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To Set the World Right: Religious Pluralism and the Progressive Era

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RELIGIOUS PLURALISM AND THE PROGRESSIVE ERA

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Abstract

The contention of this thesis is that religion played a vital and sometimes overlooked role in the promotion and success of progressive reform. Religious leaders often provided primary leadership for reform. But even when their role was not so direct, they and the institutions they represented helped cloak reform efforts in moral and religious institutional authority in order to garner support for change. The process of spreading reform was directly related to the process of articulating reform in language with which people would be comfortable.

Just as reform efforts inevitably faced traditionalist resistance, they often succeed when cast in traditional and familiar language. The benefit of religious support for progressivism was its potential to "sell" reform as traditional to conservative buyers. However, religious support for reform was not insincere; reformers were often motivated by religious impulses to cleanse and purify society in order to render it more godly and care for the downtrodden in keeping with Christian counsel. This religious impulse was expressed not only in the lives of members of the Protestant Social Gospel movement, but also in the lives of Catholics, Mormons and Jews. These groups often found common ground on which to plant their reformist flags – whether it was labor legislation, suffrage, prohibition, health and safety regulation, or numerous other causes. Not only did they communicate with each other, but they forged ties with reformers whose fervency was less traceable to institutional religious motivation, but who were no less zealous.

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Introduction

In 1905, John Ryan was an unknown Catholic priest teaching at St. Paul's seminary in Minnesota when the United States Supreme Court issued its decision in *Lochner v. New York*. The Court narrowly held that the Fourteenth Amendment guaranteed a right to liberty of contract free from unreasonable governmental interference; the Court thus struck down as unconstitutional a New York statute that had mandated the maximum number of hours an individual could work in a bakery. Ryan finished his dissertation the next year, in which he argued that minimum-wage and maximum-hour laws, such as the one at issue in *Lochner*, were not only consistent with, but compelled by, centuries of Catholic teaching. The Catholic religious and intellectual tradition, according to Ryan, contained a true and unadulterated version of natural rights philosophy. By framing his argument in terms of natural rights, and placing such rights in a traditional and social context, Ryan engaged the critics of labor laws in their own language and sought to neutralize their rhetorical advantage.[1]

Although Ryan obtained his doctorate from Catholic University in 1906, he struggled to find a publisher for his dissertation, entitled *A Living Wage*. He did, however, attract the attention of noted economist and Social Gospel leader Richard Ely, who found a publisher for Ryan's dissertation and wrote the introduction. In that brief statement, Ely encouraged a Protestant audience to accept the "reasoned arguments" of the Catholic priest. Ely's assistance to Ryan was more than an act of benevolence; it was part of a concerted effort to procure progressive reform by encouraging it among varied

[1] John Augustine Ryan, *A Living Wage* (New York: MacMillan, 1906); *Lochner v. New York*, 198 U.S.45, 63 (1905).

religious traditions and by building political coalitions among churches. Just prior to meeting Ryan, Ely had traveled to Utah where he met with Mormon leaders. Ely subsequently published an account of his visit, simultaneously praising what he saw as progressive aspects of Mormonism while seeking to establish a relationship with Mormon leaders. Ely wrote in his memoirs, published near the end of his life, "My attempts to influence the churches [consisted of] every means within my reach to awaken the conscience of the churches to an appreciation of their obligations, the obligations resting upon them to do their part to bring about a social order in harmony with the principles of Christianity."[2]

Richard Ely's promotion of John Ryan bore fruit. Florence Kelley, friend of Ely, settlement house founder and general secretary of the National Consumer League, invited John Ryan to speak at the NCL conference in 1910; his speech summarized the theological arguments set forth in *A Living Wage*. Kelley attributed the success of labor legislation that decade in part to Ryan. "In the brief space of thirteen months since Father John A. Ryan made his eloquent and persuasive address on minimum wage boards at St. Louis in May 1910, the subject has ceased to be an academic one and has entered the legislative phase," she wrote in the American Journal of Sociology. While Kelley attributed to Ryan success for articulating an intellectual defense of progressive labor laws, the legislative success in the 1910s might not have been possible without Kelley herself; she facilitated judicial acceptance of labor laws by helping craft a legal brief

[2] Richard T. Ely, *Ground Under Our Feet* (The MacMillan Company: New York, 1938), 78.

defending a maximum hour law for women that the Court upheld in *Muller v. Oregon* in 1908, just three years after *Lochner*.[3]

The story of the publication of John Ryan's dissertation and its use by progressive reformers as well as Richard Ely's visit to Utah encapsulate not only the conventional history of the Progressive Era – increased statist intervention directed by educated elites to rectify social ills – but also less familiar, yet important elements of how reform materialized. Here, "mainstream" reformers (to the extent there was a "mainstream") like Ely and Kelly used religion, even "fringe" religions like Catholicism and Mormonism, as moral and institutional cover for the establishment of relatively untried and untested changes to the prevailing social order. Progressive reforms faced, as virtually all reforms do, opposition from traditionalists – a point Kelley noted in 1911.[4] The contention of this paper is that religion played a vital and sometimes overlooked role in the promotion and success of progressive reform. Religious leaders often provided primary leadership for reform. But even when their role was not so direct, they and the institutions they represented helped cloak reform efforts in moral and religious institutional authority in order to garner support for change. The process of spreading reform was directly related to the process of articulating reform in language with which people would be comfortable.

Just as reform efforts inevitably faced traditionalist resistance, they often succeed when cast in traditional and familiar language. Daniel Rodgers has written that German-trained American students, like Richard Ely, when returning home from Europe with

[3] Florence Kelley, "The Present Status of Minimum Wage Boards," *American Journal of Sociology* 17 (Nov. 1911): 313; Nancy Woloch, *Muller v. Oregon: A Brief History with Documents* (Boston: St. Martin's Press, 1996); Louis Brandeis and Josephine Goldmark, *Women in Industry* (New York: National Consumers' League, 1908).

[4] Ibid., 307. ("Every gain … has met energetic opposition.")

aspirations of implementing socialist and progressive concepts, "slowly learned the advantages of selective memory. Ducking the smears of un-Americanism hurled their way, they came to insist that their social politics was a pure, native product" coming out of, as Ely wrote, the "prairies of Illinois and the free air of the Mississippi Valley." The benefit of religious support for progressivism was its potential to "sell" reform as traditional to conservative buyers.[5] However, religious support for reform was not insincere; reformers were often motivated by religious impulses to cleanse and purify society in order to render it more godly and care for the downtrodden in keeping with Christian counsel. This religious impulse was expressed not only in the lives of members of the Protestant Social Gospel movement, but also in the lives of Catholics, Mormons and Jews. These groups often found common ground on which to plant their reformist flags – whether it was labor legislation, suffrage, prohibition, health and safety regulation, or numerous other causes. Not only did they communicate with each other, but they forged ties with reformers, like Kelley and Jane Addams, whose fervency was less traceable to institutional religious motivation, but who were no less zealous.

Early historians of the Progressive Era sketched rough outlines of characters they understood to represent John Q. Progressive, including the fading elitist who suffered from a case of status anxiety and the educated bureaucrat seeking to create order out of chaos.[6] Modern historians of the era are indebted to giants like Richard Hofstadter and Robert Wiebe, upon whose shoulders they stand for having understood and described the complexity of the era, even as those modern historians reexamine some of the

[5] Daniel Rodgers, *Atlantic Crossings: Social Politics in a Progressive Age* (Cambridge, Mass: the Belknap Press of Harvard University, 1998), 77.

[6] Richard Hofstadter, *Age of Reform* (New York: Vintage Books, 1955); Robert Wiebe, *The Search for Order: 1877-1920* (New York: Hill and Wang, 1967).

assumptions of the earlier generation. In 1970, Peter Filene attacked the notion of a coherent progressive movement or even coalition of movements. According to Filene, any attempt to find a working definition of "progressive" would be tilting at windmills; the era was so muddled and diffuse, he argued, the very idea of "progressivism" defied definition. Filene declared the idea dead and buried.[7]

And yet, as Daniel Rodgers noted, progressivism was a corpse that would not lie down. Historians continued to analyze the era, not so much to describe the elusive John Q. Progressive, but to investigate the structures of politics, power and ideas that created an environment in which disparate reform movements emerged and prospered. Rodgers himself described three clusters of ideas – or three distinct social languages - that those who called themselves progressives articulated to express their discontents and their social visions. The three social languages Rodgers identified are the rhetoric of antimonopolism, social bonds and social efficiency. More recently, Michael Willrich has written that the social languages of progressives included not only social interdependence, but also civic obligation and enlightened common sense.[8]

In the last fifteen years, Progressive Era scholarship has tapped into two major thematic veins: Daniel Rodgers and James Kloppenberg have analyzed the transatlantic nature of reform and ideas while Michael Willrich has examined the difficulty reformers and their political opponents faced in defining and guarding individual liberty in the face of a new, complex, urban world. These works have provided me with a theoretical framework for exploring the religious background of the era in hopes of bringing it more

[7] Peter Filene, "An Obituary for 'The Progressive Movement,'" *American Quarterly* 22 (1970): 20-34. See also William Novak, *The People's Welfare: Law and Regulation in Nineteenth-Century America* (Chapel Hill: University of North Carolina Press, 1996).

[8] Daniel Rodgers, "In Search of Progressivism," *Reviews in American History* 10 (Dec 1982): 113-132; Michael Willrich, *Pox: An American History* (New York: The Penguin Press, 2011): 9.

to the fore. Rodgers and Kloppenberg both noted the influence of the religiously minded upon aspects of progressivism – especially the work of Protestant Social Gospel thinkers like Ely and Walter Rauchensbusch as well as the religious influence on the budding settlement and tenement house movements. It is my hope to illustrate, in the spirit of the cross-cultural communication discussed in those treatises, the cross-religious nature of reform.[9]

Much of Progressive Era thought sought to harmonize old modes of thinking with new social realities. Willrich's and Kloppenberg's discussions of how lawyers and philosophers adapted in that changing era sparked an interest in me to probe the manner in which religious scholars adapted and redefined theology in the midst of social upheaval, and to mark the ways in which theology from varied religious scholars converged as social units began to occupy a more prominent place than individuals in intellectual thought than individuals. Finally, although her work falls outside the scope of the Progressive Era, Sarah Barringer Gordon's *The Spirit of the Law* has served as a reminder not to ignore the role religion and spirituality play in shaping reform, law and politics. The Progressive Era, like virtually all other periods of upheaval and change, had

[9] For other works addressing the era with gender and class interpretations, respectively, see Barbara Welke, *Recasting American Liberty: Gender, Race, Law, and the Railroad Revolution, 1865-1920* (New York: Cambridge University Press, 2001) and Robert Johnston, *The Radical Middle Class: Populist Democracy and the Question of Capitalism in Progressive Era Portland* (Princeton, NJ: Princeton University Press, 2003). See also Michael McGerr, *A Fierce Discontent: The Rise and Fall of the Progressive Movement in America, 1870-1920* (New York: Free Press, 2003); Christopher Capozzola, *Uncle Sam Wants You: World War I and the Making of the Modern American Citizen* (New York: Oxford University Press, 2008); William Forbath, *Law and the Shaping of the American Labor Movement* (Cambridge, Mass: Harvard University Press, 1991).

its share of religiously motivated individuals and institutions guiding, supporting and opposing reform. [10]

The Social Gospel movement and its connection to progressivism is not an untold story. Rodgers, Crunden and Kloppenberg have all traced the roots of many progressive ideas to fertile Protestant ground. Kloppenberg has also explained how Social Gospel thinkers, like Walter Rauschenbusch, were part of the creation of a progressive, pragmatic via media philosophy.[11] I do not intend to retrace their steps here. I am interested, though, in (1) the communication between Social Gospel leaders and leaders of other religious groups; and (2) how all these religious leaders struggled to adapt their theologies to the changing world.

The first half of this paper is divided into two parts. I have structured the discussion around the activities of certain charismatic individuals: Part I will first address the laissez-faire conception of natural rights and then discuss the ways in which John Ryan and Social Gospel activists, such as Richard Ely and Washington Gladden, shared ideas to counter the conservative intellectual arguments. Part II will look at Florence Kelley, her appropriation of John Ryan's theology and her relationship to Louis Brandeis and other prominent Jewish progressives. In the second half of this paper, I travel west to analyze Mormon contributions to progressive reform and structure the discussion thematically, using various prominent individuals as important actors. In Part III, I look

[10] Rodgers, *Atlantic Crossings*; James Kloppenberg, *Uncertain Victory: Social Democracy and Progressivism in European and American Thought: 1870-1920* (New York: Oxford University Press, 1986); Willrich, *Pox*; Michael Willrich, *City of Courts: Socializing Justice in Progressive Era Chicago* (New York, Cambridge University Press: 2003); Sarah Barringer Gordon, *The Spirit of the Law: Religious Voices and the Constitution in Modern America* (Cambridge, Mass: The Belknap Press of Harvard University, 2010).

[11] Kloppenberg, *Uncertain Victory*, 293-97. See also Jacob Dorn, *Socialism and Christianity in Early Twentieth-Century America* (Westport, Conn.: Greenwood Press, 1998); Robert T. Handy, ed. *The Social Gospel in America, 1870-1920* (New York: Oxford University Press, 1966).

at the development of health and labor laws in Utah. In Part IV, I discuss how Mormon theologians, notably John Widstoe, grappled with the same problems as John Ryan. In Part V, I take a brief look at the role Utah and the Mormons played in connecting their "island community" to the progressive world. Finally, I conclude with a look at the unique contributions of the Intermountain West to the passage of suffrage and prohibition.

Anyone writing on the Progressive Era must grapple with the same problem historians of the Holy Roman Empire face: is the period a misnomer? As already mentioned, Peter Filene wrote the Era's obituary in 1970, but we still seek to breathe life into an era dominated more by incoherence than coherency. Difficulty arises from the era's lack of substantive as well as temporal cohesion. What does municipal reform have to do with prohibition? What is the relationship between public health and labor laws? What is "progressive" about anti-immigration laws and eugenics? How do we reconcile simultaneous impulses for more direct democracy and greater governmental efficiency? When did the "era" begin and when did it end? The list of questions is as long as the list of "official" progressive reform movements historians have occasionally tried to cobble together.

Given the incongruities of the era, I feel a responsibility to explain how I understand the terms "progressive," "reform," "Progressive Era" and "progressivism" and other convenient short-hands. They can be misleading if they are used to imply there were individuals or institutions that were uniformly progressive. There were not. It is my intention to use these terms in a way, as Daniel Rodgers has written, to explore the "structures of politics, power and ideas within which the era's welter of tongues and

efforts and 'reforms' took place."[12] Where I seek to describe a movement as "progressive," such as suffrage or prohibition, or even "quintessentially progressive," such as labor laws for women, I will attempt to justify my characterizations with reference to how those movements tie into the social languages then in currency. I have found helpful some cogent definitions of progressivism that seek to explain it in terms of the relationship of the individual and the family to the state. Robert Wiebe, for example, described it as a period that "assigned far greater power to government … and it encouraged the centralization of authority. Men were now separated more by skill and occupation than community."[13] Even more succinct is Michael Willrich's statement that the progressive purpose of "agents of an interventionist state … was to use the best scientific knowledge available to regulate the economy and the population in the interests of social welfare."[14]

Progressive reformers were marked by an increased faith in the ability to obtain and use secular, scientific knowledge for the benefit of a social unit. Progressive reformers often, but not always, used the state as the mechanism through which to achieve social efficiency and social justice. These broad outlines of a progressive structure serve to give meaning to the often slippery, but necessary progressive terms.

[12] Rodgers, "In Search of Progressivism," 114.
[13] Wiebe, *In Search of Order*, xiv.
[14] Willrich, *Pox*, 14.

Part I. Laissez-Faire, Living Wage and the Battle over Natural Rights

> A good example of … evil is to be found in the results of the economic policy of laissez-faire. It is no wonder that there has been a reaction against this pernicious, anti-social and really *unnatural* theory of natural rights.
>
> - John Augustine Ryan

Progressive reformers seeking to pull the levers of state power to rectify social ills faced opposition buttressed by a growing field of intellectual support led by Herbert Spencer in Great Britain and William Graham Sumner in the United States. These laissez-faire theorists claimed the mantle of John Locke and Thomas Jefferson in advocating natural rights against government involvement in economic and social matters. By co-opting the language of natural rights theory, disparate progressive reformers sought to neutralize laissez-faire opposition, garner broader support for their proposals and mollify conservative opposition. By appealing to natural rights, a common American "language," reformers cast themselves and their reforms as traditional, not radical. Reformers translated the social language of progressivism, with its emphasis on community and social bonds, into a language with which a wider swath of the public was familiar and comfortable – the language of rights and liberty.

Progressive reformers' use of natural rights is somewhat lost in the historiography. Some modern legal and historical scholars have appropriately focused their inquiries on the philosophical underpinnings of turn-of-the-century laissez-faire theory in an effort to show that this intellectual tradition was not reactionary as it has often been portrayed. However, in concentrating on the laissez-faire theorists, these scholars tend to ignore progressives' use of the same language, leaving the impression that the language of natural rights was monopolized, so to speak, by conservative

opponents of progressive reform. Those scholars, particularly those who pine for a return to laissez-faire policies, tend to characterize progressives as appealing solely to legal positivism, instead of natural rights. Richard Epstein, for example, states that, "Virtually all the [court] decisions that the Progressives championed relied on a limited conception of ordinary liberty and a broad conception of the police power." Hadley Arkes argues that a return to the constitutional system constructed, in part, by conservative Supreme Court Justice George Sutherland would signify the restoration of natural rights constitutional law. As set forth herein, conservatives by no means dominated natural rights theory and language; indeed, the progressives' use of natural rights gained enough traction that some conservatives, like Sumner, felt compelled to publicly reject and attack natural rights theory as it was expounded by progressives. [15]

In order to explore competing theories of natural rights during the Progressive era, I will first describe the commonality of various competing concepts of "natural rights." I will then delineate the "laissez-faire/liberty of contract' school of natural rights as expounded by William Graham Sumner and expanded by his judicial disciples during the *Lochner* Era. Following, I will explore the theory of natural rights expressed by John Ryan, and examine why he considered the laissez-faire school to be a perversion of "true" natural rights theory.

Natural Rights: Inhering in Man qua Man

Given the divergence of opinion regarding the scope and content of natural rights among leaders and opponents of progressive reform, it is imperative at the outset to note

[15] Richard Epstein, *How Progressives Rewrote the Constitution* (Washington, D.C.: Cato Institute, 2006), 102; Hadley Arkes, *The Return of George Sutherland: Restoring a Jurisprudence of Natural Rights* (Princeton: Princeton University Press, 1994). See also David E. Bernstein, *Rehabilitating Lochner: Defending Individual Rights Against Progressive Reform* (Chicago: The University of Chicago Press, 2011).

the commonality of various natural rights theories propounded at the turn of the century in order to avoid losing the "apples to apples" comparison. John Ryan wrote in his dissertation that a natural right was "born with the individual, derived from his rational nature, not conferred upon him by positive enactment."[16] William Graham Sumner would have agreed, for all proponents of natural rights theory maintained the rights existed independent of any special dispensation from the state or community. Progressive reformers, whether Catholic, Protestant, secular, or something else, and their political opponents understood natural rights theory to promulgate the existence of certain rights inhering in man qua man that, although subject to reasonable restriction, were "inalienable" or, in the words of John Ryan, "indestructible."[17] Ryan, a supporter of progressive reform, wrote, "When [a] claim is created, as it sometimes is, by civil authority it is a positive or legal right; when it is derived from man's 'rational nature' it is a natural right."[18] The libertarian Sumner, although attacking the content of natural rights as defined by progressives, nevertheless agreed natural rights to be accorded men "by nature, or in the nature of things, because they are men …."[19] Progressives and conservatives alike understood the inherent quality of natural rights.

Natural rights theory, then as well as now, might best be understood by contrasting it with its converse theory – legal positivism – which is important to define here given that progressives employed it often, if not as a rallying cry, then as a legal theory. Positive legal rights are created by the state or community for the purpose of

[16] Ryan, *A Living Wage*, 43.

[17] Laura Murphy, "An 'Indestructible Right:' John Ryan and the Catholic Origins of the U.S. Living Wage Movement," 1906-1938. *Labor Studies in Working-Class History of the Americas* 6, (2009): 57.

[18] Ryan, 43-44.

[19] William Graham Sumner, *On Liberty, Society, and Politics: The Essential Essays of William Graham Sumner*, ed. Robert C. Banister (Indianapolis: Liberty Fund, 1992), 177.

organizing society. Such rights exist solely at the discretion of the political entity. Natural rights, on the other hand, exist independent of the state or community and cannot (or at least should not) be excised or abridged without reasonable justification. Natural rights and positive rights are not mutually exclusive – one can certainly maintain that some rights are natural while others are positive. However, as will be shown, there is plenty of room for disagreement over what those rights entail. Progressive Era reformers and conservative reactionaries acutely disagreed over the content and scope of natural rights.

Laissez Faire and Liberty of Contract

"The thirst for luxurious enjoyment, when brought into connection with the notion of rights … produces the notion that a man is robbed of his rights if he has not everything he wants," wrote William Graham Sumner in response to growing calls for government assistance with food, jobs and housing. [20] Laissez-faire economic policy, while perhaps not as predominant as is sometimes believed, enjoyed its heyday in the 1870s and 1880s as large businesses grew, consolidated and created specialized labor.[21] During post-Reconstruction growth, federal regulators, though not entirely absent, remained distant from their charges. However, as the country became increasingly industrialized, urbanized and interconnected, and as larger corporations monopolized their markets, reformers pressed for government intervention to correct apparent injustices. Beginning in 1890s, progressives slowly wrought changes at state and local levels to improve labor conditions. State legislatures began regulating labor with respect to minimum wage,

[20] Sumner, 198.

[21] Morton Keller has argued that laissez-faire economic policy did not dominate the 1870s and 1880s as some have asserted. See Morton Keller, *Affairs of State: Public Life in Late Nineteenth Century America* (Cambridge, Mass: Harvard University Press, 1977); see also William Novak, supra, note 7;

maximum hours and occupational safety. The Supreme Court noted in 1905, with some alarm, "This interference on the part of the legislatures of the several States with the ordinary trades and occupations of the people seems to be on the increase."[22]

George Sutherland, former congressman and senator and future Associate Justice of the Supreme Court, addressed the American Bar Association and reflected on the multiplication of laws he had seen during his time in Congress: "If, therefore, I were asked to name the characteristic which more than any other distinguishes our present-day political institutions, I am not sure that I should not answer, 'The passion for making laws.'" Such "passion" was contrary to his and other conservatives' adherence to detached reason. He continued, "The prevailing obsession seems to be that statutes, like the crops, enrich the country in proportion to their volume." Sutherland's comments in 1917 represented the culmination of a growing alarmist sentiment expressed by the Supreme Court twelve years earlier: that economic regulation represented "interference" and was a cause for deep concern. Sutherland concluded his thoughts with a warning about unforeseen consequences: "Unfortunately for this notion …, the average legislator does not always know what he is sowing and the harvest which frequently results is made up of strange and unexpected plants whose appearance is as astonishing to the legislator as it is disconcerting to his constituents." [23]

Progressives of the first decade did not feel the same concern for unintended consequences that Sutherland articulated in 1917, to the extent they considered unintended consequences at all. They pressed myriad reform movements at all levels of government, often involving much greater state involvement in the economy and social

[22] *Lochner*, 198 U.S. at 63.

[23] George Sutherland, "Address of the President," *Report of the American Bar Association Annual Convention* (1917), 202-210 (copy on file with author).

life than had ever previously been used.[24] Those wishing to maintain the laissez-faire status quo found themselves on the defensive in the 1890s and first twenty years of the new century. They found it increasingly difficult to defend to the public the economic policies that helped create, progressives argued, large numbers of displaced laborers, wage disparity and occupational hazards. Conservatives needed intellectual justification and constitutional protection. William Graham Sumner provided the former and a series of Supreme Court decisions supplied the latter. Sumner, an Episcopalian priest, political scientist, sociologist and economic historian at Yale, was a leading theorist and advocate of laissez-faire economics. He systematized and defended the policy in a series of essays and speeches from as early as 1883 until 1909.[25]

Sumner based his laissez-faire arguments primarily on economics; he could not countenance an economic system that affirmed rights to tangibles, like a living wage. Such a system would in practice lead to universal destitution because those called upon to furnish the tangibles, the "forgotten" men, would ultimately wither and die, taking the entire system down with them. "The consequence would be that the industrious and prudent would labor and save, without families, to support the idle and improvident who would increase and multiply, until universal destitution forced a return to principles of liberty and property."[26] While Sumner enshrined "liberty and property" as inviolable

[24] In making this statement I do not intend to attempt to rebut William Novak's point – that government involvement in economic and social affairs during the Progressive Era represented continuity with the past, not change, see supra, note 7, but I would argue that laws in the Progressive Era multiplied at least in proportion to the changing economy. For example, increased female presence in the workplace led to increase regulations addressing females in the workplace.

[25] Richard Hofstadter, "William Graham Sumner, Social Darwinist," *The New England Quarterly*, Vol. 14, No. 3 (Sep., 1941), pp. 457–477; Jonathan Marshall, "William Graham Sumner: Critic of Progressive Liberalism." *Journal of Libertarian Studies* 1979.

[26] Sumner, 170.

rights, he simultaneously criticized natural rights theory as it was then used by populists and progressives. First, he noted how a progressive interpretation of natural rights, as it had begun to be articulated by members of the Social Gospel movement, created obligations upon other members of the community. "Such is the actual interpretation in practice of natural rights—claims which some people have by prerogative on other people." Sumner implied the progressive theory supported the lazy and indolent at the expense of the hard-working and thrifty. "This theory is a very far-reaching one," he said; "[i]n its widest extension it comes to mean that if any man finds himself uncomfortable in this world, it must be somebody else's fault, and that somebody is bound to come and make him comfortable."[27]

For Sumner, the only rights that existed were rights *of opportunity*: the opportunities to live and to pursue whatever prospects the natural world provided. "Before the tribunal of nature a man has no more right to life than a rattlesnake; he has no more right to liberty than any wild beast; his right to pursuit of happiness is nothing but a license to maintain the struggle for existence..."[28] This deliberate invocation of Jeffersonian language reminded readers of Jefferson's delineation of rights while simultaneously placing a check on reading too much into them. Sumner's theory might be characterized as a "negative" form of natural rights; a man's "right to life" means his life cannot be taken away, but it does not mean the necessities of life – food, clothing and shelter – should be provided to him.

Sumner appealed not just to economics, but also to a broader sense of justice in formulating laissez-faire. For Sumner, the rights of the productive member of society,

[27] Sumner, 169-170.

[28] William Graham Sumner, *Earth-hunger, and Other Essays*, ed. Albert Galloway Keller (Freeport, New York: Books for Libraries Press, 1970), 234.

the "Forgotten Man," should not be subordinated to the wants of others. "It is all wrong to preach to the Forgotten Man that it is his duty to go and remedy other people's neglect. It is not his duty. It is a harsh and unjust burden which is laid upon him." He continued that those wanting, whom he called "negligent," had no claim on other members of society. "The exhortations ought to be expended on the negligent—that they take care of themselves." Sumner, unlike progressives who spoke often of community and society, placed natural rights in the context of a "state of nature." Man, for him, was merely a creature existing in a state of nature, enjoying only the right to live and compete and to wrest from nature whatever property and happiness he could.[29]

Upon Sumner's negative foundation of natural rights, later laissez-faire theorists constructed an affirmative natural right to liberty of contract. If it is true, the argument went, that the only right a man has is the freedom to compete in nature, then that very right was sacrosanct. For the *Lochner* court and other laissez-faire theorists, the right to compete and to choose how to compete and wrest from nature a livelihood and happiness was virtually inviolable. In application, the right to compete in nature manifests itself as the right to negotiate and enter into contracts, free of interference from anyone else. The laissez-faire school of natural rights found fullest expression in a series of late nineteenth- and early twentieth-century Supreme Court decisions, the most notable of which, for present purposes, are *Allgeyer v. Louisiana* (1897),[30] *Lochner v. New York* (1905)[31] and *Adkins v. Children's Hospital* (1923)[32]. *Allgeyer* and *Lochner* embedded in constitutional law a natural right to liberty of contract. *Adkins* demonstrates the resiliency of laissez-

[29] William Graham Sumner, *The Forgotten Man and Other Essays*, ed. Albert Galloway Keller (Freeport, New York: Books for Libraries Press, 1969), 482.
[30] 165 U.S. 578 (1897).
[31] 198 U.S. 45 (1905).
[32] 261 U.S. 525 (1923).

faire principles, at least in the "least dangerous branch" of government, even after progressive reformers had achieved significant reforms.[33]

Before considering these important cases, it is worth noting that many modern legal scholars contend that, while these cases cogently articulate a constitutional theory grounded in individual rights, such cases were the exception, not the rule. For example, Michael Willrich has written that "even progressives did not make the mistake of seeing *Lochner* as the emblematic decision of the era." For progressives, Willrich continues, *Lochner* "was outrageous because it was so out of line with the general tendency of American courts to approve greater and greater exercises of state police power." Willrich argues that most contemporaries looked to a much more liberal Supreme Court case, *Jacobsen v. Massachusetts*, decided the same year as *Lochner*, in which the Supreme Court approved mandatory vaccination efforts, as the "better reference point for understanding the real extent of government power."[34] Even though the *Lochner* line of cases did not fully represent the Court's view of the extent of government power, they nevertheless articulated a laissez-faire or quasi-laissez-faire theory of natural rights to which many subscribed.

The *Allgeyer* court first articulated a constitutional right to liberty of contract. There, the Court held liberty of contract was protected by the Fourteenth Amendment. The Court stated that the liberty mentioned in that amendment meant "not only the right of the citizen to be free from the mere physical restraint of his person … but the term is deemed to embrace the right of the citizen … to be free to use [his faculties] in all lawful

[33] Alexander Bickel coined the phrase "Least Dangerous Branch" in the title of his book about the federal judiciary. Alexander Bickel, *The Least Dangerous Branch: The Supreme Court at the Bar of Politics* (Indianapolis: Bobbs-Merrill, 1962).

[34] Willrich, *Pox*, pp. 325, 332; Jacobsen v. Massachusetts, 197 U.S. 11 (1905)

ways," which, for the Court, included the right "to live and work where he will, to earn his livelihood by any lawful calling, to pursue any livelihood or avocation, and for that purpose to enter into all contracts which may be proper, necessary, and essential to his carrying out to a successful conclusion the purposes above mentioned."[35] *Allgeyer* thus embedded Sumner's right to compete and the extrapolated freedom of contract into the Fourteenth Amendment.

Whereas *Allgeyer* addressed liberty in the context of the right to enter into insurance contracts, the Court eight years later extended the same right to labor contracts in *Lochne*r. "The general right to make a contract in relation to his business," the Court reaffirmed, "is part of the liberty of the individual protected by the Fourteenth Amendment." The Court framed the issue as one in which the state and individual liberty were in conflict. "It is a question of which of two powers or rights shall prevail – the power of the State to legislate or the right of the individual to liberty of person and freedom of contract."[36] Finally, the *Adkin*s court in 1923, in an opinion written by George Sutherland, struck down a minimum wage scheme for women in the District of Columbia, demonstrating that freedom of contract entailed not just choosing whether to enter into a contract or how many hours to work, but also the wage one is willing to accept.[37]

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[35] *Allgeyer*, 165 U.S. at 589.

[36] *Lochner*, 198 U.S. at 52.

[37] *Adkins*, 262 U.S. at 525. Although the turn of the century might be labeled the "high noon" of constitutional *laissez-faire* doctrine, the free market was not without limitations that passed constitutional muster. *See, e.g.*, *Holden v. Harden*, 169 U.S. 366 (1898); *Atkin v. Kansas*, 191 U.S. 207 (1903); *Knoxville Iron v. Harbison*, 183. US. 13 (1901); and *Jacobsen v. Massachusetts*, 197 U.S. 197 (1905). Howard Gillman argues the Lochner Era Court undertook a principled attempt to distinguish between valid economic regulation and invalid class regulation and that the roots of their jurisprudence laid not with Spencer and Sumner, but with principles espoused by the anti-slavery Republican Party of the 1850s and 1860s. See Howard Gillman. *The Rise and*

The seminal case, *Lochner*, was decided in 1905. In 1906, progressive reformers happened upon a strong and articulate defender of a progressive version of natural rights with whom they could begin to successfully seize natural rights language and its accompanying moral authority from laissez-faire theorists, such as Sumner, in order to pass reform.

John Augustine Ryan and Catholic Enunciation of Indestructible Rights

From the very close of the Progressive Era to the present, historians have attempted to identify the key individuals involved in progressive reform. John Chamberlain's list included Ida Tarbell, John Peter Altgeld and Robert La Follette. David Colburn discussed Al Smith, Gino Speranza, Upton Sinclair and others. Robert M. Crunden identified twenty-one individuals of "major importance." Absent from these rolls, though, and from too many discussions of the Progressive Era, is John Augustine Ryan. Ryan's contribution to Catholic moral and social thought is well documented, as well as his support for the New Deal, causing Father Coughlin to give him the derogatory nickname "Right Reverend New Dealer." But his influence on progressive reform is underappreciated. [38]

In *A Living Wage* Ryan argued the Catholic tradition, passed down since at least Aquinas, was consistent with, and even compelled, passage of minimum wage laws. Ryan's treatise was based not on economics, but on theology. For Ryan, man had a greater purpose than other creatures in nature; he therefore propounded natural rights as

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Demise of Lochner Era Police Power Jurisprudence (Durham, N.C.: Duke University Press, 1993).

[38] John Chamberlain, *Farewell to Reform* (Chicago: Quadrangle Books, 1932); David Colburn, *Reform and Reformers in the Progressive Era* (Westport, Connecticut: Greenwood Press, 1983); Robert M. Crunden, *Ministers of Reform: The Progressives Achievement in American Civilization, 1889-1920* (Chicago: University of Illinois Press, 1984).

"the moral means or opportunities by which the individual attains the end appointed to him by nature." Natural rights were meant to protect an individual from "arbitrary interference" by other people. The state, according to Ryan, had a duty to protect an individual's natural rights from arbitrary interference from others. Slavery and the Civil War provided Ryan and other progressives perhaps the most powerful precedent for the necessity of state intervention in economic affairs. The state was obligated to involve itself to protect the individual's natural right to liberty from interference by the slave owner.[39]

These preliminary foundational points of Ryan's natural rights theology were hardly distinguishable from Sumner's "negative" view. Ryan went further, however, to expand the scope and content of natural rights in order to justify the basis upon which an individual would be entitled to a living wage. "The primary natural right from which the right to a Living Wage is deduced, is the right to subsist upon the bounty of the earth." For Ryan, an individual could not obtain his fullest potential – his divine "end" - if he were starving, if he were living in slums, or if he were forced to live as an animal, instead of as a rational being. How could a man direct his thoughts and actions to God when he, and his family, were in constant hunger? [40]

Ryan's theory of natural rights created "juridical" duties in others – affirmative obligations to treat each individual as a dignified human, not as a mere instrument of labor.[41] Although Ryan does not use the explicit language of other reformers comparing

[39] Ryan, *A Living Wage*, 44.
[40] Ibid., 46, 68.
[41] Ibid., 50-51.

"wage slavery" to chattel slavery, he implicitly makes the connection.[42] Although wage laborers were technically free, their lack of equal bargaining power with their employers led them to accept wages far below that deemed necessary to sustain a right and rational life. It is in this context of unequal bargaining power and near destitution that Ryan deduced the right to a living wage. Ryan later even went so far as to calculate the amount of wage necessary to maintain an individual and his family in dignity in New York City ($900/annum in 1911).[43] Ryan's theology paralleled the philosophy of the via media thinkers who, according to Kloppenberg, "renounced possessive individualism and embraced an ideal of solidarity to supplement the customary liberal commitment to personal freedom."[44]

Ryan saw himself not as creating a new theory, but explaining one that was already millennia old. He explained, "[T]he moderate conception of [natural rights] .. has always prevailed in Catholic ethical teaching. …." Ryan felt his theory of natural rights predated not only the laissez-faire theories then prevalent, but also the theories of Locke and Jefferson, upon whom he looked with some disdain. Ryan called upon St. Thomas Aquinas as his intellectual patron. Ryan's elevation of Catholic thinkers, such as Aquinas, over secular "prophets" like Locke's and Jefferson would have put him at odds with the laissez-faire theorists, but was consistent with his deep-rooted theological tradition. He viewed the implementation of Locke and Jefferson's ideas to still be in their experimental stage. His concept of natural rights was time-proven. As is often true of

[42] For treatment of the transition from a slave economy to one based on free labor, See Amy Dru Stanley, From Bondage to Contract: Wage Labor, Marriage and the Market in the Age of Slave Emancipation (New York: Cambridge University Press, 1998).

[43] John Ryan, "A Minimum Wage by Legislation," *Publication of the Central Bureau of the German Roman Catholic Central Verein* 4 (1911).

[44] Kloppenberg, *Uncertain Victory*, 7.

those advocating for reform, Ryan saw himself, or at least characterized himself, as adhering to time-honored intellectual and moral philosophies that carried the authority of centuries, if not millenia, of inspection.[45]

Ryan considered the laissez-faire school of natural rights to be a perversion of the true, unadulterated version. Ryan described the laissez-faire school as "merely that very simple and very primitive system of rules that would suffice for the state of nature, in which political restraints would be unknown, or at lease reduced to a minimum … In the mind of the Revolutionist, the law of nature meant to … get back to the simple state of nature, the semi-anarchical conditions of primitive times." This denigration of the state of nature is important for at least two reasons: (1) it illustrates Ryan's view that man, as a dignified, divine being, occupied a station in nature above that of animals; and (2) the concept that man is entitled to live on a higher plane than the beasts is an important part of the distinct social language of natural rights in which reformers spoke. As will be discussed further herein, other reformers, not of a Catholic tradition, used this same argument – that the state of nature was primitive and man should strive to establish a more godlike sphere on earth. [46]

Ryan continued his attack on a judicially protected state of nature: "In practice this juristic liberalism has meant, and always will mean, that the State allows to the strong the legal right and power to oppress the weak. A good example of the evil is to be found in the results of the economic policy of laissez-faire. It is no wonder that there has been a reaction against this pernicious, anti-social and really *unnatural* theory of natural

[45] Ryan, *A Living Wage*., 64.

[46] Ibid. For an interpretation of the era which analyzes the motivation to protect the weak, see Susan Pearson, *The Rights of the Defenseless: Protecting Children and Animals in Gilded Age America* (Chicago: University of Chicago Press, 2001).

rights." Laissez-faire was unnatural because, by permitting the strong legal justification for oppression of the weak, it disallowed the natural progression of man to a higher state of being – to a rational and right life. [47]

Much of Ryan's argument might be characterized as benevolent paternalism – creating a sphere of protection in which individuals and families might be free to live as God would have them while oppressors were held at bay. He wrote: "[T]he minimum of the material conditions of decent and reasonable living comprises for the adult male, the means of supporting a family." Ryan's theme of family autonomy would be used, as we shall see, by progressives in crafting laws for living wages as well as labor laws specifically designed for women. Ryan continued, "To this much of the world's goods he has a natural right which is valid 'against the members of the industrial community in which he lives … the laborer has a right to a family Living Wage because …[the world's goods] are an essential condition of normal life." An individual who was the head of a household could not satisfy his highest obligations and fulfill his ultimate responsibilities to his family without recognition from his employer of those obligations and responsibilities. The "normal life" of which Ryan speaks is the one in which a man fulfills his divine responsibility of providing for his family, perpetuating the human race, and pursuing godly interests.[48]

Ryan must have noticed that some of his allies in various social reform movements attacked natural rights theory, as it was explained by Sumner and other conservatives, as a hindrance to progress. He therefore sought to distinguish true, Catholic natural rights theory from the perversion that laissez-faire theorists were using in

[47] Ibid., 65 (emphasis in original).
[48] Ibid., 115, 118.

support of natural law economic policy. Ryan's important contribution to the turn-of-the-century understanding of natural rights was to expound what he saw as the middle road between the Revolutionary extreme "state of nature" theory of individual rights and the socialist extreme of an entirely positivist theory of rights. He concluded his thesis, "The doctrine of natural rights outlined in the foregoing pages holds, then, a middle ground between the Revolutionary and the positivistic theories of the origin and extent of the rights of the individual."[49] In describing his theory in moderate, middle-of-the-road terms, Ryan was bound to offend those who advocated the extremes, which may partly explain how he became somewhat lost in the historiography. To the extent the extremist positions over time came to represent both the move for reform and the opposition, Ryan may have been pushed to the side. However, even if his impact has been marginalized over time, his contemporaries credited him with success; his theory of natural rights provided, perhaps, just the moderating influence the reform movement needed to succeed.

The Social Gospel: Protestant Natural Order and Natural Rights

When John Ryan could not find a publisher for his dissertation, Richard Ely assisted him. Ely was a German-trained economist and a founder of the Christian Social Union. Ely advocated the application of Christian principles to social problems; he was thus an early intellectual and moral light for the Social Gospel movement. Ely figures prominently in both Rodgers' and Kloppenberg's works on transatlantacism in the Progressive Era. Ely influenced many budding Social Gospel preachers, such as Walter Rauschenbusch, and was a friend and contemporary of other leaders of the movement, such as Washington Gladden. Rauschenbusch and Gladden were, with Ely, preeminent

[49] Ibid., 64.

leaders of the movement. As a Christian and an economist, Ely contributed to the growing doctrine of moral economics.

Ely sought to broaden the base of support for progressive causes by appealing to moral authority outside mainstream protestant congregations. He recognized in Ryan an ally who might assist the cause of reform. When Ely wrote the forward to Ryan's dissertation, he noted the efforts social gospel thinkers had made to use Christian theology as moral persuasion for progressive principles. "We have had repeated efforts to stimulate the conscience of the Christian world to a keener appreciation of its duties to the men, women and children who toil for wages … greater sensitiveness to right and wrong in economic affairs has undoubtedly been the result of this preaching of righteousness." However, he added that such efforts may have fallen too short. "Enlightenment has, however, not kept pace with good intention."[50]

Ely's statement suggested Protestant Social Gospel preachers had, despite some years of trying, not yet found language that would resonate with enough voters to enact real reform. Ely was willing to adopt Ryan's theological arguments, which employed natural rights language with which conservative and moderate political actors could identify. Ely included Catholic teaching in his definition of "Christian doctrine." He wrote, "Is there after all such a thing as a Christian doctrine of wages? The writer of this book, a priest in the Roman Catholic Church … presents to us in the following pages, a clear-cut, well-defined theory of wages".[51]

Ely explicitly implored his Protestant colleagues to welcome Ryan (and his arguments) into the progressive fold and implicitly urged they set aside theological

[50] Ibid., Foreword.
[51] Ibid.

differences in allying with Ryan in the push for minimum wage. "My own feeling is that this book is to be welcomed as an attempt on the part of a religious teacher to get beyond vague and glittering generalities to precise doctrine, and to pass from appeals to sentiment to reasoned arguments." Ely's willingness to spiritually adopt Ryan's arguments suggests that religious boundaries were blurred or ignored for the sake of instituting progressive reform. Ely's admiration for Ryan was reciprocated; Ryan dedicated his book to Ely.

This communication between Catholic and Protestant social and economic thinkers did not run in only one direction. Social Gospel preachers, before and after Ryan, had contended with prevailing theories of laissez-faire and natural law, as they had been propounded by Sumner and conservatives on the Supreme Court. Washington Gladden, congregational pastor, friend of Ely and early leader of the Social Gospel movement, sought, like Ryan, to juxtapose the natural law theories of Sumner with a "higher" Christian moral law. Gladden set out to discredit laissez-faire economic theory along with its corollary survival-of-the-fittest social theories. Gladden first noted in *Tools and the Man* the false assumptions of natural law theorists and economists: "It [is] either assumed, with Smith and Malthus, that unrestrained egoism would result in universal welfare, or it [is] insisted, with later economists, that the law of supply and demand was an 'inexorable' natural law whose severities could not be mitigated by the will of man." Gladden attacked these suppositions. "Both assumptions are false, and both are mischievous, in that they tend to check the development of those sympathetic feelings which are the natural fruit of Christianity."[52]

[52] Washington Gladden, *Tools and the Man* (Boston and New York: Houghton, Mifflin and Co., 1893), 278.

Gladden's argument paralleled Ryan's later argument: a system in which the strong reigned unchecked and the weak suffered prevented the natural progression of man to a higher state which is the "natural fruit of Christianity." Like Ryan, Gladden viewed laissez-faire theories as unnatural. Also like Ryan, he cited with approval ancient Christian thinkers who pre-date the political theories of Locke and Jefferson. "'Nature created community; private property is the offspring of usurpation,'" said Ambrose … Iniquity alone has created private property,' declares Clement."[53] For Gladden, the "true" natural order would be an environment in which man could cultivate his Christian virtues. "In short, Christianity treats the principle of natural selection exactly as the higher order of evolutionary philosophers themselves treat it. They do not regard it as the final law of a perfected civilization …they insist that man is gradually rising above its domain." The essence of progressivism for Gladden was spiritual progress. "Man is slowly passing from a primitive social state in which his character shall have become so transformed that nothing of the brute can be detected in it."[54]

Gladden's statements recognize the tension between a legally protected "state of nature," where the strong may oppress the weak, and the idea of progression for all men, regardless of economic status. Gladden downplayed man's natural right to earthly property, to the extent such right existed at all, and instead amplified man's right to achieve his full Christian potential. And yet Gladden's argument did not take the next steps that Ryan's argument took a few years later – that in order for a man to achieve his fullest divine end, other men, based on juridical duty, must afford him the opportunity to so reach by, for example, paying him a living wage. Ely, who was familiar with the

[53] Ibid., 279.
[54] Ibid., 276-79.

writings of both Gladden and Ryan, recognized the opportunity to take Gladden's arguments further to "get beyond vague and glittering generalities to precise doctrine, and to pass from appeals to sentiment to reasoned arguments" by adopting Ryan's reasoning.[55] Those arguments would, in turn, lead to success in the political arena, especially when harnessed by tenacious political actors and reformers.

[55] Ryan, Foreword.

Part II. Florence Kelley and the Dissemination of Natural Rights Theory among Progressives

Daniel Rodgers wrote in 1982 that progressive reformers were able to "draw upon" distinct clusters of ideas in order to express their discontent and their visions for social change. Rodgers followed his article with a definitive treatise on the lines of communication among progressives. His work has encouraged others to explore other channels of communication through which those ideas were disseminated, or the process by which progressives learned to speak those "distinct social languages."[56] As demonstrated by Richard Ely's foreword to John Ryan's dissertation, the language of natural rights did not descend upon reformers like dew from heaven; rather, the acquisition and implementation of natural rights theory was a process where ideas were shared, borrowed and tested. The process of *spreading* natural rights theory in a progressive context was just as important as *articulating* the theory in the same context because, without its propagation, the "selling" of progressive reform was less likely. Natural rights theory had the potential to resonate with a broader, more moderate populace.

Florence Kelley, although not contributing to the development of natural rights as a theory, was instrumental in circulating it over a broad spectrum of progressive reformers. Kelley's unusual knack for establishing connections with different reform leaders placed her at the center of the progressive social web. Kelley was adept at appropriating intellectual and moral authority where she could find it.[57]

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[56] Rodgers, 123.

[57] Kathyrn Sklar, *Florence Kelley and the Nation's Work* (New Have, Conn.: Yale University Press, 1995).

Kelley helped organize the National Consumer League (NCL) and served as its general secretary from 1899 until 1926. The NCL, under Kelley's leadership, led the movement for legislation to improve labor conditions, including the fight for a minimum wage.[58] Kelley, like Ely, recognized that a strong moral argument could galvanize backing for a minimum wage; she therefore sought to broaden the base of support for wage laws. Kelley invited John Ryan to speak at the 1910 NCL conference on the subject. There, Ryan told NCL members that, "the most insignificant child, the most degraded and exploited worker, is equal in moral importance and in the eyes of God to the greatest statesmen and the most efficient captain of industry." Ryan reiterated to the NCL the same idea he had expounded in his dissertation four years earlier – men were, by nature, entitled to a livelihood sufficient to allow a "right and rational life."[59]

Ryan and the NCL, according to Laura Murphy, developed a mutually beneficial partnership. "Ryan connected to an extensive and diverse network of reformers that worked to put his living wage theory in practice. The NCL drew on Ryan's rights-based argument to develop support for wage laws."[60] Murphy argues the coalition that emerged from the 1910 conference "was responsible for the first minimum wage laws in the country … [which] paved the way for the Fair Labor Standards Act of 1938…."[61] Ryan and Kelley maintained a friendship until Kelley's death in 1932. Ryan served as an honorary vice-president of the NCL until his death in 1945.[62] Kelley likewise maintained a correspondence with Richard Ely, who had helped publish Ryan's political thought,

[58] Murphy, 57.
[59] Ibid., 58.
[60] Ibid, 65.
[61] Ibid.
[62] Florence Kelley, *The Selected Letters of Florence Kelley*, ed. Kathryn Kish Sklar and Beverly Wilson Palmer (Urbana and Chicago: University of Illinois Press, 2009), 386.

throughout the 1890s.[63] Kelley did not hesitate to cultivate friendships with influential religious leaders.

She also did not hesitate to recruit talented legal assistance to defend progressive laws. The *Lochner* opinion, issued in 1905, left open the possibility of state intervention in labor relations based upon legitimate, reasonable use of police powers to regulate health and safety. The Court wrote, "Both property and liberty are held on such reasonable conditions as may be imposed by the governing power of the State in the exercise of [the] powers [to police health, safety and morals] and with such conditions the Fourteenth Amendment was not designed to interfere."[64]

Florence Kelley recognized an opportunity. The NCL collaborated with a local consumer league in Oregon to draft a maximum hour law for women geared toward protecting women's health. The law passed, came under legal attack, and was successfully defended in *Muller v. Oregon*. The NCL, under Kelley, had undertaken an active defense of the Oregon statute; when it was appealed to the Supreme Court, Kelley wrote to her son, "We are having an exciting time in the matter of working hours … now, we are trying to add a very powerful attorney – preferably Mr. Louis F. Brandeis of Boston – to the Attorney General of Oregon for the oral argument. But nobody has any money. One offer of $30.00 is the largest yet!"[65] The NCL eventually raised enough money to hire Brandeis, the brother-in-law of Kelley's chief assistant, Josephine Goldmark.

Louis Brandeis successfully defended the law by appealing to social science and not just pure legal argument, inventing what came to be known as the "Brandeis Brief."

[63] Ibid., 24-81.
[64] *Lochner*, 198 U.S. at 53.
[65] Kelley, 160.

Indeed, Brandeis' legal argument was remarkably short; his appendices containing social statistics, however, were quite lengthy. Brandeis' main argument was that the Oregon law was an appropriate use of the state's police power because social science clearly showed the physical inferiority of women to men; thus, women needed state protection in the labor force to guard against harsh conditions that would harm women, if not men. Such paternalistic statism was necessary to help protect a natural order of womanhood and maternity, including the ability to breed with reduced risk of infant mortality. Social science, still a relatively new field, quickly came to be revered to a degree that rivaled that of natural science.[66]

Although Brandeis' style of briefing to the Court in *Muller,* highly dependent upon social statistics, came to be known as a "Brandeis Brief," it might have, not without justification, been called a "Kelley Brief" or a "Goldmark Brief." Under the direction of Kelley, Goldmark collected and organized the hundreds of pages of sociological evidence, consisting of reports by state bureaus of labor statistics, factory inspectors, and physicians, demonstrating the negative effects of harsh labor conditions on women. Neither Brandeis' legal argument nor the social statistics in the appendices sought to use individualistic natural rights theory as its organizing principle. However, the brief's emphasis on the natural distinctions between men and women reinforced a theoretical context in which a unanimous court could find that a state's police power was justified in regulating women's hours not only to protect women, but to protect maternity. Brandeis tapped into the theory that state interference in labor contracts was justified on paternalistic grounds in order to protect a natural order in which men and women could fulfill divine, or naturally instituted, roles. This argument had a greater potential to

[66] Melvin Urofsky, *Louis D. Brandeis: A Life* (New York: Pantheon Books, 2009).

resonate with conservative justices on the Court than arguments based on vague theories of income equality and social justice. The Court, including the notorious Justice Peckham and other members of the *Lochner* majority, was unanimous in upholding the Oregon law.

In this way, the brief and the Court's decision drew upon the same social ideas as Ryan and Gladden did in their articulation of labor and wage laws – that natural and divinely appointed "ends" for human progress ought to be supported, not undermined, by the state.[67] In characterizing the Oregon law as a bulwark to a natural order, if not individual rights, Kelley and other reformers began to engage the legal community and the public with language that was familiar and comfortable. They thus broadened support for progressive reforms and successfully thwarted some judicial reactionary measures.

Brandeis engaged the natural rights discussion in a much more direct way several years before the *Muller* case. In an 1890 Harvard Law Review article, Brandeis argued that courts should recognize a common law right to privacy. He began his argument by endorsing the validity of natural rights theory and suggested the content of natural rights could be defined anew from time to time. He wrote, "That the individual shall have full protection in person and in property is a principle as old as the common law; but it has been found necessary from time to time to define anew the exact nature and extent of such protection."[68] He also wrote that common law rights did "not [arise] from contract or special trust, but are rights against the world."[69] He deliberately adopted and extended

[67] Kelley's embrace of protective laws for women marks a modification of, or perhaps complete rejection of, views she held in the 1880s and early 1890s which were emphatically anti-paternalistic.

[68] Louis Brandeis and Samuel Warren, "The Right to Privacy," *Harvard Law Review* IV (December, 1890), 1.

[69] Ibid.

the language of John Locke by writing that the right to life had come to mean the right to be left alone. The right to liberty secured the exercise of extensive civil privileges. And the term "property' had grown to comprise every form of possession – intangible as well as tangible. [70] By arguing that Locke's right to life equals the right to be left alone, Brandeis contended it was appropriate that courts should recognize a common law right – a right "against the world" - to privacy. Brandeis' direct invocation of Lockean language may have provoked Sumner's response, cited herein, whereby Sumner sought to limit the natural rights men may reasonably expect. For Sumner, the right to life, liberty and property did not secure extensive civil privileges or any necessity of life that required furnishing by another.

Brandeis was one of several prominent Jewish professionals who promoted and defended progressive reforms. In addition to Brandeis' pupil Felix Frankfurter, who argued in support of minimum wage law for women before Brandeis and the rest of the Court in 1923 before joining the Court himself, Solomon Schechter, Emil G. Hirsch and Kaufman Kohler all contributed Jewish voices to various strains of progressivism. They also reached out to their Christian counterparts to build interfaith progressive coalitions, beginning with the World Parliament of Religions held in 1893 until the beginning of World War I.[71]

Egal Feldman has documented not only the budding relationship between progressive protestant congregations and liberal American Jews before World War I, but also the development of some rabbinical teaching in line with Social Gospel theology. He noted both Solomon Schechter and Emil Hirsch taught themes that "reflected

[70] Ibid.

[71] Egal Feldman, "The Social Gospel and the Jews," *American Jewish Historical Quarterly*, 58.3 (1969: Mar): 313.

substantial agreement with the aspirations of the social gospel." Hirsch said that the religion ought to be "impatient of men who claim that they have the right to be saved … while not stirring a foot or lifting a hand to redeem brother men from hunger and wretchedness." Schechter adopted even more overt Christian tones by speaking of the work "toward establishing the visible Kingdom of God in the present world."[72] The notion that men had a duty to strive toward a future heavenly Kingdom on earth echoes Washington Gladden's spiritual evolutionary theories of man striving to rise above a state of nature and create a heavenly state.

Feldman argued that although there appeared to be a nascent hope for a lasting alliance between liberal Protestants and reform Jews, or even a formal merger of some sort, such hopes were ill-founded. Even during the "theological lovemaking" of these years, anti-Jewish feeling continued to be supported on a theological basis. Feldman dolefully concluded that the Protestant relationship with Jews was based on utility, not genuine respect. "If social reform and human betterment were earnest objectives of the spokesmen of the social gospel, there is little evidence that the elimination of bigotry and prejudice against the Jew was a significant part of their goal."[73] Feldman's research illustrates the limited, political nature of religious coalitions in the Progressive Era; such coalitions, while increasing dialogue and understanding among religions in support of common causes, were not formed to reconcile fundamental theological distinctions.

Florence Kelley's willingness to work with Ryan, Ely, Brandeis and a host of others not explored herein, such as W.E.B. Du Bois, Felix Frankfurter, Henry Demarest Lloyd, Jane Addams, Henry George, John Peter Altgeld and Eugene Debs, demonstrates

[72] Ibid., 311.
[73] Ibid., 316, 322.

progressive communication crossed religious and political boundaries. Moreover, whereas the alliance between John Ryan and Richard Ely was a union of two faith-based reformers, the alliance between Kelley and Ryan shows the extent to which largely non-sectarian reformers, like Kelley, borrowed moral authority from religious ones.

Kelley, though Protestant, rarely drew upon her own religious convictions as a basis for advocacy. Rather, she appropriated a variety of other religious and secular authorities. In addition to drawing upon the natural rights philosophy of Ryan, she reached out to legal positivists like Oliver Wendell Holmes, Jr. and even socialists like Eugene Debs. Kelley drew upon whatever intellectual and moral source she felt would further her progressive causes.[74]

This is not to suggest Kelley was without conviction. The fervency and dedication of Kelley's work might best be explained as a matter of her abolitionist heritage, rather than sectarian devotion. Kelley's own words support the notion that she saw her work as the continuation of that of her abolitionist father, William Kelley. When she accepted her appointment as vice-president at large of the National American Women Suffrage Association in 1905, she wrote her son, "[I have] been sitting for a week in sight of noble old Susan B. Anthony who worked with your grandfather in the anti-slavery cause fifty years ago."[75] Further, she told the conference, "I was born into this cause. My great-aunt, Sarah Pugh of Philadelphia, attended the meeting in London which led to

[74] For treatment of Catholic involvement with the settlement house movement, see Deborah Skok, *More than Neighbors: Catholic Settlements and Day-Nurseries in Chicago, 1893-1930* (DeKalb: Northern Illinois Press, 2007).

[75] Kelley, 129.

the first suffrage convention in 1848. My father, William D. Kelley, spoke at the early Washington convention for years."[76]

William Kelley, a founder of the Republican Party, strove for suffrage and African-American civil rights during the post-war years. Kathryn Sklar and Beverly Palmer write, "The impact of [Kelley's] father's example would be hard to exaggerate."[77] William Kelley actively promoted government intervention to protect the weak from oppression. He wrote, "A government that cannot protect the humblest man within its limits, that cannot snatch from oppression the feeblest woman or child, is not a government …the object of government is not to protect the strong, who can care for themselves, but to protect the weak, the ignorant."[78] William Kelley falls just short of invoking natural rights language in this passage, but the underlying assumption is clear: even the "humblest man" is entitled to protection on the basis he is a human.

Florence Kelley felt her progressive advocacy was the continuation of her father's abolitionist work. Perhaps most telling was Kelley's reaction to the *Adkins* decision in 1923. When she learned that legislation establishing a minimum wage for women in the District of Columbia had been overturned, she characterized the decision as the third in a horrible triumvirate reaching back to slavery. "In fact the decision is chapter three of the Dred Scott decision."[79] *Dred Scott* held that former slaves could have no U.S. citizenship rights, even in free states. The second case of the triumvirate was a decision striking down a child labor law. By including *Adkins* with the first two, Kelly conveyed her feeling that women, absent state protection, were nothing more than "wage slaves."

[76] Ibid.
[77] Ibid., 1.
[78] Ibid.
[79] Ibid., 312.

John Cumbler has done important research into the post-bellum lives of abolitionists, finding many of them, like William Kelley, adopted progressive reform as their next righteous crusade. Cumbler noted parenthetically that many of their children, born during or after the war, drew inspiration and moral authority from the work of their abolitionist parents: "The progressives were a new generation; their language and their battles were different from those of the old abolitionists. Yet something did pass down from the abolitionists to the new generation of reformers." Cumbler wrote that many, like Jane Addams and Florence Kelley, were children of abolitionist families, and they grew up hearing the stories of the old battles and the old beliefs. "And in some ways they recreated the community of struggle of older abolitionists in the settlement houses that symbolized the progressive spirit of the turn-of-the-century reformers. … new reformers [had] the idea that through government action society could improve conditions particularly for those at the bottom of the economic ladder".[80]

Cumbler further argues that Progressive Era leaders who had been abolitionists during the war drew upon the natural rights language they had used to justify state intervention to free slaves. "In the postwar period, [abolitionists] used Locke's conception of the role of the state as a means to defend not just property, but the basic human rights of life, liberty and happiness." Note the subtle redefining of natural rights to include not just property, but broader necessities of life. Cumbler continues, "Their vision involved an activist state that would promote reforms to protect individuals from the forces and interests allied against a person's ability to fully experience a liberated life." Finally he noted some of the particular issues of concern to the progressives. "That

[80] John T. Cumbler, *From Abolition to Rights for All* (Philadelphia: University of Pennsylvania Press, 2008), 161.

vision meant the state should … work to protect the ability of workers to enjoy a free and decent life, protect women from discrimination, and protect the poor from indecent housing and an unhealthy environment."[81]

Kelley's work on behalf of progressive causes was consistent with both her father's explanation of the role of government and with Cumbler's description of how the natural rights philosophy of abolitionists resonated with their progressive children. The "cluster of ideas" encompassing natural rights theory had been percolating since at least the Civil War. When John Ryan succinctly articulated natural rights in a specifically progressive context, reformers like Ely and Kelley were eager to appropriate and disseminate his argument.

Kelley not only recognized the importance of adopting a moral tone to the debate over minimum wage, she also sought to play upon paternalistic tendencies of conservative thinkers by adopting Ryan and Gladden's family-based arguments toward minimum wage (a family wage) and working hours for women. Kelley's appropriation of Ryan's theology manifested itself most clearly in two ways: (1) her advocacy for protective laws for women; and (2) her opposition to an Equal Rights Amendment. Her position on these two issues underscored her belief in the natural distinctions between women and men, leading to distinct roles.

Kelley's advocacy of labor laws focused on protective legislation for women and children. She argued women, by nature, needed special protection in the workplace due to their distinct physiological differences. Further, special protection should not be afforded married women. The basis of this argument echoed Ryan's paternalistic argument that men should not have to compete with married women who were

[81] Cumbler, 155.

supplementing income, rather than earning a primary income. Such women could underbid men in competition for jobs, driving men's wages down or creating perverse incentives for them. For example, Kelley wrote to George Hooker in 1915 in response to insurance laws proposed by the association for Labor Legislation: "Grotesque is the proposal for a cash bonus to the married, insured, wage-earning woman at the time of the birth of her child. For this the self-respected workingman, who maintains his wife in a home and pays for the birth of his children, must contribute to the cash premium paid his drunken neighbor." Kelley went on to characterize the man whose wife was working as a deadbeat. "This proposal amount to saying to the wage-earning husband: 'Send your wife into a mill, factory or sweatshop, and the public will send you a present for your next baby.'"[82] For Kelley, married women in the workplace created the wrong incentives for their husbands, who might choose to live off the income of their wives, instead of working themselves.

The National Women's Party (NWP), with which Kelley had contacts but no formal role, pushed for an Equal Rights Amendment at the same time the Nineteenth Amendment was proposed. The proposed amendment called for identical treatment of men and women.[83] Kelley, who had been engaged in advocating gender specific legislation for so long, believed an Equal Rights Amendment would undermine her work of decades. She feared courts would use the ERA as justification to strike down gender specific labor laws. She vigorously negotiated with the NWP for the language of the proposed amendment; when the final language did not meet with her approval, she wrote to Estell Lauder, "we shall have to oppose [NWP leader] Alice Paul and her followers for

[82] Kelley, 209.

[83] Ibid., 224. ("Men and women shall have equal rights throughout the United States and in every place subject to its jurisdiction").

years to come." She wrote to Roscoe Pound in 1921 that the push for an Equal Rights Amendment was "insanity:" "[I]f these ideas prevail, not only will the statutory working day and legal wage, the provisions for seats when at work, for rest rooms, and all other special items which are more necessary for women than for men, (however much men may need them), will all be swept away." [84]

At the same time, Kelley wrote directly to the NWP to voice her complaint to the proposed amendment, appealing to a natural order which echoed Ryan's paternalistic philosophy: "To say Equality, Equality when there is no Equality, when Nature herself has created permanent physical inequality, can, however, be as stupid and as deadly to cry Peace, Peace, when there is no peace."[85] Ryan's and Kelley's appeals to a "natural order" are certainly different from the more individualistic natural rights advocated by Sumner and the conservative justices of the *Lochner* and *Adkins* courts. And yet, as Ryan explained in *A Living Wage*, the conservatives' appropriation of natural rights language was a perversion of what he and other progressives saw as its true meaning – the rights men and women have in a social context to a decent life in which they could fulfill traditional family roles.

Kelley "viewed women's interests as equal to but different from those of men, and their political activism, agenda and power was based on that combination of equal but different."[86] The *Adkins* case fulfilled the fears Kelley harbored with regard to equal rights, even though the proposed amendment did not pass. The rationale of *Adkins* suggested women had by then achieved full political equality in the form of the

[84] Ibid., 265, 278. For further information on the schism in the women's rights movement, see Nancy Cott, *The Grounding of Modern Feminism* (New Haven: Yale University Press, 1987).
[85] Ibid., 263.
[86] Ibid., 225.

Nineteenth Amendment. Thus, women stood on equal ground as men and needed less protective legislation. Justice George Sutherland, writing for the majority, explained: "[T]he ancient inequality of the sexes, otherwise than physical, as suggested in the *Muller Case* has continued 'with diminishing intensity.'" Justice Sutherland noted the changing political landscape. "In view of the great — not to say revolutionary — changes which have taken place since that utterance, in the contractual, political and civil status of women, culminating in the Nineteenth Amendment, it is not unreasonable to say that these differences have now come almost, if not quite, to the vanishing point."[87]

Sutherland's opinion proffered that because women had achieved full political equality, they had or would be able to achieve full economic equality on their own; hence, there was less reason for government interference on behalf of women. Kelley recognized that Justice Sutherland had adopted reasoning originally proposed by her foes at the NWP:

> "[T]he members of the Woman's Party cultivated the … law so effectively that Justice Sutherland put some of the actual words furnished by these women into his decision. Indeed, his decision rests in part on their contention that women who have votes do not need to have health where health has to be promoted by labor legislation."[88]

In other words, the NWP inflicted a wound on women by suggesting to the Court that political equality superseded the "natural order" upon which Kelley had relied in promoting gender specific laws. Kelley's statement is somewhat specious, considering that the Court did not strike down a health or maximum-hour law, but a minimum-wage law that did not concern health or safety. In any event, Kelly felt any push for equality which refused to recognize natural distinctions between men and women undermined her

[87] *Adkins*, 261 U.S. at 562.
[88] Kelley, 329.

work in passing gender specific laws. The *Adkins* decision in 1923 provided a somber reminder to Kelley and other progressives that the more extreme, as they saw it, interpretation of natural rights based in laissez-faire still had currency, at least in the legal community. Their attempt to seize the moral authority of natural rights had achieved some success, but not total victory.

However, even partial victories in the tug-of-war over natural rights were significant. Progressive reformers' appropriation and dissemination of natural rights theory suggest their recognition that in order to pass seemingly radical reforms, they needed to broaden their appeal to a wider, more conservative audience. Despite the absence of total victory, at least in court battles, progressive reformers achieved a measure of success in characterizing their reforms as traditional and religious, suggesting implicitly and explicitly that natural rights had followed a somewhat linear progression from Aquinas (according to John Ryan) to Locke, Jefferson and Lincoln, down to the Progressive Era.

Mormonism and Progressivism

When Richard Ely visited Salt Lake City and its surrounding areas in September 1902, he met with Mormon leaders and sought to inform himself about Mormon society and the condition of the community. He spent time in Mormon churches and visited with Brigham Young's daughter in her home in Provo. Church leader Anthon H. Lund wrote in his diary, "I met Dr. Ely the greatest writer on political economy. I gave him a sketch of how we lived in the early days and how we worked in cooperation in building our homes, towns, making roads etc. He was much interested he said in my talk."[89] Ely published his thoughts on the economic and social aspects of Mormon life in a 13-page article he published in *Harper's Magazine* in April 1903. Ely praised the communal aspects of Mormon life - "an illustration of the individual who is willing to sacrifice himself for the whole" - and generally commended aspects of Mormon society consistent with Ely's vision of progressivism. Ely's article is interesting not because of its description of turn-of-the-century Mormonism - fuller, more vivid descriptions can be found elsewhere - but because it sheds light on Ely's own vision of a progressive society, including the hierarchical organization he admired in the LDS church – "the most nearly perfect piece of social mechanism with which [he had] ever in any way, come in contact, excepting alone the German army."[90]

Ely's visit and article also illustrate the development of a constructive rather than antagonistic dialogue between the Mormons and the "gentile" world, marking the opening of religious backchannels through which progressive leaders sought to push their

[89] Anthon H. Lund, *Danish Apostle: The Diaries of Anthon H. Lund, 1890-1921*, ed. John P. Hatch (Salt Lake City: Signature Books, 2006), p 204.

[90] Richard T. Ely, "Economic Aspects of Mormonism,," *Harper's Monthly Magazine* 106 (April 1903), 667-668; Thomas Alexander, *Mormonism in Transition: A History of the Latter-Day Saints, 1890-1930* (Urbana and Chicago: University of Illinois Press, 1986), 245.

ideas.[91] To borrow the terminology of Daniel Rodgers, Ely articulated the economic and social aspects of Mormon life in the distinct social languages then current among the progressively minded –social bonds and social efficiency. This section will use Ely's article as a platform for discussing the unique ways Utah, the Mormon Church and the Intermountain West participated in the development of progressive law, ideas and communication.

Progressive Era historians generally ignore Utah and the Intermountain West when discussing the genesis and catalysts of reform. Their omissions are understandable; the citizens of the Utah territory (which at one time encompassed most of Utah, Nevada and parts of Colorado) were geographically removed from progressive centers of reform in New York, Chicago, Wisconsin and other noted areas. Utah's landlocked, western location made it difficult to participate in an Atlantic community in which progressive ideas traveled. Finally, Utah and the Mormon Church's battles with the federal government and the majority of the country over polygamy contributed to a cultural isolationism and tension which made the sharing of social and economic ideas difficult.[92] Although George Mowry and others have pioneered the expansion of Progressive Era scholarship to include areas beyond the urban centers of the East, the Intermountain West

[91] Mormons of the Nineteenth Century, as part of making a claim as God's new covenant people, often referred to those not Mormon as "gentile."

[92] See Sarah Barringer Gordon, *The Mormon Question: Polygamy and Constitutional Conflict in Nineteenth Century America* (Chapel Hill: University of North Carolina Press, 2002). Utah's isolation during its territorial period, however, should not be overstated. Utah served as a resting place for a steady stream of travelers to California after the gold rush and especially after the completion of the transcontinental railroad in 1869. In addition to its evangelizing efforts to the rest of the United States, Europe, the Pacific and South America, Mormons sought and obtained educations in the east, participated in trade associations and other conferences, and repeatedly petitioned for statehood during its territorial period. The "Great Basin Kingdom's" walls and moats may not have been as insurmountable as previously thought.

remains historiographically isolated, apart from the important scholarship addressing the region's leadership in the suffrage movement.[93]

However, the Intermountain West as a region contributed in important and unique ways to the progressivism which flourished early last century. Modern analysis of the Progressive Era should include, as Daniel Rodgers has written, examination not of the substance of reform because "progressivism as an ideology is nowhere to be found," but of the constellation of sometimes contradictory ideas from which progressives "drew their energies and their sense of social ills and within which they found their solutions." We should examine the clusters of ideas – or social languages – that progressives used to articulate their discontent as well as the networks through which those ideas travelled. When we view the Progressive Era through this analytic lens, we can better assess how Utah and the Intermountain West called upon progressive language to address social ills. Further, even when not providing leadership for progressive reform, the Mormon Church and its members provided institutional and moral, if not traditional, cover for reformers, like Ely, who sought to situate reform in a religious rather than radical context.[94]

It is not the contention of this paper that Utah or the Mormon Church was uniformly progressive. If Peter Filene and Daniel Rodgers have proved anything, it is that there was no such thing as a "uniformly progressive" person or institution. Utah was one of only two states to vote for the Republican Taft in 1912 during the peak of

[93] George Mowry, *The California Progressives* (Chicago: Quadrangle Books, 1963).

[94] Although it is tempting to conflate the terms "Utah," "Mormon Church," "Intermountain West" and "Mormons," especially during Utah's territorial period when the lines between church and state are difficult to ascertain, I have attempted to use them as distinct terms. "Utah" refers to the political entity. I have chosen to use the term "Mormon Church" as convenient shorthand for the institution whose formal name is the unwieldy "Church of Jesus Christ of Latter-Day Saints." "Mormons" refer to individuals members of that church. "Intermountain West" is meant to convey the region encompassing all or portions of the modern states of Idaho, Wyoming, Colorado, Nevada, Utah and Arizona.

progressivism when the rest of the nation was split between Woodrow Wilson and Theodore Roosevelt. Utah produced its own crop of conservative leaders within the Mormon Church, such as Church President Heber J. Grant, as well as without, such as George Sutherland.[95] However, some characteristics of Utah and the Mormon Church, as Ely recognized in 1903, aligned them closely with progressive social languages and structure. These characteristics included an emphasis on secular and specialized education, use of that knowledge to address social ills, early laws in which the state adopted a paternalistic role, institutional structures designed to support economic cooperation over competition, and the development of networks for the purposes of sharing ideas. Utah was perhaps the epitome of Wiebe's "island communities" of the mid-nineteenth century due to the Mormons' deliberate creation of "Zion," a place set apart from the rest of the country. The bonds connecting Utah and the rest of the country were strengthened through the sharing of progressive thought.

From the time Mormons began settling in the West in the late 1840s until the 1880s, the LDS church established an "integrated community with its union of church, state and society."[96] Some have called the political structure a theocracy, while others have labeled it a "theodemocracy."[97] The church's confrontation with Congress and the county writ large over polygamy culminated with the passage in the Edmunds Act and the Edmunds-Tucker Act in the 1880s, which allowed for the imprisonment of church members - men and women - who were polygamists and the confiscation of church-

[95] Even the conservative Heber J. Grant was an ardent prohibitionist. Prohibition was, as argued herein, was an important "plank" of progressive reform.

[96] Thomas Alexander, *Mormonism in Transition: A History of the Latter Day Saints, 1890-1930* (Chicago: University of Illinois Press, 1986).

[97] See, e.g., James T. McHugh, "A Liberal Theocracy: Philosophy, Theology and Utah Constitutional Law," *Albany Law Review* 60 (August 1997); Michael Quinn, "The Council of Fifty and its Members, 1844-1945," *BYU Studies* 20 (1980).

owned property. Congress "insisted that the Latter-day Saints conform to the norms of Victorian America, which allowed religious influence to be exercised on moral questions but generally interdicted extensive church interference … in political and economic matters." Facing the pressure, Mormon Church president Wilford Woodruff determined to act for the "temporal salvation" of the church and issued in 1890 what has come to be called a "Manifesto" encouraging church members to abide by federal anti-polygamy laws. Thomas Alexander has cogently explained not only the disruption to Mormon Society caused by confrontation over polygamy and the Manifesto – the fits and starts with which polygamy was discarded by the LDS church - but also disruptive aspects to culture and society that occurred during Mormonism's transition period.[98]

Following the Manifesto and, less noted, as part of the decline of millennial fervor among the faithful, the Mormon Church intensified its efforts to integrate itself into mainstream American society. Church leadership, according to Alexander, "showed increasing concern about how the Mormons looked to others."[99] The Church's efforts to adopt a more fully American identity coincided with the Progressive Era. The timing of the church's efforts to integrate have caused some historians to suggest that Utah's participation in progressivism was the result of an ulterior motive – that is, Utah's desire to achieve statehood and further integrate fully into the political and cultural fabric of the country were the ends to be achieved, and progressivism was the means to that goal.[100] The inference these historians appear to draw is that, in an effort to wrap itself in the

[98] Alexander, 3-4; 60-74.
[99] Ibid., 239.
[100] For a summary of this view, see Thomas Alexander, "Reed Smoot, The LDS Church, and Progressive Legislation," *Dialogue: A Journal of Mormon Thought* (Spring 1972), 47-56; See also Reid Neilson, *Exhibiting Mormonism: The Latter Day Saints and the 1893 World's Fair* (New York: Oxford University Press, 2011).

American flag, Utah and the Mormon Church were willing to join whatever "movement" happened to be en vogue at the time of integration. If some other phenomenon, perhaps the New Deal or Reagan Republicanism, had been occurring at the time of integration, then the State and the Church would have joined those efforts in an effort to appear "good Americans."

However, this position is untenable for at least two reasons. Considering the difficulty modern historians have, with one hundred years of perspective, in identifying any coherent progressive movement, it would have been nearly impossible for a political or religious institution to recognize various contradictory reform efforts and then consciously join one or more in an effort to appear "American." Alexander has noted, for example, that Church leaders' support of prohibition curried favor with evangelical Protestant churches but simultaneously alienated business interests.[101] Further, while there is a consensus that Utah and the Church engaged in a deliberate process of "Americanization" following the abandonment of polygamy, there is little evidence to suggest that elements of those efforts which we may consider "progressive" were anything but sincere. Alexander, in the course of a discussion regarding the voting record of Mormon Senator Reed Smoot, has considered and rejected the notion that the Church or Utah adopted progressive measures as mere window dressing to placate national leaders. "Beyond the fact that the substance of the charge is that the Church was hypocritical in these matters, there is no evidence that … national pressure was applied" apart from asking the Church to give up political dominance and polygamy. I believe the research of this paper buttresses Professor Alexander's position. Not only is there no

[101] Alexander, *Mormonism in Transition*, 260-61. The Protestant clergy "heartily approved" a move by the church to close the saloon at church-owned Saltair.

evidence of insincerity, but the zealous efforts described herein of political and religious leaders in Utah speak to earnestness, not insincerity.[102]

Richard Ely, Beatrice Webb and Evangelical Progressivism

Ely's article in *Harper's* magazine was, for the most part, complimentary of the Mormons, which was unusual for a time period in which many justifiably suspected Mormons had not completely abandoned polygamy. Ely took note of the radicalism of polygamy – "a source of moral degradation" – but dedicated his article to dealing primarily with the "strongest side" of Mormonism, its economic and social aspects. "We have its economic services in opening up a vast portion of the American continent, once regarded by leaders of the nation … as an utterly worthless region." Ely's visit and article illustrate the mutually beneficial relationship between the church and the progressive leader, similar to the relationship between John Ryan and the NCL. The church was given favorable press as it sought to integrate itself into American society, not unlike the way in which John Ryan was able to bring Catholic theology into the political mainstream, if not during the Progressive Era, then at least by the New Deal. Ely's visit to Utah coincided with what Thomas Alexander argues was a concerted effort by Mormon Church leadership to improve the public image of the church.[103]

Ely, for his part, attempted to accomplish several goals. As we have seen from Ely's interaction with John Ryan and the comments in his memoirs, Ely drew upon the authority of religious figures other than Protestants – the Catholics, Jews and, here, the Mormons, to provide moral and institutional authority for progressive reform. Ely sought to reinforce progressive agitations within the Protestant and academic circles he normally

[102] Ibid.
[103] Alexander, *Mormonism in Transition*, 239.

traveled in by calling attention to what he saw as progressivism already "in progress" within institutions that had far-reaching influence. "Mormonism must be recognized as [a force directing] the economic and social life" of the country. Ely's second goal was subtler than the first, but just as important - perhaps more so: Ely sought to build coalitions. Anti-Catholicism remained strong at the turn of the century as did anxiety over Mormon polygamy. In his outreach efforts to Catholics and Mormons, Ely downplayed the differences between the various religious traditions and emphasized their commonalities. He even went so far as to praise polygamy for the way it forced its practitioners to be frugal. By publicly praising the aspects of Mormonism that conveniently buttressed his notions of progressivism, Ely would not only have reinforced progressivism to his Protestant audience, but encouraged it to his Mormon audience. Ely was careful in his *Harper's* article to note the long-arm of the LDS Church, "four hundred thousand human beings, comprising by far the greater proportion of the inhabitants of Utah and spreading out .. over the adjoining country, … from Canada to Mexico, and going beyond the boundaries of the United States." [104] Ely, in his evangelical pursuit of progressivism, must have recognized the opportunity to encourage it to an institution that had religious influence over a "vast portion of the American continent."[105]

Although Ely's article was not free of criticism – he noted a creeping materialism among the Mormons and their failure to live up to their own ideal cooperative economic system – Ely mainly sought to illustrate aspects of Mormonism that might be replicated elsewhere. Ely's praise of Mormonism can be broken into four component parts, each

[104] Ely, "Social and Economic Aspects of Mormonism," 667.
[105] Ibid., 677.

suggesting what Ely viewed as the ideal progressive society: (1) efficient hierarchical structure with enlightened elites at the top; (2) cooperative economic units; (3) an educated populace; and (4) industry and thrift of the citizenry. These aspects of Mormon social and economic life all buttressed progressive themes.

Daniel Rodgers described one of his three languages of progressivism as "social efficiency" – the notion of combating social waste with efficient systems and budgets, centrally managed. Ely noted that the Mormons seemed to have created the outlines of such a society, achieved through a system of "faith, authority, [and] obedience." He wrote, "The leadership which the Mormons enjoyed, and the social cement of their religion binding them together and bringing about submission to the leadership, explain the wonderful achievements of the Mormons in making the desert blossom like the rose."[106] When comparing Mormon hierarchy to the German army, Ely meant it as a compliment. He wrote, "We have a marvelous combination of physiographic conditions and social organization in the development of Utah under the guidance of Mormonism … Individualism was out of the question under these conditions, and in Mormonism we find precisely the cohesive strength of religion needed at that juncture to secure economic success."[107] We might safely infer, based upon Ely's other writings, that he felt such "cohesive strength of religion" was needed to secure economic success in his own time as well as that of Brigham Young's and that individualism was "still out of the question."[108]

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[106] Ibid., 668.
[107] Ibid.
[108] See, e.g., Richard Ely, *Social Aspects of Christianity* (New York: Thomas Crowell and Company, 1889), 7 ("The second commandment … means that in every act and thought and purpose, in our laws and in their administration, in all public and well as private affairs, we – if indeed we profess to be Christians – should seek to confer true benefits upon our fellow men").

According to Ely, the hierarchy worked well because of not only the zeal of the followers, but the foresight and charisma of the "forceful personalities" at the center of the planning. Ely admired how Brigham Young, "preaching in any settlement … might say, 'tomorrow I want one hundred men and fifty teams to meet and work on the irrigating ditch'" and the men would appear. They would appear due to their religious devotion and faith in the inspiration of the central planner. Ely, an aspiring central planner, may have looked with some degree of envy upon the ability to "[rally] the forces" at the virtual drop of a hat for societal and economic improvement.[109]

Ely articulated some of the same feelings expressed by the British Fabian Socialist Beatrice Webb upon her visit to Salt Lake City four years earlier as part of an American tour. She lauded not only the apparent lack of corruption in Salt Lake City municipal government with "no sign of ward politicians," but also the physical cleanliness of the municipal building – the "first really self-respecting abode of municipal authority we have come across in the United States." Webb and her husband found time to interview not only prominent church and state leaders such as the mayor of Salt Lake, the governor of Utah and the legislator Martha Cannon, but spent extended time with the janitor of the Salt Lake City municipal building. According to Webb's interlocutors, including the janitor, it was the liberals who had "made the city" by paving the streets, creating a sewer system and building the municipal hall. Webb repeatedly applauded Salt Lake City's creation of a "clean" and "pure" municipal government which, she believed, led to greater government efficiency.[110]

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[109] Ibid., 668.

[110] David Shannon, ed., *Beatrice Webb's American Diaries: 1898* (Madison, Wisconsin, 1963), 170-175.

Daniel Rodgers described another progressive language as marked by "a keen desire for industrial peace and cooperation" – which he summarized as the creation of social bonds.[111] What Ely found (in decline) in Utah was an economic system of cooperation in agriculture and mercantilism. Ely praised the Mormon Church's efforts at a cooperative, rather than competitive, economic system, even if such system was mostly aspirational at the time of his visit. Ely met with Susa Young Gates, Brigham Young's daughter, and quoted her as saying that every town and city in Utah had been established on principles of cooperation, even if such cooperation had not lasted. Church leader Anthon Lund told Ely how the Mormon people had "worked in cooperation in building our homes, towns, making roads etc."[112] Ely's only criticism of Mormon economics was that the church had failed to live up to its, and his own, cooperative economic principles. "At the present time the Latter-Day Saints are, as some of their leaders lament, in a condition which is inferior to [their] ideals."[113] Not only had the Church failed to live up, in Ely's eyes, to its own principles, they fell short of Ely's own ideals. His social economics was built upon considerations of social cooperation where the spiritual development of men took precedence over economic profit and had to be addressed in a social context. "The new tendency of which I speak [ethical economics] proceeds from the assumption that society is an organism, and that the individual is part of a larger whole."[114] Rather than convey discouragement at the Mormons' apparent failure to reach his ideal economic state, Ely expresses admiration for the effort and suggests the ideal could be reached. "[T]he secret of the economic success which has been achieved by the

[111] Rodgers, "In Search of Progressivism," 125.
[112] Lund, Diaries, 204.
[113] Ely, "Social and Economic Aspects of Mormonism," 672.
[114] Ely, "Social Aspects of Christianity," 130.

Mormons" was the "individual who [was] willing to sacrifice himself for the whole."[115] Like Ely, Beatrice Webb, during the course of her visit to Utah in 1898, praised Brigham Young for his creation of cooperative economic units, and was grieved at the success of outside, "gentile" influences at corrupting the aspiring social order.[116]

Some of Ely's strongest praise for Mormon society concerned education, both secular and religious. "The Mormons have from the beginning laid as much emphasis on education as any religious denomination in this country, and aim to inculcate their view of the life that now is and of the life that is to be." In addition to praising the educational training of youth, Ely commended the salutary effects of the church's missionary efforts. "The Mormon missionaries go into all parts of the world, learn the chief foreign languages of our time, and come into close contact with many different kinds of civilizations in all their varied aspects." Ely may have thought of his own transatlantic education when writing, "They return to their homes … with large cosmopolitan experiences, a broad outlook in some particulars, and augmented knowledge."[117]

Finally, Ely praised thrift and industry as virtues taught, if not fully implemented, among the Mormons. "[I]ndustry and thrift are inculcated as cardinal duties." He found among the Mormons confirmation for the statement, "To be engaged in productive industry, however humble, is a cardinal principle of Mormonism."[118] Ely concluded his article with further praise of the industry of the Mormons: "We have … the economic services of the Mormons in taking from a condition of poverty and dependence thousands

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[115] Ely, "Economic Aspects of Mormonism," 669.

[116] David Shannon, ed., *Beatrice Webb's American Diaries: 1898* (Madison, Wisconsin, 1963), 172.

[117] Ibid., 675.

[118] Ibid., 673. He did find some "shiftless and lazy people among them," whom he characterized as immigrants from the lower classes of Europe.

of poor people in all parts of the earth and making them independent landholders so that now Utah is conspicuous among all the states of the Union for home ownership, and for a relatively small amount of mortgage indebtedness."[119] Elsewhere, Ely criticized luxury as retarding the "mental and spiritual development of a people and tends to impoverish a nation."[120] Ely found the social aspects of Mormonism, even the forced frugality of polygamy, to have pushed its people toward virtues of thrift and industry, which he regarded as key to economic success. Beatrice Webb, like Ely, offered at least faint praise for polygamy, suggesting after her visit that polygamy ought to have been allowed to continue as a useful social experiment.[121]

The Progressive aspects of Mormonism that Ely praised in 1903 found expression in the lives of several Mormons who, while participating and contributing to the social languages of progressivism – those clusters of ideas identified by Daniel Rodgers – also provided leadership for state and church. The individuals primarily discussed herein are Martha Hughes Cannon, John Widstoe, Emmeline Wells, and James Talmage, although several others will merit some attention. The life trajectory of these individuals is remarkably similar. They were all, with the exception of Wells, born in Europe, immigrated to Utah as children of Mormon converts, obtained their primary educations in Utah and then received graduate education and credentialing in the East, Europe or both. They held leadership posts in education, government and religion, in which they crafted laws and formulated ideas that participated in progressivism to varying degrees. Finally,

[119] Ibid.
[120] Ely, "Social Aspects of Christianity," 37.
[121] David Shannon, ed., *Beatrice Webb's American Diaries: 1898* (Madison, Wisconsin, 1963), 175.

they opened channels of communication with the non-Mormon world through which they exchanged ideas.

Daniel Rodgers has noted that German-trained American students, upon their return to the United States in the 1880s, began to re-create the "forms of academic life into which they had been initiated abroad," including the "defining marks of German university scholarship: lecture, seminar, … graduate education, and the Ph.D. degree." They also began to offer classes previously unknown to American students – "social politics, social economics, public finance."[122] Specialized, practical education was introduced to address the specialized problems ushered in by the modern economy of the progressive era. Rodgers further explained how academic scholars came to be seen and used as ultimate expert authority in matters of social policy. "So familiar did this route to influence become that in time the transition from exhortation to expert, university-based authority came to seem like a natural progression."[123] Robert Wiebe wrote that universities by 1900 "held an unquestioned power to legitimize, for no new profession felt complete – or scientific – without its distinct academic curriculum."[124] Increasingly, progressive agitators, if they were not academics themselves, turned to academics to provide legitimacy for reform. In 1912, at the height of progressivism, the country elected not only a devoted Presbyterian and former student of Richard Ely, but also the country's first and only president to hold the Ph.D. degree. The progressive dedication to fields of specialized knowledge and reliance upon its practitioners for authority was reflected in a new generation of state and church leaders in Utah.

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[122] Rodgers, *Atlantic Crossings*, 97.
[123] Ibid., 109.
[124] Wiebe, The Search for Order, 121.

During Utah's territorial period, general leadership of the Mormon Church consisted largely of founding church leaders, their family members and their close associates. As church membership grew and early leaders passed from the scene, a new crop of leaders emerged who reflected the country's increased trust in academic authority and who were capable of engaging in progressive and academic conversation. Likewise, the State of Utah's early political leaders, those charged with crafting its constitution and its first set of laws, included those who had obtained specialized knowledge in the East or Europe.

Martha Hughes Cannon was born in 1857 in Wales and immigrated to the United States with her parents, who were Mormon converts, in 1860, settling in Salt Lake City. She worked as typesetter on the suffragist paper *Women's Exponent*, and obtained a degree in chemistry from the University of Deseret. She obtained her medical degree from the University of Michigan in 1881 and a degree in pharmacy from the University of Pennsylvania in 1882, and then practiced medicine in Michigan for two years. She returned to Utah to act as chief resident of the new Deseret hospital. Cannon lived in England and Switzerland for approximately two years as an underground exile from the polygamy prosecutions of the late 1880s. Cannon sought to avoid testifying not only against her own polygamous husband, but against other polygamous relationships of which she had knowledge based upon her position as a physician to pregnant women. Cannon also lived for a short period in San Francisco in the early 1890s. Cannon's expertise in medicine was called upon during her time as a legislator, when she helped craft the enabling act for the Utah Department of Health. She subsequently served on the department's board. She was also an outspoken suffragist.

John Widstoe was born in Norway in 1872 and then immigrated to Utah with his family in 1883. Widstoe graduated from Harvard with honors in 1896. In 1898, the Mormon Church ordained him to the general church leadership and sent him to Europe to perform missionary work while simultaneously furthering his education in Germany. He earned a PhD in 1899 from the University of Gottingen, some two hundred miles from where Richard Ely had earlier earned his Ph.D. at the University of Heidelberg. Widstoe's rationalization of Mormon theology and emphasis on the social interaction of its members echoed the social gospel themes articulated by John Ryan and Washington Gladden.

Born in England in 1862, James Talmage immigrated to Utah with his parents at the age of 15. Following preliminary educational work at Brigham Young Academy, he studied chemistry and geology at Lehigh University in Pennsylvania and John Hopkins in Maryland. He received a Ph.D. in geology from Illinois Wesleyan in 1896. Talmage, like Widstoe, was called to general church leadership and tasked with systematizing its gospel message and presenting it with an academic voice.

Part III. Quintessentially Progressive: Health, Labor and Child Protection Laws

Following its acceptance into the Union in 1896, Utah held its first statewide elections for the legislature. Dr. Martha Hughes Cannon ran as a Democrat seeking one of five at-large seats. Among her Republican rivals was her husband, Angus. She and the entire slate of Democrats defeated her husband and the Republican slate.[125] By winning, Dr. Cannon became the first female state senator in the United States. She immediately set to work by proposing, in her first month, three pieces of legislation, all of which mirrored or even foreshadowed progressive pieces of legislation in other parts of the country.

Dr. Cannon's first proposed legislation was An Act to Protect the Health of Women and Girl Employees. The text of the act was short: "That the proprietor, manager or person having charge of any store, shop, hotel, restaurant or other place where women or girls are employed as clerks or help therein shall provide chairs, stools or other contrivances where such clerks or help may rest when not employed in the discharge of their respective duties."[126] The act added a section designed to give it teeth - a violation was a misdemeanor. Although primitive in its scope – the new law merely provided a place to sit for women when not working - it was quintessentially progressive: it harnessed the power of government for paternalistic protection of women in the workplace because women were deemed physically inferior. There is nothing to suggest the act was crafted merely to portray the new state of Utah as "American" or "in line"

[125] When Dr. Cannon met with British Fabian Socialists Sidney and Beatrice Webb in her home in 1898, she described the circumstances of her candidacy – she and her husband had both been recruited simultaneously by the respective political parties. See David Shannon, ed., *Beatrice Webb's American Diaries: 1898* (Madison, Wisconsin, 1963), p. 170.

[126] Senate Bill No. 31, First Legislative Session, Utah, 1896 (Utah State Archives and Records Service).

with the rest of the country. Indeed, if Daniel Rodgers' timeline is correct, this basic female labor protection act in Utah pre-dated the bulk of such paternalistic statutes in the country, which did not gain momentum until after the turn of the century.[127] In this case, Dr. Cannon's law was not following suit so much as leading the way. The act foreshadowed later pieces of legislation from other parts of the country involving special protection for women in the workplace – such as the one at issue in *Muller v. Oregon*.

The progressive nature of Dr. Cannon's act to protect women and girl employees might best be illustrated by contrasting it with another act proposed and passed during the same legislative session in Utah, also addressing women in the workplace. George Sutherland, state Republican senator in that first legislature and future United States congressman, senator and Supreme Court Justice, sponsored a short bill compelling the equal treatment of female teachers. His bill contained no paternalistic overtures. "Be it enacted … that females employed as teachers of public schools of this state shall in all cases receive the same compensation as is allowed to male teachers for like services, when holding the same grade certificates."[128] These contrasting views of how to treat women in the workplace – one progressive view and one grounded in complete equality – both of which passed, should help dispel notions that Utah was uniformly progressive or uniformly not. Further, it is worth noting that Cannon, the Mormon, held the progressive

[127] Rodgers, *Atlantic Crossings*, 235-36. ("With the rapid elaboration of labor-protective statutes in Europe in the 1890s, … the American states had not kept pace. … Arthur Shadwell in 1903 thought the Americans barely had an effective factory legislation system at all. John Graham Brooks echoed this judgment the same year: 'In no country of the first rank is this legislation so weak as in the United States.'")

[128] Senate Bill No. 10, First Legislative Session, Utah, 1896 (Utah State Archives and Records Service). Sutherland's view of equality of the sexes as expressed in 1896 seems consistent with his opinion as United States Supreme Court Justice twenty six years later in striking down a minimum wage law for women.

view and Sutherland, the "gentile," did not. Religion in this case played the role of a stimulant to progressive reform, not a reaction to it.

Dr. Cannon also co-sponsored a bill creating the State Board of Health in that first legislative session. The notion of a centralized planning agency for advising, educating and policing health and sanitation in a state was not new to Utah. State boards of health had been around since at least 1869.[129] Utah's law did not differ substantially from other state laws. The law created a five person board with broad investigatory and judicial power. Dr. Cannon served on the board of health following the close of her legislative career. This law also was quintessentially progressive. It created a state administrative agency, to be staffed with educated elites – like Dr. Cannon – whose purpose was to serve the public by policing the behavior of members of the community. Nayan Shah has elegantly described the growing administrative power of health boards at the turn of the century in San Francisco and their centrality as progressive reform.[130] Utah's health board resembled the health administrative agency created in San Francisco, where Martha Cannon had lived during the early 1890s.

Finally, Dr. Cannon's third bill during that first legislative session – An Act to Provide for the Compulsory Education of Deaf-Mute and Blind Children – bears the markers of progressive legislation. Michael Willrich has recently written that the protection of children was perhaps as much a part of the progressive cluster of social ideas as antimonopolism.[131] The act targeted parents of disabled children who, if they did not send such children to state schools or met state standards in home education, faced

[129] George Chandler Whipple, "State Sanitation: A Review of the Work of the Massachusetts State Board of Health: 1869-1917," *National Municipal Review* 6 (July 1917): 532.
[130] Nayan Shah. *Contagious Divides; Epidemics and Race in San Francisco's Chinatown* (Berkeley: University of California Press, 2001).
[131] Michael Willrich, *Pox*, 14, 216.

criminal penalties. Not only did the Act underscore state paternalistic protection of children, but it also organized the relationship between state and parents in such a way that seems antithetical to the romanticized version of western American history as one of fierce individual liberty. Under this Act, children were deemed wards of the state even if they were cared for by parents.

Dr. Cannon's progressive proposals did not always meet with success. The State Board of Health, of which she was a member, passed a regulation in 1899 mandating children be vaccinated for small pox. The legislature promptly repealed the regulation, then sustained the repeal over the veto of the governor.[132] Mormon leaders were on both sides of the issue. George Q. Cannon, Mormon apostle and Dr. Cannon's brother-in-law, supported vaccination. Anthon H. Lund, member of the church's first presidency wrote in his journal in January 1900, "There are several cases of small-pox discovered in the City, and I fear there may come an epidemic. The [Deseret] News is fighting vaccination. I believe the latter is a blessing to humanity."[133] George Cannon's and Lund's fellow apostle Brigham Young Jr., however, was adamantly opposed to vaccination on religious grounds as was the church-owned newspaper mentioned by Lund. Church president Lorenzo Snow was disinclined to endorse vaccination.[134]

Utah's battle over mandatory vaccination was emblematic of a progressive debate sweeping the country. Michael Willrich has thoroughly documented the battle between vaccination proponents and opponents and eloquently described its relationship to evolving notions of individual freedom and social cohesion. He described a battle in which "opponents of compulsory vaccination [were brought] into direct conflict with the

[132] Lund, *Diaries*, 111.
[133] Ibid., 68.
[134] Ibid., 96.

agents of an emerging interventionist state, whose progressive purpose was to use the best scientific knowledge available to regulate the economy and the population in the interest of social welfare."[135] In that battle, Dr. Cannon stood squarely on the side of the interventionist state, as did some church leaders. She, with the support of church leaders and members, implemented progressive legislation that in some cases mirrored efforts made in other cities, and in other cases, foreshadowed later efforts by progressive reformers.

[135] Willrich, *Pox*, 14.

Part IV. Rationalizing Theology: John Widstoe, Science and Social Cohesion

When John Widstoe returned from Germany in 1899, having completed his missionary efforts and obtained his doctoral degree, he held various academic posts at Utah State University, the University of Utah and Brigham Young University. "[T]he German university connection, "Daniel Rodgers has argued, "had lasting historical consequences – not only for the sleepy American colleges that it transformed but also for transatlantic social politics itself. It knocked the provincial blinkers off a cadre of young Americans and gave them a lasting sense of participating in an international movement of intellectual and political reform."[136] To the extent Widstoe had provincial blinkers – his return from Germany was his third Atlantic crossing – they were knocked off by the time he returned home. Widstoe began a process, along with fellow academic and future apostle James Talmage, of reinterpreting and rationalizing Mormon theology in a way that would appeal to minds as much as hearts.

Widstoe was a prolific writer in his chosen field of expertise – agriculture - and most of his writings during the Progressive Era were technical manuals and expositions on that subject, some of which he wrote when living for a period in Washington D.C. as head of the Federal Bureau of Reclamation. His literary talents were put to use by the Mormon Church and he produced two theological works during the Progressive Era prior to his elevation to the apostleship in 1921. In 1908, Widstoe published a 173-page pamphlet entitled *Joseph Smith as Scientis*t. In 1915, he published *A Rational Theology as Taught by the Church of Jesus Christ of Latter Day Saints*. With these two tracts, Widstoe helped transition Mormon theology from one that largely emphasized the spirit

[136] Rodgers, *Atlantic Crossings*, 77.

and emotion to greater dependence on rational deliberation - a theology which not only pointed souls to God, but spoke of reason, community, man's duty to man, and socialism.[137]

Widstoe's purpose in writing *Joseph Smith as Scientist* was bold: to show that by 1833 "the teachings of Joseph Smith, the Mormon Prophet, were in full harmony with the most advanced scientific thought of [1908] and that he anticipated the world of science in the statement of fundamental facts and theories of physics, chemistry, astronomy and biology." Widstoe devoted the entirety of the tract to proving that the revelations of Joseph Smith were consistent with scientific understanding in a wide range of areas. Those truths, he wrote, "were stated seventy years ago, yet it is only recently that the Latter Day Saints have begun to realize that they are identical with recently developed scientific truths." Widstoe did not imply that Joseph Smith obtained his knowledge through scientific inquiry; rather, it was through "divine inspiration [on] a humble, unlearned boy."[138]

Widstoe, trained at Harvard and in Germany, sought to re-introduce Joseph Smith and his revelations to the world as fully consistent with the rational thinking of the early twentieth century. Widstoe found no difficulty in reconciling the prophetic Joseph Smith with the rational world of the Progressive Era because, for him, "there was no real difference between science and religion." Widstoe dedicated his work to mollifying Progressive Era anxieties in youth, especially Mormon youth. "There are thousands of youth in the church today and hundreds of thousands throughout the world, who are

[137] John Widstoe, *Joseph Smith as Scientist: A Contribution to Mormon Philosophy* (Salt Lake City: LDS Church, 1908); *A Rational Theology as Taught by the Church of Jesus Christ of Latter Day Saints* (Salt Lake City: LDS Church, 1915).
[138] Widstoe, *Joseph Smith as Scientist*, 2.

struggling to set themselves right with the God above and the world about them." By emphasizing reasoned thinking through all matters, including religious ones, Widstoe elevated rational and scientific inquiry to an equal plane with obtaining revelation of the sort Joseph Smith received.[139]

Widstoe dedicated an entire chapter to discussing evolution, which provided the major flashpoint of debates between religious conservatives and some scientists.[140] Widstoe allowed for a degree of admiration for both Charles Darwin and Herbert Spencer, the latter whom he called "the sanest of modern philosophers and the one who most completely attempted to follow the method of science in his philosophical writings."[141] Although Widstoe rejected any suggestion that man was descended from apes or any of the other "absurdities to which Spencer and his followers [fell] when reasoning upon specific cases," Widstoe did believe that Spencer and Darwin correctly described a process of evolution by which man and other organisms are altered from moment to moment – the nearest approach to the truth possible by the world of science.[142] Widstoe understood the limited nature of man's knowledge on the subject and cited with approval Spencer's characterization of the fight between religion and science on the matter, "The materialist and spiritualist controversy is a mere war of words in which the disputants are equally absurd – each thinking he understands that which it is impossible for any man to understand."[143] In this skepticism of absolutes and reliance on

[139] Ibid., Preface.
[140] For an examination of evolution and its relationship to public policy, see Edward J. Larson, *Summer for the Gods: The Scopes Trial and America's Continuing Debate over Science and Religion* (New York: Basic Books, 1996).
[141] JohnWidstoe, *Joseph Smith as Scientist*, 104.
[142] Ibid., 107.
[143] Ibid., 107.

empirical method, Widstoe echoed the philosophers of the via media, some of whom had come into prominence in Germany during the time Widstoe lived there.

Widstoe's next piece of theological writing, *A Rational Theology*, published seven years later, was, like his first, formed from a collection of lectures delivered to college-aged students and published by the Mormon Church. *A Rational Theology* continued some of the same themes as *Joseph Smith as Scientist*, namely, that the theology of the Mormons was confirmed when placed alongside the light of rational and scientific thinking more prevalent in the early twentieth century. Whereas his first tract addressed the natural sciences, his second discussed the social sciences. Widstoe's writing at this point began to read less like theological exposition and more like social gospel exhortation.

Widstoe described a rational theology as one which is "based on fundamental principles that harmonize with the knowledge and reason of man … and finds expression and use in the everyday life of man."[144] Widstoe expounded a religious philosophy not unlike that of Kloppenberg's pragmatic via media philosophers in its epistemological outlook. "Men who desire to build a safe religion or safe science make themselves familiar with as much as is already known, [then] add whatever in the course of their pursuit they may discover independently." While accepting the revelations given to Joseph Smith, Widstoe exhorted his students to struggle with scientific method as the means for discovering truth and then test that knowledge against the revelations. James Kloppenberg has described William James and John Dewey, among others, as philosophers who grounded truth "in human experience, never definite and always subject to revision." Although Widstoe held to notions of eternity and necessity unlike

[144] Widstoe, *A Rational Theology*, iii.

James and Dewey, he sought to redefine religious epistemology to include elements of empirical knowledge, not just spiritual epiphany.[145] In this way, Widstoe, like Ryan, created a theological equivalent of the pragmatic philosophy of the via media then developing.

More important, perhaps, than his epistemology was Widstoe's pivot to discuss the practical nature of living God's truth in the context of community. Daniel Rodgers has written that the most common explanations Americans gave at the end of the nineteenth century to political, economic and social questions were "couched in terms of largely autonomous individuals." What occurred during the Progressive Era, he continues, was a "concerted assault on all these assumptions and, in some measure, an assault on individualism itself." Progressives' revolt was against a "set of formal fictions traceable to Smith, Locke and Mill – the autonomous economic man, the autonomous possessor of property rights, the autonomous man of character. In its place, many progressives seized on a rhetoric of social cohesion."[146]

As we have seen with John Ryan and the Social Gospel writers, religious thinkers struggled with the notion of maintaining individuality in an increasingly socially dependent world. Unwilling to fully jettison individual rights, they sought nevertheless to subordinate them to ideals of broader social unity. Kloppenberg described the process as "replac[ing] their liberal ancestors' model of an atomistic society with an ideal incorporating positive as well as negative liberty, duties as well as rights."[147] Thus, Ryan took traditional notions of individual rights and reinterpreted them for his audience to

[145] Kloppenberg, *Uncertain Victory*, 4.
[146] Rodgers, "In Search of Progressivism," 124. See also *Morton White, Social Thought in America: The Revolt Against Formalism* (Boston: Beacon Press, 1957).
[147] Kloppenberg, *Uncertain Victory*, 7.

exclude definitions of individual autonomy. Man's natural rights were dependent on others, creating affirmative duties in those others. Widstoe, in *A Rational Theology*, echoed these same themes. He struggled, as Ryan did, to expound a theology in which the community occupied central importance while maintaining respect for individual rights. "The community has rights which are as inalienable as the free agency of individuals."[148] Widstoe recognized that community rights created affirmative duties in its participants to act for the benefit of each other. "Men shall dwell together, and this leads to many of the finest applications of the Gospel to the daily life of man," for, he continued, "Men affect each other. Every man is, in a measure, his brother's keeper. There can be no thought of going on in life irrespective of the needs or conditions of his fellowman." However, Widstoe, like Ryan, believed that the community was but the means to an end – and that end was individual attainment. "The main concern of man must be to find such orderly acts of life as will enable other men to live out their wills without interference." In this way, individualism remained important, but the individual was unable to achieve his fullest potential without the assistance of the community. "Every man must be supported by every other man. Unless this is done, the individual and the community will be retarded." [149]

In its application, a *Rational Theology* resembled much of the exhortations of the Social Gospel writers. "The man who is in possession of strength … is under special obligations to the community … as the strong move forward, they must pull with them those that are weak." Such social cohesion was, as Washington Gladden exhorted his

[148] Widstoe, *A Rational Theology*, 151.
[149] Ibid., 125, 127.

Protestant congregations, "the natural fruit of Christianity."[150] Lest there had been any doubt about the duty of an individual to share his wealth, or at least its "benefits," Widstoe wrote, "If a person has "acquired great wealth, he must use it so that many may share in its physical benefits."[151]

[150] Washington Gladden, *Tools and the Man*, 278
[151] Widstoe, *A Rational Theology*, 134.

Part V: Connecting Communities

John Widstoe published *A Rational Theology* in 1915. That same year, his fellow apostle James Talmage published *Jesus the Christ: A Study of the Holy Messiah and His Mission According to the Scriptures both Ancient and Modern*. Talmage, like Widstoe, earned a PhD in the natural sciences before being called to the apostleship. Like Widstoe, his earlier writings were academic treatises or texts, such as his "Tables for Blowpipe Determinations for Minerals," and his background in natural science led him to hold more open views on evolution. Finally, Talmage's work, like Widstoe's, speaks to a methodical and academic approach to spiritual matters. Most of his books published by the Mormon Church were first developed as lectures delivered to college students in and out of Utah.

Although Talmage contributed less to progressive legislation and ideas than his contemporaries, Martha Cannon, or even his wife, who was an active participant in the suffrage movement, he became a liaison between the Mormon Church and the outside scientific and religious communities creating channels through which ideas could pass. Such participation in trade and common cause associations was, if not substantively progressive, then at least part of the process of creating links and commonality between previously disconnected island communities.

Recent Progressive Era scholarship has focused less on the substance of reform and more on the channels through which ideas were communicated and the language spoken by reformers. Progressive reformist ideas did not spring from the clean Mississippi Valley air, despite Richard Ely's claims to the contrary. Rather, they were

developed, modified, shared and modified some more as they passed from reformer to reformer and group to group. When Richard Ely returned from Germany he settled first on the East Coast, but found his way to Wisconsin and Chicago, which positioned him well to spread progressivism further west. As already indicated, he travelled to Utah to praise the progressive aspects of Mormon society. Mormons, too, reached across religious and political boundaries to find common cause and alliances with other religious groups. Their participation was not limited to suffrage or prohibition organizational groups, discussed in greater detail herein, but other common cause groups and trade associations. These groups provided a medium through which to communicate progressive and other ideas. Just as John Ryan spoke to the National Consumer League, the Anti-Saloon League preached in the Mormon Tabernacle. Richard Ely spoke often at the pulpits of protestant churches and invited other progressives to do likewise.

When Chicago hosted the Columbian Exposition World's Fair in 1893, many associational groups took advantage and hosted concurrent meetings. Thousands of Mormons attended the fair, the Mormon Church prepared a booth and many Mormon women participated at the Women's Conference of Representative Women. Reid Neilson writes that the 1893 World's Fair marked a shift in Mormon evangelical tactics – from a tract-based approach with a millennial tone to an open dialogue aimed at explaining rather than converting. During the fair, a group of liberal Protestant progressives hosted the first World Parliament of Religions, inviting members of all faiths to attend. Mormon Church representative Brigham Roberts was scheduled to speak at the Parliament to explain Mormonism, but his invitation was revoked at the last minute over concerns about polygamy. Despite Roberts' negative reception at the World

Parliament, Neilson concludes, Mormons took away from the World's Fair the understanding that their contributions to culture, science and commerce would be entertained and accepted by the outside world, even if their theology might not.[152]

Following the 1893 World's Fair, Mormons began to participate on a continual basis in various trade and common cause conferences outside Utah, carrying on the tradition of the earlier suffragists, discussed herein. By 1919, the relationship between Mormons and Protestants had improved to the degree that James Talmage was invited to speak at the Christian Citizenship Conference in Pittsburgh.[153] Mormon participation in national and international associations was led by those who were educated and had national and international experience. The list of national and international scientific associations to which James Talmage alone belonged is dizzying, let alone scores of other prominent Mormons.[154] Even when the substance of trade and association conferences was substantively unrelated to progressive reform, such events nevertheless contributed to a progressive atmosphere where collectivism was considered essential to addressing social problems.

[152] Reid Nielson, *Exhibiting Mormonism: The Latter Day Saints and the 1893 World's Fair* (New York: Oxford University Press, 2011).

[153] Alexander, *Mormonism in Transition*, 252-53.

[154] Royal Microscopical Society; Royal Geological Society; Geological Society of America; Royal Society of Edinburgh; Philosophical Society of Great Britain; Victoria Institute; American Association for the Advancement of Sciences.

Part VI: As Necessary to Vote as to Pray: Suffrage, Prohibition and the West

The Intermountain West led the nation in granting women suffrage. Women in Wyoming territory were the first to obtain the right to vote in 1869. Utah and Colorado followed suit in 1870 and Idaho was not far behind.[155] Although Utah women were disenfranchised by the Edmunds-Tucker Act in 1888, they regained the franchise when Utah was admitted as a state in 1896. Martha Cannon and other women were elected to Utah's first legislature, Cannon as the first female state senator in the country. Women in these western states and territories, then, entered the voting booth as much as fifty years earlier than some of their counterparts in other parts of the country, and held elective office several decades ahead of women on the East Coast.

The suffrage movement has sometimes been referred to as progressive and sometimes placed in its own sui generis category. Thomas Alexander refers to Utah suffrage as "an experiment in progressive legislation," whereas Robert Wiebe described it as a movement that was "sustained by the correlative powers of progressivism [but] developed an independent power."[156] Sometimes it has been virtually ignored in otherwise thorough discussions of the Progressive Era.[157] Suffrage's genesis occurred far earlier than any of the traditional "opening" dates of the progressive time frame, be they

[155] Utah women had the chance to exercise their franchise before those in Wyoming due to the scheduling of municipal elections. See Carol Cornwall Madsen, *Battle for the Ballot: Essays on Woman Suffrage in Utah: 1870-1896*, ed. Carol Cornwall Madsen (Logan, Utah: Utah State University, 1997), 6.

[156] Thomas Alexander, "An Experiment in Progressive Legislation: The Granting of Woman Suffrage in Utah in 1870," *Utah Historical Quarterly* 38 (Winter 1970), pp. 20-30; Wiebe, *The Search for Order*, 293.

[157] Richard Hofstadter gave one passing mention to suffrage only to dismiss it as uncharacteristic of true progressive reform. See *The Age of Reform*, 265.

1877, the 1880s or 1899. Early suffrage agitations occurred no later than 1848 and were thus not reactions to the changing industrial landscape of the later century as many other reform movements were.

It is necessary, then, to provide a brief defense of why I include it here in a discussion of religious pluralism in the Progressive Era. The first and perhaps simplest reason is that real, lasting success was achieved during the Progressive Era, not earlier. It does not matter that outlier groups agitated for reform in the antebellum period; the contention of this paper is that reform occurred during the Progressive Era because that is when reformers, particularly religious reformers, learned how to speak to each other and share ideas. The story of progressivism is not only the substance of reform, as Daniel Rodgers has written, but the structures built and languages used that allowed those reforms to succeed.

Second, expanding the franchise was consistent with progressive notions of direct democracy. As part of the effort to purify government, progressives sought to open its power to greater numbers of people.[158] These labors to expand the franchise to women were part of a larger effort to create more direct democracy. During the Progressive Era, structural reforms were instituted in many states to allow for ballot measures, referenda and recall elections, while at the national level the Constitution was amended to provide for the direct election of senators. The success of suffrage during the Progressive Era was not a happy coincidence but a direct product of progressive efforts to purify. Mormon Church leader Orson Whitney spoke at Utah's Constitutional Convention in

[158] See, e.g., Richard Hofstadter, *Age of Reform*, 262-63 ("The political evils that plagued the country, it was often argued, were not the consequences of deficient organization but of over-organization. The answer to these evils was to move as close as possible to a system of direct government by the people.")

1895 in favor of suffrage. He said, "I believe the day will come when through … the elevating and ennobling influence which woman exerts, … all that is base and unclean in politics will be burnt and purged away and the great result will justify woman's present participation in the cause of reform." Like Washington Gladden and Solomon Schechter, Whitney viewed the "great social upheaval[s]" then taking place as evidence of God "lifting up this fallen world, lifting it nearer to the throne of its Creator."[159]

It is not my intention here to retell the story of suffrage in the Intermountain West, which has been thoroughly examined. Among other historians, Carol Cornwall Madsen has assembled primary documents and essays on the subject, and Sarah Barringer Gordon has examined the complicated relationship between polygamy and suffrage.[160] Rather, my intention is to explore the relationships women in Utah established with suffrage leaders outside Utah, to demonstrate another instance in which religiously motivated individuals and groups communicated with each other to advocate for progressive reform.

Thomas Alexander has suggested that women in Utah were given the vote not because polygamist men sought to expand their political power by directing the vote of multiple wives, as has sometimes been contended, but because Mormon Church leaders genuinely wanted to see progressive measures passed in their territory, and they felt enfranchising the women would spur such changes. Church leader George Q. Cannon wrote, "With women to aid in the great cause of reform, what wonderful changes can be effected! Without her aid how slow the progress!" Lest there be doubt that the

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[159] Utah, Constitutional Convention, 1895, *Official Report of the Proceedings and Debates* (2 vols., Salt Lake City, 1898, I, 508.

[160] Carol Cornwall Madsen, *Battle for the Ballot* (Logan, Utah: Utah State University Press, 1997); Sarah Barringer Gordon, "The Liberty of Self-Degradation: Polygamy, Woman Suffrage, and Consent in Nineteenth-Century America," *The Journal of American History* (December 1996).

"progress" to which Cannon referred was of the sort progressives would approve, Alexander further quotes Cannon's editorials against unprincipled uses of wealth and political power, while extolling societies that are properly organized.[161] Mormon women regarded the exercise of the franchise as a quasi-religious duty. Eliza Snow, president of the official Mormon women's organization, told Mormon women in 1872, "[God] has given us the right of franchise," and it is "as necessary to vote as to pray."[162]

Kathryn Mackay has written that Elizabeth Cady Stanton and Susan B. Anthony "were willing to form alliances with all sorts of people … including Mormon women who practiced or supported plural marriage as a matter of religious faith."[163] One of those Mormon women was Emmeline Wells, an early editor of the *Woman's Exponent*. The *Woman's Exponent* was a newspaper published from 1872 until 1914 aimed at Mormon women and staunchly in favor of suffrage. Wells wrote that the *Woman's Exponent* championed the suffrage cause from its first issue and "by exchanging with women's papers of the United States and England it brought news of women in all parts of the world to those of Utah."[164] Ms. Stanton and Ms. Anthony first visited Utah in 1871, where they met with Mormon women and leaders, although they apparently did not meet Ms. Wells until 1879, when she attended the annual convention of the National Suffrage Association as a member of the national Advisory Committee and vice-president for the Utah territory. Ms. Wells addressed that convention and met with members of Congress on the suffrage question. She wrote of her trip that she was kindly

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[161] Alexander, An Experiment in Progressive Legislation [Battle for the Ballot 106]
[162] As quoted by Madsen, *Battle for the Ballot*, 77-78.
[163] Kathryn Mackay, *Battle for the Ballot*, x.
[164] Emmeline Wells, "The History of Woman Suffrage in Utah: 1870-1900," *Battle for the Ballot: Essays on Woman Suffrage in Utah: 1870-1896*, ed. Carol Cornwall Madsen (Logan, Utah: Utah State University, 1997), 34.

treated by the first lady at the White House.[165] She attended another national conference in 1882 where she reported on suffrage in the Utah territory.

Ms. Wells, by her own account, did "exhaustive" work for the National Women's Suffrage Association, which may have helped convince the association to oppose the portions of the Edmunds-Tucker Act that disenfranchised women in Utah as a "cruel display of the power which lies in might alone." In 1892, Ms. Wells traveled in California and Idaho promoting suffrage. She attended the national conventions again in 1895 and 1897, where she reported on suffrage efforts in Utah. Susan B. Anthony visited Utah again in 1895 along with Rev. Anna Howard Shaw, an officer of the association where both were "honored in every possible way."[166] Wells developed a close relationship with Anthony, who became revered among the Mormons. Church leader Anthon Lund wrote of Susan B. Anthony upon her passing, "She had always been a good friend of ours and stood up for our rights."[167]

Wells was, of course, not the only Mormon woman supporting suffrage at local and national levels. Other prominent and educated Mormons were Martha Cannon, whom Wells had mentored at the *Woman's Exponent*; Brigham Young Academy professor Alice Reynolds; Zina Young, widow of Brigham Young; Susa Young Gates, daughter of Brigham Young; and May Talmage, wife of Mormon apostle James Talmage. Mormon women did not halt their advocacy for suffrage after re-obtaining it in 1896. They continued to support nationwide efforts for state- level and national suffrage.[168]

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[165] Ibid.
[166] Ibid.
[167] Anthon Lund, Diaries, 334.
[168] Susa Young Gates, "The History of Woman Suffrage in Utah: 1900-1920," *Battle for the Ballot: Essays on Woman Suffrage in Utah: 1870-1896*, ed. Carol Cornwall Madsen (Logan, Utah: Utah State University, 1997), 34.

Having been aided by national leaders prior to 1896, they reciprocated until passage of the Nineteenth Amendment. Further, the Mormon Church as an institution supported suffrage when prompted by Mormon women. Church leader Anthon Lund wrote in his diary in 1916, "The Relief Society Sisters called and wanted counsel as to the propriety of helping the suffragists with money to carry out their battle for suffrage. We thought they might be given a hundred dollars."[169]

The early successes of the suffrage movement occurred in western states and territories for a variety of reasons. Not least among those was the support it garnered from prominent religious figures such as Eliza Snow, Emmeline Wells, Zina Young, and George Cannon who all served at different times as authorized leaders of the Mormon Church. These leaders built alliances with national suffrage advocates as early as 1871, almost twenty years before the renunciation of polygamy opened the way for more amicable relations between Utah and the rest of the country. Those alliances only strengthened following the Manifesto, allowing a mutually beneficial relationship between Mormon women and "gentiles" to advance the cause of suffrage.

Prohibition, like its companion, suffrage, has sometimes been considered on the outside of progressive reforms. As with suffrage, prohibition's roots trace to the antebellum period; thus, incorporating it into Progressive Era history is problematic. Charles Beard, not only an historian of the Era, but a member of it, did not see fit to include prohibition in his catalogue of progressive reforms. Richard Hofstadter spoke dismissively of it as the hobby horse of rural populists, not the urban elites who, he claims, were the true progressives. However, Robert Wiebe, writing some 30 years after Beard, gave it place as part of the effort to purify society in order to create greater

[169] Lund, *Diaries*, 609.

efficiency. "A preoccupation with purity and unity served as [a] common denominator of the community crisis [in the 1880s]," he wrote. "Prohibition [was] one of the earliest expressions of this impulse," he continued, and "often showed itself first in the attempts to cleanse and combine at home."[170] Temperance movements gained some traction in the 1870s but made no real gains until after the turn of the century. Why was there a delay? Wiebe suggests more sinister motives came into play following greater industrialization and urbanization. "Prohibition gained wide popularity among America's urban industrial leadership as a new means of mass control … [A]s the movement entered its final stage after 1913, it enjoyed not only ample financing but an urban respectability as well."[171] Prohibition, according to Wiebe, found success after urban and business leaders joined the crusade already begun by religious reformers. Even Hofstadter was forced to acknowledge that prohibition was "supported by the Progressives … and that most of its opponents were conservatives."[172]

Prohibitionists were motivated as much by a desire to cleanse the city and community as to cleanse the soul. Michael Crunden has written of Upton Sinclair that alcohol became, for him, "a link between the forces of capitalism and the forces of political corruption."[173] Thus, Crunden continued, prohibition was for Sinclair and others like Jane Addams and William White, an "important part of their progressivism … Moralistic politics attracted many progressives."[174] Crunden noted efforts were made to

[170] Wiebe, *Search for Order*, 56.
[171] *Ibid*., 290-91.
[172] Hofstadter, *Age of Reform*, 289, n.9.
[173] Crunden, *Ministers of Reform*, 168.
[174] Ibid.

adopt a prohibition plank at the progressive Bull Moose Party convention in 1912, at which Jane Addams spoke, although such efforts were narrowly defeated.[175]

The Mormon Church's relationship with prohibition, according to Thomas Alexander, presents a paradox. Mormons had been counseled since 1833 to avoid the use of alcohol as part of a dietary code known as the "Word of Wisdom." Adherence to the Word of Wisdom remained sporadic until after the turn of the century when church leaders began to emphasize it more in public statements. In 1921, church leaders conditioned entry into Mormon temples on, among other things, complete abstinence from alcohol. John Widstoe eventually defended the new emphasis on the Word of Wisdom in a church produced tract – *The Word of Wisdom: A Modern Interpretation*.[176]

Alexander has suggested that the Church's new emphasis on temperance in the Progressive Era served, if unconsciously, to create a new boundary between the Mormon and non-Mormon world to replace other traditional boundaries, like polygamy, that were being torn down. The paradox was that Protestant leaders cheered the Mormon Church's efforts to encourage and enforce abstention among its members, leading to alliances between the church members and evangelical Protestant groups who were on missions for prohibition. Further, some Mormon Church leaders seemed intent on engendering goodwill to Protestant ministers, not alienating them. Church apostle Heber J. Grant believed the church should not be indifferent to the feelings of Protestant ministers who complained about alcohol served at church-owned places of public accommodation.[177]

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[175] Ibid., 219.
[176] John Widstoe, *The Word of Wisdom: A Modern Interpretation* (Salt Lake City: LDS Church, 1950).
[177] Alexander, *Mormonism in Transition*, 259-61.

Rather than setting itself apart from the non-Mormon world through increased emphasis on temperance, the Mormon Church was joining a broad-based religious coalition.

The statewide prohibition movement in Utah, Alexander writes, was organized when Reverend Dr. George W. Young, an official with the Anti-Saloon League, visited Utah in 1907. Another Reverend, Dr. Louis Fuller, was the superintendent of the League in Utah and met with church leaders at various times. Church presidency member Anthon H. Lund wrote in his diary that he had a "long conversation" with Dr. Fuller. "He thought we ought to have a member of the Church on the national board of the Temperance League."[178] The Church selected Heber J. Grant to become a trustee of the national organization and an officer of the Utah chapter. Grant and other church leaders coordinated with the Anti-Saloon League on legislative efforts in Utah. Lund wrote in his diary in 1916 that the Church had opened its tabernacle to be used for meetings of the Anti-Saloon League and the coordination continued through the passage of the Eighteenth Amendment.[179] Grant was upset when Utah became the thirty-sixth and final state needed to vote for repeal of prohibition in 1933.

Alexander writes that the Mormon Church did not lead the effort for prohibition, even in Utah, but joined the effort begun by Protestants. In doing so, they provided institutional support for a progressive measure begun by others. It would be difficult, if not impossible, to determine whether prohibition in Utah or the Intermountain West would have succeeded had the Church opposed it or remained neutral, but the Church's support certainly helped it along. Alexander concludes that few church authorities seemed to have opposed "the use of the state to enforce their moral code." This

[178] Anthon H. Lund, *Diaries*, 387.
[179] Ibid., 616.

paternalistic use of state power aligned the church in structural and ideological ways with progressive reformers.

Epilogue: Progressive Impulse, New Dealism and Religious Coalition

When Richard Ely compiled his memoirs in 1938, he wrote that the panorama of events he had witnessed from the Civil War onward kindled in him a "burning desire to set the world right." Ely enlisted the aid of like-minded zealots, and was drawn to religiously motivated individuals who, like him, derived motivation from spiritual inclinations. He did not limit himself to Protestant Social Gospel churches, though they were certainly his primary target. He counted among his friends not only "a great many … Jewish rabbis" but also many Mormons and Catholics. Ely recounted in his memoirs a short anecdote that best illustrates the religious pluralism of the Progressive Era. Ely wrote that he worked "shoulder to shoulder" with a Cardinal Gibbons, who was, in his opinion, one of the "greatest American cardinals." Ely said that he fought as "strongly as [he] could for passage" of a twelve- hour day for street-car employees, but that the bill probably would not have passed had it not been for the support of Cardinal Gibbons, who wrote a "strong article" in favor of the legislation at the last minute in order to avert a strike.[180]

Ely and John Ryan maintained a mutual admiration throughout their lives. Ely included some of the writings of John Ryan as the first appendix to his memoirs. This Protestant use of Ryan's moral authority was not limited to the Progressive Era, but extended to the New Deal. Religious pluralism and the progressive impulse did not end with the armistice in 1918 or Harding's "return to normalcy" in 1920. Ryan did not pass from the scene until 1945, outliving Franklin Roosevelt by a few months. Roosevelt,

[180] Ely, Ground Under Our Feet, 78-79.

perhaps as astute a political actor and coalition-builder as Richard Ely and Florence Kelley, embraced Ryan. Not only did he invite him to be the first Catholic to offer the invocation at a Presidential inauguration, but he feted him on multiple occasions during the 1930s as Ryan conducted theological battle with Father Coughlin.[181]

Religious pluralism and the religious shaping of the law are not unique to the Progressive Era and we should not be surprised to find them there or in subsequent periods in American history. The religious impulse toward purification and fulfillment of man's God-given duty to assist his fellow man helps tie together seemingly disparate reform movements. These connections between various religious traditions help explain the relative success of progressive reform efforts. The connections, as they often do, invite further inquiry. Although this study focused on the pluralistic nature of those advocating reform, there is also a story to be told of those opposed, especially those opposed on religious grounds. Opposition to reform can provide, perhaps even more so than support for reform, the necessary motivation for theologically diverse groups of people to join ranks. Their story commands attention. Also, the religious nature of reform ought to be temporally extended, both backwards to the Civil War and forward to the New Deal to further understand both the roots and the fruit of reformers and their causes.

The willingness to cross religious boundaries in support of progressive legislation should not be ignored when seeking to understand or teach the era, because such efforts were in many ways responsible for progressive success. Any student seeking to understand the Progressive Era would do well to pay attention to the motivations of the

[181] American Catholic History Research Center and University Archives, "Biographical Note to the Inventory of John Ryan Papers," http://libraries.cua.edu/achrcua/index.html (accessed November 22, 2011).

reformers, which often were based in religious impulse, as part of a longer American story in which social change has been implemented by those seeking to implement their understanding of God's wishes.

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