the [*Adkins*] Court, the needs of the employee are an “extraneous circumstance,” having no bearing on the

justice of the wage. In the doctrine of Leo XIII, the worker's needs are so vital to the justice of the labor contract that if he is required by an employer to accept a wage inadequate to supply them, he is "a victim of force and injustice." All the ethical authorities of the Western world agree with the Pope and disagree with the Court.

### **New Deal Religion: Ryan and Roosevelt**

As author of the Bishops' Program, Ryan recounted his "great comfort" when, on May 15, 1931, he listened to a radio transmission of Pope Pius XI's encyclical *Quadragesimo Anno* in the offices of *The New York Times*. His long effort to integrate Leonine natural-law teaching with concrete social policy had been "vindicated," as one colleague put it. That summer he published a commentary on *Quadragesimo Anno* in the *American Ecclesiastical Review*, highlighting its important contributions. Among the most important was the idea that the distribution of income and wealth "must be brought into conformity with the demands of the common good and social justice"; that the worker has a right to a wage of "ample sufficiency" for himself and his family (what was called a "family wage" in social policy of the 1920s, something widely debated in Europe); and that the worker has a right to accumulate a "modest fortune" by sharing ownership of capital with employers.

*Quadragesimo Anno* (issued in the "fortieth year" after *Rerum Novarum*) was subtitled "On Reconstruction of the Social Order." It was arguably the most radical and controversial church-wide statement in all of Catholic history to that point, and the political culmination of the natural-law revival in Catholic thought that began under Leo XIII. As Pius XI explained, *Rerum Novarum* "completely overthrew" the tenets of economic liberalism, "which had long hampered effective interference by the government," and had a galvanizing effect on Catholic social reform:

*Rerum Novarum* . . . prevailed upon the peoples themselves to develop their social policy more intensely and on truer lines, and encouraged the elite among Catholics to give such efficacious help and assistance to rulers of the state that in legislative assemblies they were not infrequently the foremost advocates of the new policy. Furthermore, not a few recent laws dealing with social questions were originally proposed to the suffrages of the people's representatives by ecclesiastics thoroughly imbued with Leo's teaching, who afterwards with watchful care promoted and fostered their execution. . . . As a result of these steady and tireless efforts, there has arisen a new branch of jurisprudence unknown to earlier times, whose aim is the energetic defense of those sacred rights of the workingman which proceed from his dignity as a man and as a Christian.

Most controversially, *Quadragesimo Anno* proposed (in a section specifically designated "Reconstruction of the Social Order") the establishment of a corporatist industrial order built around occupational councils comprising industry, labor, and government representatives. Charged with negotiating fair wages, hours, prices, and business practices, the councils would replace pure market forces with mandatory bargaining. This was to "bind men together not according to the position which they occupy in the labor market but according to the diverse functions which they exercise in society."

Authoritarian regimes in Austria, Spain, and Portugal took *Quadragesimo Anno* as a model for corporatist experiments, despite specific criticism of fascist corporatism (with reference to Italy) in the encyclical. Pius warned that "the state is substituting itself in the place of private initiative, instead of limiting to necessary and sufficient help and assistance . . . which risks serving particular political aims rather than contributing to the initiation of a better social order."

*Quadragesimo Anno* encapsulated the dramatic development of Catholic thought over the previous four decades, spurred by Leo XIII and the revival of natural law thinking against the tenets of liberalism. As Ryan later wrote, the Leonine interpretation of the rights of labor, "as demanding a living wage regardless of free contract, or the law

of supply and demand, or any other false philosophy has proved the most revolutionary idea that has been injected into modern economic life.” This radicalization of Catholic thought converged closely with Bryanism’s populist attack on concentrated economic power (indeed, explicitly so in Ryan’s case), and it also shared with the Settlement House movement and other social-reform movements a focus on winning practical legislation to protect working families. Yet without the transcendental moral perspective of Catholic teaching, the natural-right defense of business domination would not have been so dramatically weakened during the Progressive Age, as Franklin D. Roosevelt would implicitly acknowledge in an important speech toward the end of his first presidential campaign.

In October 1932, Roosevelt went to Detroit to give a speech sponsored by a key Catholic ally, Mayor Frank Murphy. The speech was titled, “The Philosophy of Social Justice through Social Action.” True to the title, Roosevelt happily ignored politics, focusing instead on the “fundamentals that antedate parties, and antedate republics and empires.” In the culmination of the speech, Roosevelt called for “social justice, through social action,” and quoted at length from the source of this idea, *Quadragesimo Anno*:

It is patent in our days that not alone is wealth accumulated, but immense power and despotic economic domination are concentrated in the hands of a few, and that those few are frequently not the owners but only the trustees and directors of invested funds which they administer at their good pleasure . . . This accumulation of power, the characteristic note of the modern economic order, is a natural result of limitless free competition, which permits the survival of those only who are the strongest, which often means those who fight most relentlessly, who pay least heed to the dictates of conscience . . . This concentration of power has led to a three-fold struggle for domination: First, there is the struggle for dictatorship in the economic sphere itself; then the fierce battle to acquire control of the Government, so that its resources and authority may be abused in the economic struggle, and, finally, the clash between the Governments themselves.

After Roosevelt's victory in 1932, Catholic institutions mobilized what *The New York Times* called a "crusade for social justice." The National Catholic Alumni Federation held regional conferences to promote a radical transformation of the capitalist system, based on the tenets of Leo XIII and Pius XI. "The immediate goal of the crusade," said the *Times*, "is the education of industrialists and workmen to the realization that capitalism, in its present form, 'has failed and must continue to fail.'" Ryan, who was a prominent speaker at one of the regional conferences (held at Fordham University), argued at the time that an "occupational group system," creating a new balance of power between capital and labor, could spur a recovery from the Great Depression in some sectors of the economy.

In Roosevelt's first major New Deal program, under the National Industrial Recovery Act, Ryan saw a partial embodiment of the corporatist vision put forward by Pius XI. Title I of the act created government powers to establish and enforce sectoral business codes for setting wages, hours, bargaining rules, and fair business practices (the act was thrown out by the Supreme Court in 1935). Ryan was appointed to a three-person advisory panel of the National Recovery Administration, the agency that implemented the law, and he was subsequently a fixture in other counsels of the New Deal, serving on numerous committees and also publicly defending Roosevelt on many fronts.

After watching the Supreme Court throw out labor reforms for three decades, Ryan defended the "court-packing" plan of 1937 in *Commonweal*. Then, famously, in a national radio speech late in the 1936 presidential campaign, he defended the president against charges of communism issuing from the Union Party campaign of William Lemke. The populist radio priest Charles Coughlin formed the Union Party to challenge

Roosevelt in 1936, and it was feared that he would succeed in his goal of engineering a massive diversion of Catholic votes from the Democratic ticket, throwing the election to the Republican Alf Landon. Although reluctant at first to make the speech, Ryan later said it was “one of the most effective and beneficial acts that I have ever performed in the interest of my religion and my country.”

Ryan gave the invocation at Roosevelt’s second inauguration in 1937, the first time that honor was given to a Catholic priest; that spring, the fruits of his long ethical work in American politics came to full blossom in the landmark Supreme Court decision, *West Coast Hotel v. Parrish*, which overturned *Adkins* in support of a state minimum wage law. The landmark decision, written by Chief Justice Charles Evans Hughes, bore unmistakable marks of a Catholic vision of the common good, going beyond the progressive legal critique of unequal power toward a broader mandate of social responsibility. Concluding the Court’s decision, Hughes stressed “an additional and compelling consideration which recent economic experience has brought into a strong light.”

The exploitation of a class of workers who are in an unequal position with respect to bargaining power and are thus relatively defenseless against the denial of a living wage is not only detrimental to their health and well being, but casts a direct burden for their support upon the community. What these workers lose in wages the taxpayers are called upon to pay. The bare cost of living must be met . . . . The community is not bound to provide what is in effect a subsidy for unconscionable employers. The community may direct its law-making power to correct the abuse which springs from their selfish disregard of the public interest.

If it is disheartening to read these bold words in light of the wage structure today and the pitiful state of the minimum wage, the common good ideal at the heart of this policy statement is still recognizable and offers hope of a better future. Should the community begin to direct “its law-making power” in this way again, it will be part of Ryan’s legacy

of “religious faith,” not simply “faith in America.” In April 1939, Ryan was formally honored on the occasion of his 70th birthday (and his retirement from the Catholic University in Washington) with a banquet at the Willard Hotel attended by 600 people, including members of Roosevelt’s cabinet, several Supreme Court justices, and dozens of members of the House and Senate. Secretary of Labor Francis Perkins toasted Ryan eloquently on his contributions to the New Deal:

We have still not caught up with Father Ryan’s thinking . . . but we are coming closer to it. Only lately has business begun to realize that economic policies are subject to ethics, and that a moral obligation to pay a good wage falls on the employer of labor as a consequence of his position of power over the fruits of the earth . . . There is no greater tribute I can give his persistent influence on American thought and action than to quote his own words. “Never before in our history,” he says, “have Government policies been so deliberately and consciously based on the conception of moral right and social justice.”

President Roosevelt sent a message to the banquet: “With voice and pen, you have pleaded the cause of social justice and the right of the individual to happiness through economic security, a living wage, and an opportunity to share in the things that enrich and ennoble human life.” Here was a rough draft of the famous “Second Bill of Rights” he would propose five years later in his greatest State of the Union Address.

### **New Deal Liberalism for a Better Social Future**

Catholic social teaching revolutionized the moral landscape of capitalism, not only by reinforcing the progressive critique of laissez-faire constitutionalism, but more importantly, by stealing the thunder of higher-law reasoning and restoring its communal roots. It was a turning point that made the welfare state morally necessary and, because of that, politically possible.

The contrast Tomasky seems to draw between the common good and today's more familiar discourse of "justice, equality, and rights" only makes sense—and ultimately *does* make sense—because his "justice, equality, and rights" refer to the liberal social agenda of the 1960s, which, in fact, he believes we must transcend. Crucially, however, he obscures what actually happened to the common good in that era. Sexual freedom, new constitutional rights of privacy, extreme secularism, and other agendas of the new social liberalism did not merely replace the common good as a normative framework. These ideas shifted the whole framework of rights from the worker and his family and community, viewed as something in need of protection, to the detached individual of liberal theory and consumer culture, regardless of economic position or need. Essentially, the common good ideal was supplanted by an ethic of fragmented private liberty. But a profound contradiction in the legal dimensions of this change reveals the impact in a broader moral light.

Two key Supreme Court cases, *Griswold v. Connecticut* (1965), overturning state laws prohibiting contraceptives, and its monumental offspring, *Roe v. Wade*, overturning state laws prohibiting abortion, played a role in transforming our political culture going far beyond, I believe, what is typically accounted for in progressive analyses of the "religious right." Justice Black's little-remembered dissent in *Griswold* pointed to a deep irony in the Court's constitutional reasoning, which basically read "sexual privacy" into the due process protections of the 14<sup>th</sup> Amendment. Black essentially argued that *Griswold's* constitutional entronement of sexual privacy (however pertinent it may be to better policy in the specific case of contraception, he also stressed), is philosophically regressive. In fact, it leads us directly back to *Lochner* and the era of laissez-faire

constitutionalism, he suggested. Essentially, the same “due process of liberty” that had shielded business from legislative reform at the beginning of the century was now being used to install a new laissez-faire supremacy at the heart of democracy. The problem goes further, however, if one recognizes how the “culture of life” morality overturned by the new constitutional laissez faire shares a common religious framework with the New Deal liberalism that Ryan and others constructed from Catholic tradition.

New Deal liberalism’s common-good ideal gave workers and their families a new (yet very old) moral ground for claiming resources and power necessary for their self-preservation. In fact, the primary objective listed in the Democratic platform of 1936 was “The Protection of the Family and the Home,” in defense of which, it specified, “We shall continue to use the powers of government to end the activities of the malefactors of great wealth who defraud and exploit the people.” As the historian Allan Carlson stresses, New Deal social-assistance programs such as Aid to Dependent Children were designed to “reconstruct” the home or, as the Roosevelt appointee Grace Abbott testified, “to give some security in the home.” The Home Owners Loan Act of 1933 provided over one million long-term, low-interest loans to prevent foreclosures. The 1939 amendments to the Social Security Act, which created dependent and survivor benefits, were particularly emblematic of this philosophy, extending the policy focus from the individual worker to “the economic security of the family unit.” Arthur Altmeyer, the chief architect of Social Security, it should be noted, came from a German-Catholic family and was educated at the University of Wisconsin, an important meeting place for progressive economics and Christian thought in the decades prior to the New Deal.<sup>9</sup>

The individualistic social liberalism that later emerged weakened the familial and communal understanding of rights at the heart of New Deal social policy. The protection of the family and the home from economic tyranny was no longer a certain or even desirable policy objective in an era of individual liberation marshaled *against* the traditional culture of family and community. Consider even the direct example of abortion: while *Roe v. Wade* gave women a constitutional right to choose abortion in the case of an unwanted pregnancy, many women are routinely *denied* the same choice when poverty or other circumstances compel them to get an abortion. It is reasonable to assume that compelled abortion is more common than forced childbirth in America today. Yet the libertarian ethic of abortion rights has influenced our political culture to such an extent that we do not even notice the moral contradiction of constitutionally protecting a woman's right to choose abortion while doing little or nothing to remove powerful constraints on her "right to choose life" or, more broadly, on many childbearing decisions.

That these mainly economic constraints on choosing life are more or less invisible in the prevailing doctrine of reproductive freedom reveals the market affinity of social liberalism and a major philosophical thoroughfare for the destruction of the common good. Quite simply, the *laissez faire* of privacy rights cannot be neatly segregated from the *laissez faire* of market domination, as many progressives seem to assume. The seemingly different forms of state intervention these liberties deny are connected by a common morality. From the same philosophical ground in our political culture, they generate a chimerical freedom that feeds on inequality and can know no bounds unless we impose them by our moral will.

We underestimate how the new constitutional laissez faire of social liberalism reinforced market power, inviting it to dominate families and communities by divorcing government, in the strongest possible way, from the moral law that requires care and stability for these natural social structures even as it imposes a culture of life on human decisions of the heart. Essentially, the natural law authority attached to labor rights and social assistance has been undermined by a sweeping constitutional repudiation of the most sacred aspects of the same natural law.

It is no coincidence that, as the common good disappeared from the discourse of rights in the 1960s, big business re-established its dominance in American politics, and families and communities received no new protection from the government even as older protections came under attack. The family living wage paid by a substantial majority of U.S. businesses literally vanished from the country by the late 1970s. Although many mothers initially went into the work force willingly and happily, in search of more variety and accomplishment in their lives, today a majority of working mothers do not view employment positively. According to survey data reported by Public Agenda in 2000, 80% of mothers would prefer to stay at home with their children if they could. Of course, the profound lack of employer and government support for working mothers in the United States contributes to this attitude; how much so is a central point of contention between conservatives and feminists. Clearly, however, many working mothers take jobs out of necessity, not choice, and to ignore this compulsion, as both conservatives and feminists generally do, is morally incoherent at best in a country boasting high regard for “family values.” The problem is ultimately a question of income inequality within the

private economy—something no American government has challenged or even seriously contemplated since the struggle for the New Deal.

The resulting extraordinary changes in family life have gone almost completely unaccounted for in American economic policy. Instead of helping families, government power helped big business extort more labor for less pay and less security, and it did so without interference from anyone's "rights." The much-remarked political convergence of corporate power and religious backlash in the 1980s was arguably a collateral result of social liberalism's diminishment of the common good, exposing the religious roots of this ideal in a distorted way. Reviving a secular version of the common good does not make it a strong defense. It will not guide us from chaos to community.

The common good commands objective change in the balance of economic power. It is not a unifying force but one that divides right from wrong by a unifying standard, a standard of common welfare. It is a faith, naturally, with poor friends and wealthy enemies. To deny responsibility for the common good, asking "Am I my brother's keeper?" is the same thing as murder, the Bible teaches. In medieval Christianity, "ordering what is personal to what is common" is the beginning of justice, and the tyrant, simply, is one who destroys the common good for private gain. For Roosevelt, it was necessary to wage a "struggle for the liberty of the community rather than the liberty of the individual." Martin Luther King Jr. described a "single garment of destiny," by which "injustice anywhere is a threat to justice everywhere." Freedom came not from privacy or autonomy but from one's membership and birthright in the "beloved community." Being joined to a free community was the meaning of the idea.

Over the last 30 years, the struggle between the common good and competing principles of property and efficiency was enjoined again, by a resurgent ruling class. While they cannot succeed in returning to the good old days of laissez-faire constitutionalism, they have succeeded in stalling and, in some respects, rolling back the legislative progress set in motion in the 1930s. People of faith need to recognize what this means, in the terms they themselves first proposed when social reform became the law of the land.

Catholic teaching recognized the evil that arose by releasing economic power from the moral law which bound it to God's purposes for humanity. In the background to the New Deal, the whole thrust of Catholic teaching was to replenish that moral law in binding force against destructive economic power, and so to restore the common welfare and preserve social order. Father Ryan inscribed this in our public history when he dedicated the new building of the Department of Labor in 1935, beseeching public authorities to fulfill their solemn obligation to the common good, so that God's justice will "dominate and permeate all the relations of industry and labor." In the "Letter from Birmingham Jail," which cites Thomas Aquinas, King writes that the moral evil of segregation aborted the same natural law. It was aborted again as the spirit of *Lochner* was reborn in the Reagan-Bush era. Ryan and King and the millions they helped had little doubt of what was at stake. Has abandoning their faith profited justice in the decades since?

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<sup>1</sup> Amy Dru Stanley, *From Bondage to Contract: Wage Labor, Marriage, and the Market in the Age of Slave Emancipation* (Cambridge, 1998), pp. 73-74.

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<sup>2</sup> Barbara H. Fried, *The Progressive Assault on Laissez Faire: Robert Hale and the First Law and Economics Movement* (Harvard, 1998), 36.

<sup>3</sup> Morton J. Horwitz, *The Transformation of American Law, 1870-1960: The Crisis of Legal Orthodoxy* (Oxford, 1992), 156-158.

<sup>4</sup> Democratic gains in the four most heavily Catholic Northeastern states (Massachusetts, Connecticut, Rhode Island, and Maryland) indicate the growing magnitude of the Catholic-Democratic trend by 1932. In 1924, Democratic presidential candidate John W. Davis won on average only 33% of the vote in these states (it should be remembered that the Ku Klux Klan placed hundreds of delegates at the Democratic convention that year, forcing Al Smith off the ballot and preventing a party resolution condemning the Klan). From this low-point (Democrats got the lowest number of votes in their history that year), Smith and Roosevelt engineered a profound shift that would define their party for the next four decades. In 1932, Roosevelt won a solid majority of 54% of the vote in the most Catholic northeastern states, a 21-point swing from 1924. In 1936, Roosevelt received 61% percent of the national vote, and an estimated 75-81 percent of Catholic votes. For these figures and other key episodes in the history of Catholic voting, see George Marlin's essential guide, *The American Catholic Voter* (St. Augustine's Press, 2006).

<sup>5</sup> The key studies are Paul Kleppner, *The Cross of Culture: A Social Analysis of Midwestern Politics 1850-1900* (The Free Press, 1970); and Richard Jensen, *Winning of the Midwest* (University of Chicago Press, 1971).

<sup>6</sup> Cited in Kevin Phillips, *William McKinley* (Henry Holt, 2003), 80-81.

<sup>7</sup> Joseph M. McShane, "*Sufficiently Radical*": *Catholicism, Progressivism, and the Bishops' Program of 1919* (The Catholic University of America Press, 1986).

<sup>8</sup> Quoted in John A. Ryan, *Economic Justice: Selections from Distributive Justice and A Living Wage* (Westminster John Knox Press, 1996), 103.

<sup>9</sup> Allan H. Carlson, *The "American Way": Family and Community in the Shaping of the American Identity* (ISI Books, 2003), ch. 3.