

**BROOKSIANA; OR, THE
CONTROVERSY BETWEEN SENATOR
BROOKS AND ARCHBISHOP HUGHES:
GROWING OUT OF THE RECENTLY
ENACTED CHURCH PROPERTY BILL**

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Brooksiana; Or, The Controversy Between Senator Brooks and Archbishop Hughes: Growing out of the Recently Enacted Church Property Bill by Erastus Brooks & John Hughes

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BROOKSIANA;

OR,

THE CONTROVERSY

BETWEEN

Senator Brooks and Archbishop Hughes,

GROWING OUT OF THE RECENTLY ENACTED
CHURCH PROPERTY BILL,

WITH AN INTRODUCTION

BY THE

MOST REV. ARCHBISHOP OF NEW YORK.



NEW YORK:

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1855.

ForwARD according to Act of Congress, in the year 1835, by

JAMES B. KILGEE,

In the Clerk's Office of the District Court of the United States for the Southern District of
New York.

INTRODUCTION.

Few questions of a comparatively local character have arisen in modern times to which circumstances have so much attracted public attention as the question of the late Church Property Bill, passed in the Legislature of New York, and the incidents antecedent to or growing out of its enactments. The writer would not have the slightest doubt as to the accuracy of public sentiment if the question were thoroughly understood. He has unbounded confidence in the justice and fairness which characterize the judgment of the American people in regard to any matter, the true merits of which have been brought under their notice. No doubt that under the impulse of generous feelings, they are sometimes liable to be led away by appearances. We have seen that in more than one instance political adventurers from other countries have succeeded in imposing upon them, and betraying them into proceedings far from creditable to their calmer judgments. But such delusions have been of very brief and transitory duration. The sober second thought soon replaces the sentiment of impulse and rectifies its errors. It will be so in regard to the question now under consideration. The American people, the living embodiment and practical administrator of the great and noble principles which are inscribed in our free constitutions, will never allow those sacred principles to be perverted or trampled under foot

INTRODUCTION.

to gratify the spurious patriotism of a clique who are attempting to infuse religious strife into the very arteries of civil freedom, of social happiness and national strength.

This being now as it has ever been the deliberate judgment of the writer in regard to the character of the American people, he has deemed it but a respectful duty to them to furnish in this introduction such explanation of the true grounds of the question involved in the late act of the Legislature of New York, as will enable them to form their own just conclusions, according to the merit and evidence of the case submitted.

I.

It has been the supreme and sovereign will of the American people from the period of their independence, that all religious denominations residing within their borders should enjoy the same equality of rights and privileges under the Constitution and laws of the country. And although several of the States continued for many years to retain enactments preventing Catholics from the full enjoyment of these equal privileges, still the great predominant sentiment of the country induced those States one after another to abolish such enactments, so that at the present day they disgrace the statute book of no commonwealth in the whole Union, except that of New Hampshire. In this great principle of religious equality among the various denominations composing the powerful free empire of the American people, it was never intended that the State should prescribe for any denomination a code of discipline which should embarrass its members in carrying out the principles of their faith. It never was intended that the rules which might harmonize with the faith of one denomination, should be imposed unsolicited upon another whose religious belief was of an entirely different character. On the contrary, the principle hitherto adopted and universally acted upon, if we except the Church Property Bill as it is commonly called, has been that each denomination should either use a general enactment, such as the law of 1784 in this State, or solicit at the hands of

the Legislature such special enactment as might enable them, consistently with the requirements of the Constitution, to manage the external affairs of their communion as a religious body according to their respective symbols of faith.

II.

The venerable Archbishop Carroll, who himself took part in the revolution by which American independence was won, wished to assimilate as far as possible the outward administration of Catholic Church property in a way that would harmonize with the democratic principles on which the new government was founded. With this view he authorized and instituted the system of lay trustees in Catholic congregations. Regarded *a priori*, no system could appear to be less objectionable, or more likely, both to secure advantages to those congregations, and at the same time to recommend the Catholic religion to the liberal consideration of the Protestant sentiment of the country. It would, he thought, relieve the priest from the necessity and painfulness of having to appeal from the altar on questions connected with money, touching either the means of his own support, repairs of the church, or other measures essential to the welfare of his congregation. It would at the same time secure the property by the protection of law for the perpetual uses to which it had been set apart and consecrated. It would be a bond of union between the priest and the people. It would be a shield to protect the minister of the altar, from the very suspicion of being a money-seeker, and at the same time a means to provide for his decent maintenance. All these were no doubt the considerations which moved the venerable and patriotic Archbishop to adopt and recommend the system of lay trustees. On paper and in theory that system was entirely unobjectionable. It was well calculated to gain the confidence of a mind so generous and so liberal as that of the first Archbishop of Baltimore. But in practice it became the bitter chalice of his old age. It led to violent strifes in Charleston

and in Norfolk. It led to riots and bloodshed in Baltimore and Philadelphia. Archbishop Carroll, when there were but two churches in the city of Baltimore, was doomed to witness the congregation of one of them assembling at the house of Divine worship on Sunday with loaded muskets in their hands. He was doomed even during his own administration to see an excommunicated priest inaugurated by lay trustees in another church in Philadelphia; and to undergo a legal prosecution at the hands of lay trustees, in the Civil Court, for a simple act of Episcopal jurisdiction. It is impossible to tell what would have been the consequence of that prosecution had it not been for the high character which the good prelate had sustained, and for the high estimation in which he was held by the whole community of Philadelphia, Protestant as well as Catholic. After his death, similar results of lay-trusteeship followed in the church of St. Mary in Philadelphia. Whoever will turn to the press of that city in the years 1821, 1822, 1823, 1824, 1825, will see melancholy evidence of its workings in social strifes, religious enmities, schism, lawsuits, fearful riots and bloodshed.

The evils which manifested themselves in these churches on a grand scale, were witnessed in a minor degree in almost every congregation throughout the country, under the government of lay trustees. The churches of this city were by no means exempt from them; and some of our older Catholic inhabitants have witnessed, both in St. Peter's and in St. Patrick's, scenes of strife which they deplored, and which they would be ashamed to read in recorded detail.

III.

Such was the general condition of the Catholic people of the United States in the year 1829, when their Bishops were numerous enough to hold counsel together for the purpose of securing peace, promoting piety, and improving the moral and social condition of their respective flocks. In the fifth decree of this first council the following statute was agreed upon, and rendered applicable to each diocese except that of Charleston.

“Whereas lay trustees have frequently abused the right conceded to them by the State, to the great detriment of religion and scandal of the faithful, we desire earnestly that henceforth no church be erected or consecrated unless the title thereof, whenever it can be done, shall be assigned by a written document to the bishop of the diocese in which it is to be erected, for the purpose of divine worship, and the benefit of the faithful.” In the fourth decree of the third council of Baltimore, held in 1837, both the clergy and laity are reminded of the heavy spiritual penalties decreed by the Council of Trent against all persons, whether lay or clerical, perverting from the sacred purpose to which it is appropriated any thing given by the faithful for religious or charitable uses. The fourth statute of the seventh Provincial Council of Baltimore, held in 1849, lays down the rule as follows:—

“The fathers have ordained that all churches and other ecclesiastical goods which have accrued from the gifts or offerings of the faithful, and which are to be employed for purposes of charity or religion, shall belong to the ordinary, unless it appear and is proven in writing, that they have been conceded to some religious order, or congregation of priests for their own use.”

These are the only laws of discipline regarding church property which I find enacted in the Provincial Councils of Baltimore. This latter statute had reference more particularly to that kind of property which might have been given in a vague and indefinite way; and which it might happen that the priest, either in good faith or otherwise, might construe as having been given to himself for his personal use. But in no case has the idea ever been entertained of acquiring wealth or making the Church rich, or creating revenues which even a Bishop or Archbishop might be at liberty to use or abuse at his discretion.

IV.

It is hardly necessary to remind the Protestant reader that Catholics have their own mode of Church government, and that