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# "Not Charity But Justice": Charles Gore, Workers, and the Way

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# “NOT CHARITY BUT JUSTICE”: CHARLES GORE, WORKERS, AND THE WAY

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## INTRODUCTION

In New York, public policy favors collective bargaining for public sector employees. Legislators have enshrined this policy in the Taylor Law<sup>1</sup> and its local equivalents, such as the New York City Collective Bargaining Law (“NYCCBL”).<sup>2</sup> The New York State Court of Appeals has described this public policy as “strong and sweeping,” and even where disputes implicate the contours of collective bargaining, the fundamental importance of its role has not been seriously questioned.<sup>3</sup> However, an ongoing

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<sup>1</sup> See N.Y. CIV. SERV. LAW § 200 (McKinney 2011) (“[I]t is the public policy of the state . . . [to grant] public employees the right of organization and representation [and to] requir[e] the state, local governments and other political subdivisions to negotiate with, and enter into written agreements with . . . organizations representing public employees . . .”); see generally *id.* §§ 200–14 (encompassing Article 14 of the Civil Service Law).

<sup>2</sup> For example, Section 212 of the Civil Service Law allows municipalities to enact a “local option,” pursuant to which New York City enacted the New York City Collective Bargaining Law (“NYCCBL”). *Mayor of N.Y. v. Council of City of N.Y.*, 9 N.Y.3d 23, 28, 874 N.E.2d 706, 708 (2007); see N.Y. CIV. SERV. LAW § 212 (McKinney 2011); see also NEW YORK, N.Y. ADMIN. CODE tit. 12, ch. 3, §12-302 (West, Westlaw through L. 2010, ch. 568 and Local Law 65 of 2010) (“It is hereby declared to be the policy of the city to favor and encourage the right of municipal employees to organize and be represented . . .”). The principal work on the Taylor Law and the NYCCBL is 1 PUBLIC SECTOR LABOR AND EMPLOYMENT LAW (Jerome Lefkowitz et al. eds., 3d ed. 2008). For a discussion of the passage of the Taylor Law see 1 PUBLIC SECTOR LABOR AND EMPLOYMENT LAW, *supra*, at 24–26. For an extensive description of the NYCCBL, see *id.* at 979–1021.

<sup>3</sup> See *City of New York v. Patrolmen’s Benevolent Ass’n*, 14 N.Y.3d 46, 51–52, 57, 58 n.11, 924 N.E.2d 336, 338, 343 & n.11, 897 N.Y.S.2d 382, 384, 389 & n.11 (2009) (discussing the Taylor Law, NYCCBL, and New York State and City labor policy in general); see also *City of Watertown v. N.Y. Pub. Emp’t Relations Bd.*, 95 N.Y.2d 73, 78–79, 733 N.E.2d 171, 173–74, 711 N.Y.S.2d 99, 101–02 (2000)

assault, however, on the very idea of collective bargaining in Wisconsin, Michigan, and Ohio has jeopardized the continued viability of public sector labor unions not only in those states but around the nation. There is persuasive reason to believe that these arguments are based, not on cost-cutting or containment grounds, but ideological ones.<sup>4</sup> Meanwhile, in describing the state of affairs for private-sector employees, academics like Cynthia Estlund have posited the—still theoretical—death of labor law.<sup>5</sup>

Much of the debate is, quite reasonably, based on what pragmatic outcomes the advocate for either side deems preferable. Instrumental arguments, however, can only go so far; at some point the question must be posed holistically: Is collective bargaining in itself a good thing? What values does collective bargaining serve, and what does it say about our society for us to embrace or reject it?

One component of the answer to these question can be found in the moral imperatives surrounding the right of workers to bargain collectively—moral imperatives all too often lost in the political passions of today's controversy or of yesterday's scandal. Such an approach may be founded on many different philosophical or moral premises, ranging from democratic theory<sup>6</sup>

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(discussing the same laws and policy). In a recent opinion piece, New York City Mayor, Michael Bloomberg, opposed "proposals to strip unions of their right to collectively bargain," stating, "We should no more try to take away the right of individuals to collectively bargain than we should try to take away the right to a secret ballot," and described "organizing around a common interest [als a fundamental part of democracy." See Michael R. Bloomberg, Op-Ed., *Limit Pay, Not Unions*, N.Y. TIMES, Feb. 28, 2011, at A23.

<sup>4</sup> For empirical analysis documenting that "if anything, public employees are underpaid relative to their private-sector counterparts," and that, in light of this finding, "[f]ar too much of the current debate is ideologically driven," see generally David Lewin et al., *Getting It Right: Empirical Evidence and Policy Implications from Research on Public-Sector Unionism and Collective Bargaining*, EMP. POL'Y RESEARCH NETWORK 2-13 (Mar. 16, 2011), <http://www.employmentpolicy.org/sites/www.employmentpolicy.org/files/EPRN%20PS%20draft%203%2016%2011%20PM%20FINALtk-ml4%20edits.pdf>.

<sup>5</sup> See Kenneth G. Dau-Schmidt, *The Changing Face of Collective Representation: The Future of Collective Bargaining*, 82 CHI.-KENT L. REV. 903, 903-04 (2007), Cynthia L. Estlund, *The Death of Labor Law?*, 2 ANN. REV. L. & SOC. SCI. 105, 105 (2006) ("Labor law has thus become nearly irrelevant to the vast majority of private sector American workers.").

<sup>6</sup> See Anne Marie Lofaso, *Toward a Foundational Theory of Workers' Rights: The Autonomous Dignified Worker*, 76 UMKC L. REV. 1, 35-38 (2007) (describing the

to the social teaching of the Roman Catholic Church.<sup>7</sup> Indeed, during the debate over the Wisconsin "Budget Repair Bill," The Most Reverend Jerome E. Listecki, Archbishop of Milwaukee, spoke out forthrightly in defense of workers: "Hard times do not nullify the moral obligation [we each have] to respect the legitimate rights of workers [and] it is... a mistake to marginalize or dismiss unions as impediments to economic growth."<sup>8</sup> The Archbishop further stated, quoting Pope John Paul II, "[A] union 'remains a constructive factor of social order and solidarity, and it is impossible to ignore [one].'"<sup>9</sup> Archbishop Listecki's statements arise from a century of Catholic social teaching whose taproot is Pope Leo XIII's *Rerum Novarum*.<sup>10</sup>

Yet, in the same years, thinkers like Charles Gore and others in the Second Oxford Movement were developing similar teachings within the Church of England, in the context of reinvigorating a theological movement ignited by John Henry Newman and his fellow Oxford theologians. Gore combined a devotion to what he described as "sacramental religion"<sup>11</sup> with a

keen awareness of Christianity as the "Way."<sup>12</sup> Gore described

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respective property rights of employers and employees in a constitutional, free-market democracy).

<sup>7</sup> Gerald A. McCool, S.J., a venerable scholar, under whom this author had the privilege of studying at Fordham College, outlined the development of Catholic social teaching in the article, *The Evolution of Catholic Social Thought in the Last Two Centuries*, in *A MORAL ENTERPRISE: POLITICS, REASON AND THE HUMAN GOOD* 83 (Kenneth L. Grasso & Robert P. Hunt eds., 2002) [hereinafter *A MORAL ENTERPRISE*]. See generally *CATHOLIC SOCIAL DOCTRINE AND HUMAN RIGHTS: THE PROCEEDINGS OF THE 15TH PLENARY SESSION OF THE PONTIFICAL ACADEMY OF SOCIAL SCIENCES* (Roland Minnerath et al. eds., 2010) (compliments of His Eminence Edward Cardinal Egan, who graciously directed this author to this document).

<sup>8</sup> *Archbishop Says Hard Times Don't Justify Restricting Workers' Rights*, CATHOLIC NEWS SERV. (Feb. 21, 2011), available at <http://www.americancatholic.org/news/report.aspx?id=3438>.

<sup>9</sup> *Id.* (quoting JOHN PAUL II, ENCYCLICAL LETTER *LABOREM EXERCENS* ¶ 20 (1981), available at [http://www.vatican.va/holy\\_father/john\\_paul\\_ii/encyclicals/documents/hf\\_jp-ii\\_enc\\_14091981\\_laborem-exercens\\_en.html](http://www.vatican.va/holy_father/john_paul_ii/encyclicals/documents/hf_jp-ii_enc_14091981_laborem-exercens_en.html)).

<sup>10</sup> See generally LEO XIII, ENCYCLICAL LETTER *RERUM NOVARUM* (1891), available at [http://www.vatican.va/holy\\_father/leo\\_xiii/encyclicals/documents/hf\\_l-xiii\\_enc\\_15051891\\_rerum-novarum\\_en.html](http://www.vatican.va/holy_father/leo_xiii/encyclicals/documents/hf_l-xiii_enc_15051891_rerum-novarum_en.html).

<sup>11</sup> CHARLES GORE, *Belief in God*, in *THE RECONSTRUCTION OF BELIEF* v, vii–viii (1926) [hereinafter *RECONSTRUCTION*].

<sup>12</sup> Charles Gore, *The Church and Social and Industrial Problems*, in *REPORT OF THE FIRST ANGLO-CATHOLIC CONGRESS: LONDON, 1920*, at 190, 193–94 (1920).

Christianity as foremost a life-pervading ethic and only secondarily as a belief system.

Out of this view of the Christian ethic, Gore broke with social convention to bring workers' voices to the fore, persistently advocating for their rights, which he viewed as a manifestation of fundamental human dignity—to the point that he viewed labor rights as coextensive with human rights. Gore's example and teaching with respect to workers' rights led the Church of England and the Anglican Communion to develop conceptions of workers' rights parallel to Catholic social teaching's.

### I. GORE'S ROOTS, LIFE, AND INFLUENCE

On the surface, Gore's background does not appear to have been propitious casting for the role of a labor champion. Gore, who was born in 1853, was "the son of the brother of the earl of Arran and the daughter of the earl of Bessborough."<sup>13</sup> Gore came of age in 1874, the year of Winston Churchill's birth, when, as biographer William Manchester has described it, "the royal domain was approaching flood tide," and the nobility "not only reigned but ruled."<sup>14</sup> Despite his privileged background, Gore played a significant role as an academic, and he advocated for social change while serving successively as bishop of Worcester (1902–1905), Birmingham (1905–1911), and then Oxford (1911–1919). His advocacy as a bishop made him almost as controversial a *political* figure as he was as in Church circles for his early *theological* works.

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<sup>13</sup> Mark Bevir, *Welfarism, Socialism and Religion: On T.H. Green and Others*, 55 REV. POL. 639, 643 (1993). For a full biography of Gore, see generally G. L. PRESTIGE, D.D., *THE LIFE OF CHARLES GORE: A GREAT ENGLISHMAN* (1935) [hereinafter PRESTIGE: LIFE]. For a more modern, albeit capsule, account of Gore's life up to the period at issue here, see generally James P. Tudesco, *The Christian Intellectual and Social Reform: Charles Gore and the Founding of the Christian Social Union*, 18 J. CHURCH & ST. 273, 274–78 (1976). Tudesco notes, "[a]s a member of the Whig aristocracy, [Gore] was reared in an atmosphere of comfort and distinction." *Id.* at 274.

<sup>14</sup> 1 WILLIAM MANCHESTER, *THE LAST LION, WINSTON SPENCER CHURCHILL: VISIONS OF GLORY 1874–1932*, at 44, 80 (1983). Manchester quotes one writer's description of the era as "probably the last period in history when the fortunate thought they could give pleasure to others by displaying their good fortune before them." *Id.* at 80. Manchester's magnificent prose poem depicting the height, and decline, of the Victorian aristocracy is confirmed by David Cannadine's more empirical—although very readable—analysis. See DAVID CANNADINE, *THE DECLINE AND FALL OF THE BRITISH ARISTOCRACY* 8–32 (1990) (summarizing the beginning of decline in the mid-1880s).

Nevertheless, Archbishop of Canterbury Arthur Michael Ramsay explained, in his history of Anglican theology from 1889 through 1939, "At the beginning of the period Charles Gore was becoming the dominant figure in Anglican theology, and his great influence persisted until his death in 1932."<sup>15</sup> Gore's political views, though not his personality, were strikingly similar to those held by George Bernard Shaw's fictional character James Mavor Morrell in *Candida*, the "energetic and dynamic young clergyman representing the more progressive wing of the Church of England," who is spokesman for both "the Guild of St. Matthew and the Christian Social Union."<sup>16</sup> Shaw chose to depict Gore and his friends in "describing and satirizing a new phenomenon which he had witnessed growing throughout the 1890s, namely, a clergyman with an intense social concern who shunned the traditional conservative alliance between church and state."<sup>17</sup>

## II. THE TRACTARIANS' MISSED OPPORTUNITY TO DEFEND WORKERS' RIGHTS

Gore and his circle were leaders of the Second Oxford Movement, a "group which succeeded in doing that which the Tractarians[, or First Oxford Movement,] had failed to do," that is, creating a workable vision of a Church, spiritually independent, but socially active, related to "the new

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<sup>15</sup> ARTHUR MICHAEL RAMSEY, D.D., *AN ERA IN ANGLICAN THEOLOGY: FROM GORE TO TEMPLE*, at vii (1960).

<sup>16</sup> Tudesco, *supra* note 13, at 273. Tudesco points out, "Although Morell bears a striking resemblance to the flamboyant Victorian preacher, Henry Scott Holland, Shaw's character is probably meant to represent no single Anglican churchman." *Id.* Henry Scott Holland was, at the time Shaw wrote *Candida*, closely associated with Gore; the two were co-authors—with several others—of *LUX MUNDI: A SERIES OF STUDIES IN THE RELIGION OF THE INCARNATION* (Charles Gore, D.D. ed., 15th ed. 1904) [hereinafter *LUX MUNDI*]. Gore wrote in his preface that the authors' "unity of conviction has enabled us freely to offer and accept mutual criticism and suggestion; so that without each of us professing such responsibility for work other than his own, as would have involved undue interference with individual method, we do desire this volume to be the expression of a common mind and a common hope." *Id.* at ix; *see also* 1 MICHAEL HOLROYD, *BERNARD SHAW: THE SEARCH FOR LOVE* 314–18 (1988) (describing writing of *Candida*; noting that the situation was drawn from Shaw's own efforts to induce Janet Achurch to leave her husband); *BERNARD SHAW, Candida, in 2 PLAYS, PLEASANT AND UNPLEASANT: THE FOUR PLEASANT PLAYS* 207 (1898).

<sup>17</sup> Tudesco, *supra* note 13, at 273.

circumstances of a democratic age.”<sup>18</sup> This Second Oxford Movement, unlike the first—which was inaugurated by John Keble in the 1830s and led by Newman until Newman’s conversion to Roman Catholicism in 1845—was ready to learn from the liberal and socialist reformers who laid bare the grinding poverty in which much of the working class lived and the brutal exploitation to which they were subject.<sup>19</sup>

The Tractarians’ goals, however, were limited to energetically promoting a renewed vision of the Church of England as a fully “Catholic” church—that is, a church fully in the apostolic tradition, having reclaimed its traditional order, sacramental heritage, and significance to *all* Christianity. As Anglo-Catholic scholar N. P. Williams explains,

the Movement was in its origin and essence *moralistic* and *mystical*, the outcome of a deep passionate craving for communion with God and for “holiness, without which no man shall see the Lord.” But its *differentia* was the conviction that such holiness could be, and ought to be, not merely “imputed” forensically but really imparted; that the Incarnation was the central and all-important doctrine, from which the Atonement drew its value and significance; that the Sacred Humanity of the Incarnate Lord was the one fountain from which weak and sinful man could draw the holiness for which his nature yearned; and that the visible Church and the Sacraments were

the divinely-appointed channels whereby the life and the holiness of Christ were meant to be transfused into individual souls.<sup>20</sup>

Thus, John Keble, in his Assize Sermon, preached the independence of the Church from the state. The first *Tract* “declared the Apostolical Succession, and not social or political

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<sup>18</sup> See Ruth Kenyon, *The Social Aspect of the Catholic Revival*, in *NORTHERN CATHOLICISM: CENTENARY STUDIES IN THE OXFORD AND PARALLEL MOVEMENTS* 367, 393–94 (N. P. Williams & Charles Harris eds., 1933) [hereinafter *NORTHERN CATHOLICISM*]. John Keble, John Henry Newman, Edward Bouvier Pusey, and Richard Hurrell Froude were the leaders of the group commonly known as the Tractarians, from their jointly authored series *Tracts for the Times*—pamphlets opposing Liberal Reform and addressing moral and theological issues of the day. See generally *MEMBERS OF THE UNIVERSITY OF OXFORD, TRACTS FOR THE TIMES* (2d ed. 1839).

<sup>19</sup> See Kenyon, *supra* note 18, at 394.

<sup>20</sup> See N. P. Williams, *The Theology of the Catholic Revival*, in *NORTHERN CATHOLICISM*, *supra* note 18, at 130, 134–35.

convention, [is] the basis [for the Church's] ministry."<sup>21</sup> As champions of the Sacraments, Keble and Pusey "revived the almost forgotten doctrines of the Real Presence and of the Eucharistic Sacrifice."<sup>22</sup> The Tractarians argued for the freedom of the Church from political interference because of its sacred character and function. At the same time, Newman began to formulate a distinctly Anglican theology, seeking to reconcile the Church of England's Catholic prayer book and the distinctively Protestant ecclesiology established in the Thirty-Nine Articles, in which he re-envisioned the Church of England's famous Middle Way, or *Via Media*, and the proper scope of the Church's authority.<sup>23</sup>

The First Oxford Movement's theological achievements originated in its reaction to the ecclesiastical reforms of the then-in-power Liberal Party, which preoccupation explains the Movement's weakness addressing the social issues of the times.<sup>24</sup> The Tractarians' failures in this area had two dimensions. First, the so-called "High Church" party—the root from which the Tractarians' embrace of the Church of England's Catholic heritage and tradition sprang—was implacably opposed to the Liberal government's ecclesiastical reform. While the Tractarians did not support the *abuses* targeted by the Liberal Government, they thought that the proposed measures impermissibly infringed upon the autonomy of the Church's temporalities—property, benefices, and very establishment.<sup>25</sup>

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<sup>21</sup> *Id.* at 135. Catholic scholar Robert Rodes, Jr., in his study of the Church of England, points out that this embrace of the Apostolic Succession was, while sincerely held, also a means to "counter the loss or feared loss of temporal advantage" upon which to re-establish the Church's independence from threatened government interference. See ROBERT E. RODES, JR., *LAW AND MODERNIZATION IN THE CHURCH OF ENGLAND: CHARLES II TO THE WELFARE STATE* 246 (1991).

<sup>22</sup> Williams, *supra* note 20, at 135.

<sup>23</sup> Newman's lectures on this subject and various essays and tracts concerning the topic are collected in two volumes in JOHN HENRY CARDINAL NEWMAN, *THE VIA MEDIA OF THE ANGLICAN CHURCH* (Longmans, Green and Co. 1918) (1877). The revised edition, which contains a lengthy preface and notes on the 1837 text written well after Newman's conversion to Roman Catholicism, does not amend the original text, but includes his later thinking on the subjects addressed. 1 JOHN HENRY CARDINAL NEWMAN, *THE VIA MEDIA OF THE ANGLICAN CHURCH*, at ix–x (Longmans, Green and Co. 1918) (1877).

<sup>24</sup> See Kenyon, *supra* note 18, at 370–71.

<sup>25</sup> The Government set out to find and eliminate ecclesiastical abuses and unjustifiable privileges, such as priests' appointment to multiple parishes—some of whom did not perform their duties in any assigned parish—and gross funding disparities between parishes and dioceses and, thus, between ability to obtain



The Tractarians' commitment to Church autonomy often led them naively to defend corollary positions in favor of ecclesiastical privileges that were, simply, indefensible: As Sir Llewellyn Woodward tartly notes, the Tractarians

knew little of the world they to which their teaching was addressed, and there was an air of unreality about their hints at martyrdom while they were defending privilege . . . . [T]here were no martyrs, unless this name could be applied to the non-resident clergy, the pluralists[—in other words, holders of multiple positions—]and highly paid bishops and canons whose emoluments were threatened.<sup>26</sup>

Second, Newman and the Tractarians were so distrustful of the Liberals' "Benthamite," non-theistic approach that they felt unable to support even the Liberal's plainly salutary political reforms for laborers and the poor.<sup>27</sup> The Tractarians perceived the Liberals' efforts to create the most doctrinally inclusive state Church to be a fatal watering down of creedal Christianity, even if the Tractarians' sacramental view arguably did so even more.<sup>28</sup> Thus, *Tract 83* of the *Tracts of the Times*—attributed to John Keble—declared liberalism "a special effort made . . . to do without religion" and "an opinion avowed, and growing, that a nation has nothing to do with religion."<sup>29</sup> Unsurprisingly, then,

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incumbents. See E.L. WOODWARD, *THE AGE OF REFORM: 1815–1870*, at 508–12 (1962); C. P. S. Clarke, *The Genesis of the Movement*, in *NORTHERN CATHOLICISM*, *supra* note 18, at 1, 12–13. Noting that the Tractarians and other High Church leaders believed the Government infringed on ecclesiastical control over matters both spiritual and temporal, Rodes points out that the spread of their views to Dissenters, Roman Catholics, and the poor—who were more likely to identify with Evangelical churchmanship—undermined the traditional assumption that the civil government constituted the voice of the *Anglican* laity. See RODES, *supra* note 21, at 244–46.

<sup>26</sup> WOODWARD, *supra* note 25, at 515. Indeed, the Tractarians' pattern of "defending privilege and aligning themselves with vested interests which on other grounds they wished to remove" extended even to university politics. See *id.*

<sup>27</sup> See Kenyon, *supra* note 18, at 368–69.

<sup>28</sup> See *id.* at 368–74. Neither of these aversions was without foundation. While many clergy could not defend the criticized abuses and privileges of the Church, they resisted the government—which funded the Church—and its attempts at reform by reasserting the Church's "position as a divine society," and its "supernatural claims . . . to obedience." WOODWARD, *supra* note 25, at 509–10, 512. Moreover, the defenders of the status quo distrusted the intentions of the Liberals, who "would substitute a vague theism, or even agnosticism, for dogmatic belief." *Id.* at 512; see also Kenyon, *supra* note 18, at 368–72.

<sup>29</sup> Kenyon, *supra* note 18, at 370 (quoting *Tract 83, The Times of Antichrist, Advent Sermon on Antichrist* (1838), in 5 MEMBERS OF THE UNIV. OF OXFORD, *TRACTS FOR THE TIMES* 1, 12 (1840)). Keble goes so far as to equate Liberalism with

Newman declared in *Apologia Pro Vita Sua*, "[M]y battle was with liberalism."<sup>30</sup> This focus on theological conflicts over the proper relationship between Church and state, therefore, inhibited the Tractarians from supporting progressive labor reforms.

This fixation on theological issues; their insulation from, and lack of understanding of, working class struggles; combined with an effective Toryism, essentially precluded the Tractarians from offering practical solutions to working-class problems.<sup>31</sup> Their inveterate opposition to all things liberal, their focus on individual moral regeneration, and their emphasis on the need to protect the Church's interests limited them to political obstructionism. For example, for Keble, "[f]aith and obedience seemed[, as with Church and State,] the duty of the subject," and "absolute detachment from [temporal things was] demanded of the Christian," but about the sufferings of the poor in his era—visitations of cholera, the Irish famine, the Crimean War—Keble had little to say other than, "It is the Lord, the Lord Christ, let Him do what seemeth Him good."<sup>32</sup>

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the snares of Antichrist. *See id.* Some Catholic scholars reaffirm Keble's critique of Benthamite liberalism and its tension with Christian doctrine today. *See* Kenneth L. Grasso, *The Triumph of Will: Rights Mania, the Culture of Death, and the Crisis of Enlightenment Liberalism*, in *A MORAL ENTERPRISE*, *supra* note 7, at 221, 221–43. For an enlightening exploration of the tension between Tractarians' anti-liberal strand of thinking and Catholic social teaching in the context of work and labor rights, see generally Harry G. Hutchinson, Book Review, *Work, the Social Question, Progress and the Common Good?*, 48 *J. CATH. LEGAL STUD.* 59 (2009) (reviewing *RECOVERING SELF-EVIDENT TRUTHS: CATHOLIC PERSPECTIVES ON AMERICAN LAW* (Michael A. Scaperlanda & Teresa Stanton Collett eds., 2007)). Gore, in his 1927 Halley Stewart Lectures, echoed Keble's criticism of Bentham's "flatly anti-Christian philosophy and sociology" but condemned the Church of England's "miserable silence" when "[c]onfronted with the evidences of the cruelty of industry to the weak and the defenceless." CHARLES GORE, *CHRIST AND SOCIETY: HALLEY STEWART LECTURES*, 1927, at 146 (1928) (printing a series of Gore's lectures from 1927).

<sup>30</sup> *See* JOHN HENRY CARDINAL NEWMAN, *APOLOGIA PRO VITA SUA* 50–51 (David J. DeLaura ed., W.W. Norton & Co. 1968).

<sup>31</sup> *See* WOODWARD, *supra* note 25, at 511–12; Kenyon, *supra* note 18, at 371–72.

<sup>32</sup> *See* Kenyon, *supra* note 18, at 375 (internal quotation marks omitted). It should be noted in fairness to Pusey that, in the days after the First Oxford Movement went into eclipse—that is, after Newman's conversion—Pusey became much more active in addressing social problems, not only preaching against unfettered capitalism, but fostering pastoral outreach to the poor and working with reformers. *See id.* at 384–89.

### III. "LIBERAL CATHOLICISM": GORE AND THE SECOND OXFORD MOVEMENT

For all of their differences, Charles Gore and John Henry Newman held several views in common. Each was drawn to what Gore called the "sacramental religion" of the Catholic Revival.<sup>33</sup> Despite staunchly Protestant upbringings, exposure to depictions of Roman Catholic worship awoke a hunger in Gore.<sup>34</sup> He recounts that, although he had never heard of the Oxford Movement and "knew nothing about Catholicism, except as a strange superstition[] called Popery," a novel about a Roman Catholic priest's conversion to Protestantism had rather the opposite effect on him than the novel intended to convey, and he "felt instinctively and at once that this sort of sacramental religion was for me."<sup>35</sup> By the age of eight, Gore, having found churches whose "rich ceremonial put them in the tradition of the Oxford Movement," identified himself as an Anglo-Catholic.<sup>36</sup>

Gore's successful career at Harrow and Oxford led him to a fellowship at Trinity College in 1875, where he taught students Greek philosophy, particularly Plato, and New Testament Greek.<sup>37</sup> By the next year he was ordained to the diaconate, and by 1878 he was ordained a priest in the Church of England.<sup>38</sup> Gore's explanation of his call to ordination prefigured his later advocacy for workers' rights: He "chose the personal role of a Christian minister because . . . the only answer to the problems of advanced industrialization lay in the spiritual renewal of the English people rather than in the restructuring of society."<sup>39</sup>

During his years as an Oxford don, and through the end of the century, Gore fell in with a group of scholars with whom he "avidly discussed the religious and social questions of the day."<sup>40</sup> As Gore explained, "When I became an 'Oxford Don' in 1875 I

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<sup>33</sup> RECONSTRUCTION, *supra* note 11.

<sup>34</sup> Compare *id.*, with NEWMAN, *supra* note 30, at 15. Newman's account is a much more fragmentary recollection prompted by his boyish, painstaking sketch of an image of a string of beads attached to a cross—probably a Rosary, but not identified as such by Newman—gathered "from some romance, Mrs. Radcliffe's or Miss Porter's; or from some religious picture," but which "fixed themselves in my mind [so] that I made them thus practically my own." *Id.*

<sup>35</sup> RECONSTRUCTION, *supra* note 11.

<sup>36</sup> Tudesco, *supra* note 13, at 274.

<sup>37</sup> *Id.* at 275.

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> *Id.* at 276.

found myself drawn, partly as a disciple, partly as a colleague, into a circle of rather older men who were already at work on the urgent task of seeking to conciliate the cause of reason and revelation."<sup>41</sup> As Tudesco summarizes the group's development over the years,

[It] included Henry Scott Holland, [who had been an undergraduate with Gore], Edward S. Talbot, and John Richardson Illingworth and gradually grew to include Francis Paget, Aubrey Moore, Robert W. Ottley, Walter Lock, and Arthur Lyttleton.

In referring to themselves, they chose the ironical title of "Holy Party," and in 1875 they instituted the custom of occupying a small country parish for one month each summer for the purpose of vacation and discussion. They met for the next twenty-five years, and early in the group's life Gore's colleagues gave him the title of "pope" of the "Holy Party" in recognition of his intellectual leadership.<sup>42</sup>

From 1878 to 1879, Gore was the incumbent at St. Margaret's Church, a working-class parish in Liverpool. Gore sought the position because he needed the practical experience of parish ministry, though the pay at St. Margaret's was so low that he was permitted to retain his fellowship at Trinity.<sup>43</sup> In 1879, however, Gore left St. Margaret's to accept a position as vice-president of Cuddeson Theological College "where he quickly gained a reputation as a popular and dynamic teacher."<sup>44</sup> Then, in 1883, he left Cuddeson when appointed the first Principal of Pusey House, "an endowed religious house . . . founded in honor of the Tractarian . . . for the purpose of promulgating Pusey's teachings at Oxford."<sup>45</sup> Gore's well-known liberal bent prompted some controversy over his appointment, but Henry Parry Liddon, by then the chief representative of the older school—that is, of the Tractarians' generation—advocated successfully for Gore's appointment.<sup>46</sup>

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<sup>41</sup> *Id.* (as quoted by JAMES CARPENTER, *GORE: A STUDY IN LIBERAL CATHOLIC THOUGHT* 29 (1960)).

<sup>42</sup> *Id.*

<sup>43</sup> *Id.* at 275–76. See *PRESTIGE: LIFE*, *supra* note 13, at 26.

<sup>44</sup> Tudesco, *supra* note 13, at 275.

<sup>45</sup> *Id.*

<sup>46</sup> *Id.* at 275–76; see also W. J. Sparrow Simpson, *The Revival From 1845 to 1933*, in *NORTHERN CATHOLICISM*, *supra* note 18, at 36, 64; see also *PRESTIGE: LIFE*, *supra* note 13, at 50–54.

During his years at Pusey House, Gore's association with the "Holy Party" began to bear fruit. In 1888 and 1889, Gore authored and co-wrote works that began to re-shape the Anglo-Catholic legacy left behind by the First Oxford Movement. In *The Church and the Ministry*, Gore revisited at length themes addressed by Newman in the first volume of *The Via Media*, defending, as had Newman, the Apostolic Succession, and sketching out the historical and traditional witness of the Anglican Church to the Catholic tradition, positioning Anglicanism between the Protestant ethos of *Sola Scriptura* and the Roman Catholic exercise of the *Magisterium*.<sup>47</sup>

At the same time as they embraced sacramental religion, in *Lux Mundi*, Gore and his co-authors—members of the Holy Party—embraced the historical-critical approach to Scriptural interpretation and the highly controversial theory of evolution, which they deemed not to contradict but to enhance "the wonder of the divine creation of the world."<sup>48</sup> Gore detonated, quite unintentionally, *Lux Mundi's* largest bomb by describing what would become known as the kenotic theory of the Incarnation, writing, "The Incarnation was a self-emptying of God to reveal Himself under conditions of human nature and from the human point of view"; that being so, God "restrain[ed] the beams of Deity so as to observe the limits of the science of His age, and . . . its historical knowledge."<sup>49</sup> So controversial was this theory that Gore felt the need to deliver a series of lectures to explain it further, and he followed those lectures with another,

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<sup>47</sup> Compare 1 NEWMAN, *supra* note 23, with CHARLES GORE, *THE CHURCH AND THE MINISTRY* (New ed. 1919) (Both basing claims of church authority on Scripture, the practice of the Apostolic Fathers and tradition). There is a broad consistency of viewpoint between these works, although, Gore was more open to engaging the scientific and intellectual climate of his time on its own terms, rather than judging it by its conformity with Catholic tradition, as did Newman. See, e.g., *The Holy Spirit and the Church*, in RECONSTRUCTION, *supra* note 11, at 621. N.P. Williams identifies a difference in tone that would become, in hindsight, amusing: "The most conspicuous difference between them is that the anti-Roman language of the future Cardinal is far more violent than that of the convinced Anglican Bishop." Williams, *supra* note 20, at 137.

<sup>48</sup> RAMSEY, *supra* note 15, at 3 (summarizing *Lux Mundi's* innovations).

<sup>49</sup> See Charles Gore, *The Holy Spirit and Inspiration*, in LUX MUNDI, *supra* note 16, at, 230, 264–65. Gore's kenotic theory is independent of its Lutheran and Congregationalist counterparts, which attempt to rationally delineate the nature of Christ's divinity and humanity. See RAMSEY, *supra* note 15, at 32–33.

more technical, volume of essays to disarm critics, including Liddon, his erstwhile promoter.<sup>50</sup>

This seemingly casual explanation for the limits of the knowledge expressed by Jesus in the Gospels grew until it became the heart of Gore's theology. As he explained in his Bampton Lectures: "God can express Himself in true manhood because manhood is truly and originally made in God's image; and on the other hand, God can limit Himself by the conditions of manhood, because the Godhead contains in itself eternally the prototype of human self-sacrifice and self-limitation, for God is love."<sup>51</sup>

For Gore, the love of God for humanity, and the model for human love and Christian behavior, is one of "the higher power of love which is shown in self-effacement."<sup>52</sup>

#### IV. GORE AND THE LABOR MOVEMENT

The legal rights of unions in nineteenth-century England were in flux. After the 1824 repeal of the 1799 Combination Act and its replacement with the 1825 Combination Act, the definition of a "criminal combination" no longer included combinations, "whether of employers or employed, which had as their sole purpose the fixing of wages or hours."<sup>53</sup> Unions could not hold property or even enforce their agreements without possibly falling afoul of the Act.<sup>54</sup> After a series of oscillating judicial decisions, a royal commission on trade societies was appointed in 1869. The Trade Union Act of 1871 legislatively overruled these decisions, but was combined with a Criminal

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<sup>50</sup> See generally PRESTIGE: LIFE, *supra* note 13, at 97–136, 167. Gore's Bampton Lectures, published in CHARLES GORE, THE INCARNATION OF THE SON OF GOD (1891) [hereinafter GORE, THE INCARNATION OF THE SON OF GOD], and CHARLES GORE, DISSERTATIONS ON SUBJECTS CONNECTED WITH THE INCARNATION (2d ed. 1907) elaborate his kenotic theory in light of Scripture, patristic writings, and the creeds. See also Mark D. Chapman, *Charles Gore, Kenosis and the Crisis of Power*, 3 J. ANGLICAN STUD. 197, 203–04 (2005).

<sup>51</sup> GORE, THE INCARNATION OF THE SON OF GOD, *supra* note 50, at 162; see also *id.* at 159–61; RAMSEY, *supra* note 15, at 31–35. The centrality of the kenotic theory to Gore's theology is explored in Chapman, *supra* note 50, at 203–05.

<sup>52</sup> GORE, THE INCARNATION OF THE SON OF GOD, *supra* note 50, at 160.

<sup>53</sup> R. C. K. ENSOR, ENGLAND: 1870–1914, at 131 (Oxford Univ. Press 1949) (1936). See also MARY DAVIS, COMRADE OR BROTHER? A HISTORY OF THE BRITISH LABOUR MOVEMENT 34–35, 44–46 (Pluto Press 2d ed. 2009) (1993) (discussing repeal and replacement of the 1799 Combination Act); WOODWARD, *supra* note 25, at 72–74.

<sup>54</sup> ENSOR, *supra* note 53, at 131.

Law Amendment Act that “under the specious guise of protecting public rights prohibited all incidents of effective combination.”<sup>55</sup> In 1875, this act was repealed, and the Conspiracy and Protection of Property Act finally “legalized peaceful picketing and laid down that a combination of persons concerned in a trade dispute might lawfully do any act which was not punishable if committed by one person” acting alone.<sup>56</sup>

Moreover, after two Royal Commissions, in 1867 and then in 1874, a spate of legislation, sometimes contradictory, was passed:

Of the six major pieces of factory/trade union/industrial relations legislation passed as a result, the main consequence was that the status of trade unions, although not their power, was accentuated. The old Master and Servant Law was modified by the Employers and Workmen Act 1875, which meant that not only employers could be sued for breach of contract, but that such an offence was now a civil and not a criminal one. The 1874 Factory Act set a ten-hour limit on the working day (the unions were campaigning for eight). The 1871 Trade Union Act recognized unions as legal entities as corporations and as such they were entitled to protection under the law. (This provided an end to the anomaly revealed by the *Hornby v. Close* case in which it was deemed *not* to be unlawful to abscond with the funds of a union—in this case the boilermakers’.) The question as to whether unions could in practice take effective strike action by picketing the workplace was the subject of much controversy. Interestingly, it was a Liberal government which criminalized picketing (by the Conspiracy and Protection of Property Act 1871) and a Tory government which decriminalized it (by the Criminal Law Amendment Act 1875).<sup>57</sup>

Through the 1880s and ‘90s and into the first decade of the twentieth century, industrial Unionism was extremely controversial, as strikes by women workers at the Bryant & May Factory (1888) and gas workers and dock workers (1889) led employers to use increasingly harsh tactics. For example, in 1900 the Taff Vale Railway Company successfully sued the Amalgamated Society of Railway Servants for economic loss caused by a strike—practically crippling the British union movement altogether until the decision’s legislative repeal in the

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<sup>55</sup> *Id.* at 132–33 (internal quotation marks omitted).

<sup>56</sup> *Id.* at 133.

<sup>57</sup> DAVIS, *supra* note 53, at 106–07.

Trade Disputes Act of 1906.<sup>58</sup> Following the 1906 Act, General Secretary of the Dockers' Union Ben Tillett successfully organized the London Dock Strike—a "prosperity strike"; or, one "of workers with low [pay] standards revolting against their continuance in the face of swelling and obtrusive prosperity," which demonstration has been described "[as] the most important domestic event during the[] six years" of Lord Salisbury's second premiership.<sup>59</sup>

Thus, it was in this period of tumult that Gore first emerged as an advocate for the rights of labor. As early as November 1889, he was one of two founding Vice Presidents of the Christian Social Union, dedicated to promoting the view that Christian principles as applied to the political and economic organization of society demanded reform along trade-unionist lines.<sup>60</sup> He remained active in the Union, and was elected as its President in 1901, in which capacity he served until his elevation as a bishop.<sup>61</sup>

In the same year, while the controversy was fresh, L.T. Hobhouse, an associate of Gore's, prevailed upon him to invite Ben Tillett to Pusey House to exchange views with the Librarians—the title afforded staff at Pusey House—and Oxford undergraduates who frequented the establishment.<sup>62</sup> Gore's countenancing the invitation provoked sufficient controversy within the Church of England that one of his defenders offered what even Gore's starchy biographer describes as a "curious" rationalization for it: that he allowed it "in the hope of doing Mr. Tillett some religious good"—a weak explanation that fails to address Gore's acceptance of Tillett's later invitation to chair a union meeting.<sup>63</sup>

Gore's correspondence with Henry Cardinal Manning further reflects his admiration for the Dock Unions' cause. In it, Gore praised "the Cardinal's noble maintenance of the cause of Christ

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<sup>58</sup> *Id.* at 115–19. See generally ENSOR, *supra* note 53, at 205–06, 378–79, 391–92.

<sup>59</sup> ENSOR, *supra* note 53, at 205–06 (discussing the Dock Strike and Tillett's role in it).

<sup>60</sup> Tudesco, *supra* note 13, at 277–78; see PRESTIGE: LIFE, *supra* note 13, at 91–92.

<sup>61</sup> PRESTIGE: LIFE, *supra* note 13, at 241.

<sup>62</sup> *Id.* at 93.

<sup>63</sup> *Id.*



in social service” by mediating between the parties to the Dock Strike—mediation pivotal to its successful resolution.<sup>64</sup>

In Gore’s writings, too, his theology informs his fervent opposition to the abuses of the industrial worker. The kenotic theory of the Incarnation emphasized the importance of each individual as the precious object of God’s self-effacing love; on this basis, Gore rejected any “right” doctrine lacking in love with an almost St. Paul-like scorn: In 1921, he sardonically described the viewpoint of many of his brethren that the *laissez-faire* system was divinely ordained:

It must have been expressed originally in sublime unconsciousness that the whole industrial system, then in its glory, had been built up on [sic] a basis of profound revolt against the central law of Christian morality, “Thou shalt love thy neighbour as thyself.” There are few things in history more astonishing than the silent acquiescence of the Christian world in the radical betrayal of its ethical foundation.<sup>65</sup>

Gore firmly held that “the meaning of Church authority in doctrinal matters can never be understood till it is the life and not the doctrine which is put into the first place.”<sup>66</sup> In other words, the principles of “the Way,” the life of “self-surrender, self-denial, brotherhood [and] equality” reigned above all else.<sup>67</sup>

One may say the climax of Gore’s leadership of the Anglo-Catholic Movement was the first Anglo-Catholic Conference in 1920, when the recently retired bishop led the last panel of the international conference of self-identified “Catholic” bishops, clergy, and laypersons within the Anglican Communion.<sup>68</sup> Characteristically, Gore’s panel concerned itself with “The

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<sup>64</sup> *Id.* at 118. For Cardinal Manning’s account of his mediating intervention see 2 EDMUND SHERIDAN PURCELL, *LIFE OF CARDINAL MANNING: ARCHBISHOP OF WESTMINSTER* 662–63 (4th ed. 1896).

<sup>65</sup> RECONSTRUCTION, *supra* note 11, at 22–23. See generally CHARLES GORE, *THE CHRISTIAN SOC. UNION, THE SOCIAL DOCTRINE OF THE SERMON ON THE MOUNT* 4–5, 7–8, 13–14 (Oxford: Horace Hart 1904) (1892) [hereinafter GORE, *THE CHRISTIAN SOCIAL UNION*].

<sup>66</sup> RECONSTRUCTION, *supra* note 11, at 799; see also GORE, *THE CHRISTIAN SOCIAL UNION*, *supra* note 65, at 5–6, 16.

<sup>67</sup> CHARLES GORE, *The Church and Social and Industrial Problems*, in REPORT OF THE FIRST ANGLO-CATHOLIC CONGRESS: LONDON, 1920, at 190, 193–94 (1920).

<sup>68</sup> *Id.* at 190.

Church and Social and Industrial Problems."<sup>69</sup> Gore invited G.K. Chesterton and a local union leader listed only as "Mr. A. Moore" onto the panel with him, and described in his remarks the "great revolt embodied in the Labour Movement" as

against the hideous injustice in principle as well as in practice of our whole commercial and industrial system. It is declared to violate humanity—the root principle of brotherhood, that is the principle of the equal God-given right of every human being born into the world to have a fair chance to make the best of himself or herself. The cry of this revolt is, "Not charity, but justice."

Now this revolt . . . I believe to be absolutely justified and rooted in the principles of Christ.<sup>70</sup>

#### CONCLUSION

Gore's belief in the Way, in the justice of labor's right to be present and heard at the bargaining table, reminds us that labor's right to a voice in the ordering of the workplace is not predicated simply in pragmatism, economic efficiency, or even averting the harms caused by workplace disputes; rather, it originates at a far deeper level. Gore's theology proclaims the simple, just truth that all human beings are equal in dignity, and that oppression of anyone for economic gain is a violation of that fundamental assumption on which documents such as the American Declaration of Independence are grounded.<sup>71</sup> One need not be a Christian, or even a theist, to follow Gore there.<sup>72</sup> But Gore's speeches and writings demonstrate that he drank from the same stream that led Cardinal Manning to intervene in the Dock Strike in 1899, and Martin Luther King to support the workers of AFSCME Local 1733—support that led him to Memphis in April, 1968, where union members marched with placards reading, "I

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<sup>69</sup> *Id.*

<sup>70</sup> *Id.* at 190, 193. The slogan of the Trades Union Conference was "Justice, Not Charity."

<sup>71</sup> The late Professor Charles L. Black, Jr., under whom this author had the privilege of studying, provides an account of the jurisprudential vitality of the Declaration of Independence as a legal source for adjudicating the human rights guaranteed by the Ninth and Fourteenth Amendments. *See generally* CHARLES L. BLACK, JR., A NEW BIRTH OF FREEDOM: HUMAN RIGHTS, NAMED AND UNNAMED 6–40 (1997).

<sup>72</sup> Author of the Declaration of Independence, Thomas Jefferson's own religious skepticism is well documented. *See, e.g.,* Avery Cardinal Dulles, *The Deist Minimum*, FIRST THINGS, Jan. 2005, at 25, 28.

AM a Man” and where King was assassinated on his motel-room balcony.<sup>73</sup> Gore overcame the blinkers so often fastened to those with similarly privileged upbringings; and he arrived at the insight so often forgotten in our times: that labor rights are human rights.

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<sup>73</sup> See MICHAEL K. HONEY, GOING DOWN JERICHO ROAD: THE MEMPHIS STRIKE, MARTIN LUTHER KING’S LAST CAMPAIGN 298–308 (2008). The day before his death, Dr. King—in a heart-breaking address—characterized the goal of the 1300 striking sanitation workers whose right to unionize he had come to support as “forc[ing] everybody to see that there are thirteen hundred of God’s children here suffering”; invoked *Amos*: “Let justice roll down like waters and righteousness like a mighty stream”; and described the workers’ message: “God sent us by here, to say to you that you’re not treating his children right.” Rev. Dr. Martin Luther King, Jr., I’ve Been to the Mountaintop, Speech Delivered in Support of the Striking Sanitation Workers at Mason Temple in Memphis, Tennessee (Apr. 3, 1968), available at <http://www.afscme.org/union/history/mlk/ive-been-to-the-mountaintop-by-dr-martin-luther-king-jr> (internal quotation marks omitted) (from the AFSCME website’s tribute to Dr. King).