

No. 6.

ARGUMENT
OF
HENRY A. CRAM,
AGAINST THE SO-CALLED
“FREEDOM OF WORSHIP BILL,”
Before the Committee of Cities of the Assembly,
ON THE
14th & 21st of APRIL, 1885.

ARGUMENTS
ON
"THE FREEDOM OF WORSHIP BILL"
BEFORE
THE ASSEMBLY COMMITTEE ON CITIES,
APRIL 14TH, 1885.

Mr. HENRY A. CRAM, one of the Managers of the House of Refuge, then addressed the Committee in opposition to the bill as follows :

Mr. Chairman and Gentlemen :

I am a party to this controversy, and whilst the air is ringing with the cries of constitutional immunities and freedom of worship I trust, nay, I am sure, that here to-day I shall find the constitutional right of freedom of speech recognized. I did not want to come here ; it is not agreeable to me to do so, but I am one of the culprits. I am one of the possible criminals who may be sent to prison hereafter, and therefore I think I am entitled to be heard. And whilst I do not mean to give offence to any one, I desire to be permitted here to speak what I think, what I believe, and what is proper and pertinent to the consideration of this bill. Nor do I think that every word has yet been said on the subject. I think there is a great deal to be said that has not yet been heard or yet been considered. I will endeavor to be brief, brief as I possibly can, and I shall be most delighted if I can get through in the half hour.

This is an old controversy. It was begun in 1875. It was begun because they asked a non-sectarian institution to have Roman Catholic rites and ceremonies performed in the House of Refuge. It commenced then; and they demanded at that time the right for a society affiliated with the Jesuits (the Society of St. Vincent de Paul), to come into our institution and teach the children. For reasons that you will see presently, not from any prejudice against the Roman Catholics or against any sect, we refused; and then came the proposed bill of 1875, and at any moment since 1875 that we would have agreed to have transformed this non-sectarian institution into an institution where the rites and ceremonies of the Roman Catholic Church should be performed, and where they (the Jesuits) should have the free right of teaching the children, the moment we would have agreed to these conditions the bill would have been withdrawn and heard of no more. It has been so ever since then; so that whatever be its outward specious garb, and however splendid the cloak of apparent freedom that they wrap themselves in, it is substantially nothing else but that; a constant effort of one sect to break up the non-sectarian character of our Institution.

Mr. SHEA: I would like to ask the gentleman one question?

Mr. CRAM: I would rather not be interrupted.

Mr. SHEA: I think I have a right as a member of this Committee to ask a question.

Mr. CRAM: And I have the right to refuse to answer. I do refuse to answer.

Mr. MCCANN: Then I serve notice that if the gentleman refuses a courtesy to a member of the Committee, I, for one, will refuse him any courtesy he may ask.

Mr. CRAM: May I go on, Mr. Chairman?

This is an old case. As I say, it introduced itself in 1875, and this is its seventh appearance here. It has been before five or six other Legislatures. It came in 1880; it came in 1881; it

came in 1882; it came in 1883, and it came in 1884, and it is here to-day in 1885. Certainly if, having gone through the experience of six years of failure; if the combined wisdom of these Legislatures and Governors of the State of New York could not have passed this bill to carry out the provisions of the Constitution during that period of time, there must be some grave reason other than the merits of the bill; and I say its failure until this time among the American people—the people that love and cherish liberty, and that will stand by freedom to the end—its failure until this moment of time is a conclusive judgment of condemnation against it.

Now I propose to consider for a moment who are the parties to this controversy. I say there are two now. There will be more and larger and greater by-and-by; but to-day there is an humble, quiet charity, the House of Refuge, which, whenever or wherever it is known, has earned and received respect, kindly feeling and admiration. I want to say one word about them, and I want to say another word about the Jesuits who are the other party to this controversy. This is a controversy which is not very old, nor is it new. It is a contest that may be ended to-day and it would then be a short contest, but if it is not ended to-day by the rejection of this law, it is a contest that will grow in proportion and in time beyond the possible conception of the imagination of any man who now hears me, whether he approves of this bill or whether he be opposed to it.

The House of Refuge was formed about sixty years ago, there being then really no organized institution of the kind on the face of the earth, there having been made an attempt only in Prussia and in England. It was formed by a number of gentlemen of the city of New York. It was the earliest institution of the kind. I have not time to read the names of the gentlemen that organized it. They were among the first citizens of the city of New York, and there were Roman Catholics among them. There

were people of all sects united together, having been associated in an anterior charity. They came together without regard to any religious sect. Their constitution was non-sectarian. They created what has been a model and form for the whole civilized world to follow since. And I say to you citizens and legislators of the State of New York, you ought to appreciate this institution for that one reason if for no other, because it created and presented to the civilized world a new and admirable form of charity that has since been followed and imitated all over the civilized world. This was done here in your State by these gentlemen of the city of New York. The institution grew and increased until it became what it is to-day. From the start it was non-sectarian. It had no animosities against any creed; it welcomed the clergymen of all sects to come and take part in a non-sectarian service once on Sunday and teach, that in which all the sects were agreed, that which was common to them all; only as to those points in which they differed we closed our gates. On Sunday we assembled the children together; we taught them the Lord's Prayer, the ten commandments and the sermon on the mount. We taught what no christian of any creed would object to. We taught them the general truths of morals, the general truths common to all sects. The children came together; they sang hymns and psalms, and everybody was welcome to come who would adopt that non-sectarian service. The Jew came—the Rabbi, and I wish I had time, I have not, to give you the testimony of the learned and distinguished Rabbi Gottheil of New York who has been there, has witnessed, has taken part in the service, and recently, unsolicited, gave his testimony. He went there; he officiated; he was told if there was anything in the service that was disagreeable to him, or that he did not like, or that was offensive to his creed, it should be omitted. He looked at what the service was to be and saw it did not, and he took his part and performed his share and testifies that it is everything

that could be in a non-sectarian institution. From the day of its first organization we have had men of all creeds in our direction. I do not want to flaunt before you the names of Roman Catholics that are in our Board, it is not necessary. We have something better than the names of men to sustain us, viz: the intrinsic merits of our own institution, but I may be allowed to mention that on our Board of Management we have three Roman Catholics. We have received and taken care of in the House of Refuge, since the work began, a small army—twenty thousand children—and out of these twenty thousand waifs brought to us neglected by parents, by priests, in rags morally and physically, wretched, without the blessings and comforts of home, of the average age of thirteen, remember that and remember this other fact: besides the average age of thirteen, they are not there on the average more than thirteen months all together. Those two facts are to be borne in mind, because if you are going to teach creeds and doctrines and the mysteries of religion, you want somebody older than these boys and you want time longer than we keep them. I say, out of these twenty thousand waifs, we have reclaimed and reformed fifteen thousand, returned them white-robed to society and to honest industry. This service we have rendered to the community. What reward have we received? We ask none and have received none, but the consciousness of having performed an agreeable and delightful duty, in the performance of which every member of that humble body in quiet and peace and in obscurity has given the necessary time, attention and labor during these long years. Now, that is the institution. I had here, I seem to have mislaid it, the rules and regulations of the institution by which the admission of christians of all creeds is permitted. We allow books of prayer of the different sects to be furnished to the children by parents and friends. We allow admission to the children who are in extremis to receive the last functions of their church. We allow clergymen and priests to

visit the sick and dying. Before this discussion closes, these regulations shall be handed to the committee. If in a non-sectarian institution anything more liberal can be devised, I invite you to impose them on us.

And now for the other party to this controversy, the Jesuits. They are either openly or concealed the fathers of this proceeding. I want to ask you who the Jesuits are? I heard it said the other day that they were buried fifty years ago. Why, Mr. Chairman, for over two hundred years the civilized world has tried to bury them, and they are as lively to-day in this land of freedom as they were when they were first created in the middle of the sixteenth century. Who are they? I wont tell you all I know about them, nor shall I invoke from your memory all you know about them, but I ask you to look at their history. I will ask your permission to read a paragraph about them from an historical book of which I have brought an extract here. I have brought the original French text. It is a book I use very often as a book of reference. It is a Catholic book.

MR. SHEA: Who is the author of that book?

MR. CRAM: The author is Bouillet. I am glad to answer the gentleman's question. My refusal to answer before was because I could not get through in the time allotted to me, and an interruption distracts me. I have passed the time of active exertion, and it is difficult for me to perform the task I have before me to-day. Mr. Bouillet has compiled a historical and geographical dictionary. I have used it for years, and I recommend it. It is a Catholic work, and is colored with Catholic views about history, but the varnish is very slight, and through the rose color or the darker hue it is easy to see the truth; but I know nothing so admirable as its great compactness, giving you the history of everything in the smallest shape. I am going to quote from the 24th edition. Bouillet has against the title page, on the fly leaf opposite the title page, printed: "Approved by the Archbishop of Paris, December

28th, 1849." It has further printed there the approval of the Holy Congregation of the Index by a decree of December 14th, 1854, and the approval of this decree by a decree of Pope Pius the IX., December 22d, 1854, both which decrees are there printed at length. So, with the approval of such high authorities, I now will proceed to translate a paragraph of the text I have brought with me.

The Jesuits are a modern order founded in 1524. Now begins Bouillet: "Although Paris was their cradle, they were not admitted into France until after long debates.

"They experienced especially a prompt resistance on the part of Parliament and of the universities, and only obtained, until very late, the permission to instruct, namely, in 1562. * * * Many of their Casuists compromised them in teaching a relaxed system of morals." That is a very gentle phrase. "Besides they have been reproached with having carried too far the *esprit de corps*, with having meddled too much with the affairs of this world; with having sought with too much zeal for riches (they engaged in trade) and, above all, for political influence. In consequence they have been implicated in many conspiracies and plots, although it has not been possible to prove anything. They have been banished for various causes from the greater number of the States which had received them. From England they were first banished in 1581, again in 1601. From France in 1594, again in 1762. From Portugal in 1598, and again in 1759. From Russia in 1717. From China in 1753. From Spain in 1767, and from Sicily in 1767. Finally the society was suppressed in 1773 by Pope Clement the XIV." Before coming to this extremity an attempt was made to induce them to modify their statutes; the General of the order, Father Ricci, it is said, limited his reply by saying, "*Sint ut sunt, aut non sunt*," which translated means "let them be as they are or they are nothing at all. There could have been no word more pregnant of meaning than that answer,

“What we have been we will continue to be; we will make no change.”

“The Jesuits continued, nevertheless, to exist under other names” (and they exist in New York under another name), “like those of the Brothers of the Cross, of the Cordicole, of Paccaparrissus, etc. They found an asylum in Russia in 1779. The Pope, Pius VII., at the commencement of his pontificate in 1800, re-established them secretly and again solemnly in 1814. They appeared in France at the restoration under the name of Fathers of the Faith, and had for several years flourishing colleges, especially at Montrouge and St. Acheul. These establishments were closed in 1828 as contrary to the existing law, but many have been opened since 1848. In these later times the Jesuits have been driven out of Russia in 1817, of Spain in 1820, and Switzerland in 1847.” As Bouillet’s history only comes down to 1849, I will add that since then they have been driven out of several countries. Do you suppose that the whole civilized world was wrong in driving them out? Is it not true that they are the enemies of all government of all nations, the deadly enemies and foes of civilization, the implacable and irrevocable enemies of liberty and of freedom? Do you suppose that these various acts of every country in the world were wrong, and that those to-day who say that they were buried fifty years ago, or others who say they shall control the legislation of this free country, are right?

I will now consider the Constitutional question. The constitution is for people out of prison. It is the most absurd nonsense, this claim to a right of freedom of worship in prisons—it don’t exist—there is nothing of the kind given by the Constitution. A citizen, a man outside of prison, has the right to personal liberty, he may come and go, he may pursue his calling, he has the right to speak and to think, he has the right to publish what he thinks he may publish, a book or newspaper. Has any prisoner the right to do these things? The moment you apply these constitutional

provisions giving personal rights to prisoners you come to this result, they have no application within the prison walls or there must be a general jail delivery. There can be no prisons if all the constitutional immunities are given inside. It is impossible. I might dilate upon this, I do not know that I could make it any clearer. Has a prisoner the right to the product of his labor? This is a constitutional right. Can he come and go, can he write to his dear mother without control? Do you mean to say that he can write to his dearest ones and is not subject to prison rules? Can they write and scheme to escape? Certainly not, because the Constitution don't apply to them. They are the wards of the State, and the State deprives them in the first place of the greatest of constitutional rights—that of personal liberty.

Adjourned to Tuesday evening, April 21st, 1885.

Proceedings before the Assembly Committee on Cities, April 21, 1885, 8 P. M., on the so-called "Freedom of Worship Bill."

Chairman BARNUM: This is a continuation of the hearing on the "Freedom of Worship Bill." At the close of the previous session, Mr. Cram had the floor, and, not having concluded, he will continue his argument at this time.

Mr. McCANN: Mr. Chairman, I desire to say, not with any desire to preventing discussion or delaying it, that it is extremely possible and probable that we are going to have not only a long, but possibly a wearisome session here. * * * I am as much in favor of freedom of speech as I am in favor of freedom of religious worship, but at the same time I submit there ought to be a limit to the argument, and that no one gentleman—and I should oppose the advocates of the bill as strenuously as I am those opposing the bill—taking up too much of this Committee's time. We are nearing the close of the Legislature, and the matter must be closed up, and I hope the gentlemen will not go into any extraneous matters to the disadvantage of the Committee and the Legislature.

Mr. CRAM: Mr. Chairman, it is not an agreeable duty that I am performing under the most propitious circumstances, because any one that is engaged in a religious controversy is engaged in a painful matter, and it certainly is not made more agreeable by the intimation that I am about to be wearisome.

I shall endeavor to be brief, but I must be the judge myself, and not this committee nor any member of it, as to what is extraneous to the proper discussion of this bill. Unless I can speak as my judgment dictates in this respect, and unless I can speak freely, I will not speak at all.

From a brief glance at the past it will appear that it was not mere speculative formulas of government that were presented in the Constitutional provisions relating to religion; it was a series

of provisions aimed at past grievances suffered from Church and State, from the union of Church and State, from intolerance and persecution.

This religious question in the organic law presented itself at the formation of the Government of the United States and at the formation of all the States. To understand the Constitutional provisions, it is necessary to consider the time when they were passed, when it will appear that freedom of worship meant freedom from the *State*, freedom from the *Priest*, entire separation of Church and State—abstinence by the State from all legislation enforcing or patronizing or interfering with religion, or, in the language of the Constitution of the United States, *respecting the establishment of religion* or forbidding the free exercise thereof. All over the country where the State established religion, or religions were patronized by the State, there had been much intolerance, some tolerance occasionally—both forms of tyranny—no absolute freedom. Religious toleration is simply a concession by the State to dissenters; but by the American doctrine the State has no authority over conscience, and, therefore, can make no concessions within the proper domain of conscience. “Toleration is not the opposite of intolerance, but is the counterpart of it. Both are despotisms. The one assumes to itself the right of withholding liberty; the other, of granting it.”

In the colony of Virginia the first permanent settlement of Englishmen in North America, the Church of England was by its charter the established religion—as parishes were formed a minister of the Church of England was established by law and endowed with a fixed salary, and all the inhabitants of the parish of every creed were taxed for the support of the parochial church. No minister was allowed to preach or teach except in conformity with the Church of England. Puritans were banished and forbidden under heavy penalties to re-enter the colony. Severe enactments were passed against Quakers; it was even made a penal offense

for any master of a vessel to bring a Quaker within the jurisdiction.

The denial of the Trinity was punished for the first offense by incapacity to hold office ; for the second, by disability to sue, to take any gift or legacy, and by three years' imprisonment without bail—and only two years before the war of Independence there were six Baptists imprisoned in one jail in Virginia for publishing their religious sentiments. Baptists, Quakers, Papists, and dissenters were persecuted.

In the very beginning of the settlement every colonist was obliged to attend church twice every Sunday “ upon pain for the first offense to lose the provision and allowance for the whole week following ; for the second, to lose said allowance and to be whipped ; and for the third, to suffer death.”

In New York, under the Dutch, the reformed religion of Holland was patronized by the State, and Governor Stuyvesant tried his hand at persecution ; he forbid other preachers from holding conventicles ; he persecuted Quakers with fine, imprisonment and banishment, until he was rebuked by the church authorities at Amsterdam.

Subsequently, under the English, the Church of England was set up in every parish, and parish rates were levied upon all inhabitants of all creeds for the support of the Episcopal clergy. Papists were not tolerated. The Bishop of London claimed Episcopal jurisdiction over the Church of New York, and the attempt to extend the Episcopal jurisdiction of the Bishop of London over the adjacent colony of Connecticut, and the apprehension of the purpose of the Crown to establish the Church of England throughout the colonies was one of the causes that precipitated the American Revolution.

In New England, the first settlement of the Pilgrim colony at Plymouth suffered no religion but their own, made provisions for the support of religion from the public treasury, punished heresy

as a crime, required that a "freeman" or voter in the town meeting should be orthodox in the fundamentals of religion; in fact, there was an established Church with the usual features of an established Church persecution of other sects—Quakers, Baptists and Papists.

In Massachusetts and in the colony of New Haven, a theocracy was established, founded on the Puritan Church. In Massachusetts, it was decreed "that no man shall be admitted to the body politic but such as are members of some of the churches within the limits of the same."

In the colony of New Haven the rule was likewise adopted "that church members only should be free burgesses," and that the scriptures should be the rule of government in the Commonwealth as well as in the church. In other respects they resembled the colony of Plymouth. Of course they all persecuted Baptists, Quakers, Papists and other heretics. Only in Quaker Pennsylvania was there impartiality, and in Catholic Maryland, moderation.

Now, I say that this little *resumé* from the history of religion in this country throws a glowing light upon the meaning of these constitutional provisions. They mean to the sects, "hands off from the government;" they mean "no union of Church and State;" they mean "no enforcement of cult;" they mean "the State should refrain from interference with religion. Freedom of worship does *not* mean politicians passing laws to compel the performance of a rite or religion, or of all rites and religion; it means *the abstention* from everything of that kind. That is freedom of worship when the worshipper is left free by the State. It means "no union of Church and State," the past having taught the lesson that this was the only road to freedom, the only way to escape intolerance and persecution. See how the Constitution of the United States expressed it. It could not be more definite; it could not be more unequivocal. The Constitution of the United States does not

say "you shall not establish a religion," but it says, "you shall not pass a law *respecting* the establishment of religion." This, then, is its first and great injunction: no union of Church and State; no union of Priest and State. The other clause of the Constitution of the United States is, "You shall pass no law restraining the freedom of worship." These provisions were not passed on the foundation of the Government, but as amendments after the States had all been considering and passing on these subjects, and some ten years after the Constitution was adopted, when the first amendments to it were adopted. They consisted of eight or ten provisions referring to personal liberty and personal security, and the first of them was this provision: "Congress shall make no law respecting the establishment of religion, or prohibiting the free exercise thereof." Here is the wisdom of the fathers. How admirable in its clearness, in its brevity, and in the vast ground it covers. Can you find in it a trace of anything that will sustain or justify this monstrous, this abominable, this great misnomer, this so-called "Freedom of Worship Bill," that has misled by its false title so many people. They wanted to be rid of state religions and of state legislation about religion. I will now call your attention to the Constitution of this State. The Constitution of New York of 1777 abrogated and repealed all statutes and acts of the colony which "might be construed to establish or maintain any particular denomination of christians or their ministers." I call your attention to a thing that has not been much considered, the form in which the provision of freedom of worship, the same as it exists now, was introduced into the Constitution of this State in 1777. It was introduced with a preamble showing what it meant, and against what it was directed, and against what kind of people. This is the preamble; it was omitted afterwards in subsequent revisions as unnecessary, but it was meant to explain the provision in its subsequent form in the Constitution. The preamble is this: "Whereas we are required

by the benevolent principles of rational liberty not only to expel civil tyranny, but also *to guard against that spirit of oppression and intolerance wherewith the bigotry and ambition of weak and wicked priests and princes have scourged mankind*, this convention," etc., and here follows the provisions as to freedom of worship in the same form as in the present Constitution. And this is what it meant. It was the State and the Priest that had been persecuting in America through all the anti-revolutionary times, and *it was against the weak and wicked priests and the weak and wicked princes* that the Constitutional provisions were directed, it was to put an end to their misdeeds. It was directed against the union of State and priests—the State and priests, an unholy alliance, a bad matrimony, producing miserable offspring, injurious to everyone concerned. And now, when the whole world is turning its face against such union, when the State and Church are disuniting and dissolving their ties on the other side of the water; when in the Roman Catholic country, Italy, the Church and State are severed and both free, when the Church has been disestablished in Ireland, when disestablishment is coming in Scotland, when it is coming in England, when it is the principle all over on the continent of Europe, you, to-day, in this Legislature of the State of New York, in this free country, you are returning to the dark ages and beginning again the union of Church and State and the enforcement of religion by legislative sanctions and penal inflictions which have been from time immemorial an accompaniment of all State religions. I say it is apparent from this preamble, from this clause, from the past history, that the meaning was that there should be no legislative interference with religion, that that was a thing to be left entirely free from legislative action. Freedom of worship meant freedom for the State, freedom for the priests, every man was to have his liberty of conscience, no cult was to be enforced, driven upon him by penal enactments of the State, and I say that you have no *right* and no

power to direct in any place within the State of New York that any religious ceremony should be performed. It is beyond your jurisdiction. The State recognizes a God; it recognizes no sects, it knows no sect, it has no right to meddle with any of them, and you have no right whatever to direct mass, to direct any ceremony, to direct any cult to be performed in any part of this State. Would anyone pretend for an instant that a law could be passed directing that mass should be celebrated, mass alone, in some particular place? That is what is wanted. Will anyone tell me that such a law could be passed, and that such law would be constitutional? Do you increase its constitutional value by saying that all other sects shall come and celebrate their rites, and that the heathen and the Chinese Joss worshipper shall come and perform their idolatrous worship? If you have no power to enforce one form, you have no power to enforce two, or ten; you have no power to enforce any, and when you attempt to do it, you do an unconstitutional thing.

Mr. Chairman, this is as much as I propose to say upon the general question of the constitutionality of this law as applicable to other institutions, but I have something to say as to the House of Refuge, the particular victim whose peaceable career is to be interrupted by this law, and against whom this law is particularly directed. The House of Refuge stands in this position: the city gave to the House of Refuge their land to use for the purpose for which it uses it. Now, as to the ownership of this property, the House of Refuge stands as a private individual towards the State, because benefaction from the State does not alter the right of property in the House of Refuge. The State has the right to withhold its grants. The property is ours still. The city gave it to us, and although the State has been a benefactor and is, and I hope will continue to be, still we are the private owner, and nothing is clearer (the whole object of this act is to have mass said in the House of

Refuge) than an attempt to do that, is a violation of private right, and is plainly unconstitutional, unless it be true that you have the power to say that in my house you will direct mass to be said on next Sunday or any Sunday, or whenever some member of St. Vincent de Paul's Society wants to come there. Does anyone say that my house is not free from legislative action in matters of religion, that I have not freedom of conscience there? Does anyone pretend to say that you can direct mass to be said there? And I say, that unless you can do it, you have no power whatever, but it is a most arrogant assumption of jurisdiction to say that you can do that in the House of Refuge.

I pass now to another objection to this bill, founded upon what I claim to be American principles and American doctrine. Whether or not found in written Constitution, they are universally recognized by Americans. These are the American principles.

That State money should not be given to any sectarian institution; and the converse, that institutions supported by the State must be non-sectarian—that money raised by tax from the citizens shall not be given in aid of any religious institution, or any institution in which religious rites and ceremonies are enforced by law. No form of belief or worship shall be set up, endowed, or patronized by the State; not only no one form, but no two nor ten forms—no form whatever. No man shall be taxed directly or indirectly or in any way compelled for the support of the religion of another. The entire separation of Church and State, of matters ecclesiastical and secular, of religion and politics. This is American doctrine, and the belief in it is so profound and general that it rises above all parties and will control them all; and woe to that man or that party who defies it! Whether this doctrine be written in constitutions or in statute-books, or is only an unwritten law, it holds, and will ever hold in absolute control, the American people, and the legislation that runs counter to it cannot prevail.

And whilst these principles may not be found in any written charter, I can tell you, Mr. Chairman, I hope that you will live long enough, and you will not have to live a great while before you will see them in the Constitution of the State of New York, and that will give the peace and the quiet and the repose that is desired by some. This contest is not going to be finished at this legislature; lay not that flattering unction to your soul! not now, unless it is finished by the defeat of this bill. I said this might be the end of a short contest, but that it might be the beginning of a long and great one, and I tell you, Mr. Chairman, that if this law is passed, it is not rest that will come, but it will be the beginning of the longest and the broadest and the most extended and the most painful and the most to be deprecated controversy—because religious controversies are always to be deprecated more than any other controversy that ever arose in any land.

Now, I will pass briefly, almost limiting myself to the bare statement of several objections to this bill, objections outside of the constitutional objection and outside of the objection that it is a violation of this American principle. It is an unnecessary bill. I do not know whether you are aware how many sects there are in this State, but I have got a list here of some thirty or forty of the Christian sects; and then there are our friends the Jews, and there are all kinds of Pagans. None of these have complained. The act was unnecessary. I defy all the people who are clamoring for this act to produce an instance of one child, of one parent, nay, I might say of one priest who has ever been ill treated there, who has ever asked for any thing that it has been refused, except the celebration of the Mass, and that has never been asked for by either child or parent. There never has been a complaint of any kind whatever as to our mode of dealing with these children on the religious question. It is unnecessary for me to repeat that they are of that tender age that they have not the knowledge to discern—I have not, old as I am, I have not intelligence enough to

understand the differences of all these creeds, nor you, either, Mr. Chairman—and, of course, these little children of thirteen years have not. They have never complained that they have not been taught the mysteries of religion, nor have their parents, and therefore I say that it is unnecessary, because the administration of the House of Refuge on this subject has met with a perfect unanimity of satisfaction, with the exception of the proponents of this bill. I say it is but a forerunner of greater and more important usurpations of power and changes in American institutions—it is a forerunner of an attack on the common schools. I have not time, now, to present the proofs I hold in my hands that such an attack is to come. If this effort succeeds, then the time will come to interfere with the common school system of this country. One prelate says you shall not raise money any longer, if he can have his way, for the common schools; and that basis of American society, that great duty of a State—education in the common school—without which universal suffrage, whether bestowed on the white or on the negro, is the greatest curse that ever scourged humanity is to be taken away. The education of the voter, the great duty of the State where universal suffrage prevails, is to be taken away if these people have their way; no taxes to be raised hereafter for this purpose, and each sect is to do what it pleases, but society is to be left unguarded and unprotected, and its great masses left uneducated. These are not idle notions. They may be, and they doubtless are, vain dreams on the part of those that entertain them, but they are projects entertained. Wild as they seem, there are wilder schemes still fomenting in the brains of priests that the time shall come when the Catholic religion shall be the established religion of America. They should be stopped on the threshold before greater injury is inflicted, greater dangers have been incurred. This law, *ex necessitate*, not from the wishes of the promoter, but to make the pill possible to be swallowed, as otherwise it would not go down, opens the door to all sects—not

to all Christian sects, but to all sects—the Buddhist, the Mahomedan, the Brahmin, the Parsee, the Chinese idolator—all of them can come there. Robert Ingersoll can come there, for he has his religion and his creed that Christianity is immoral. You cannot exclude him under this law, nay, you invite him. He is one of our to be protected visitors, and he is to come with all the others. Is that a law for the State of New York to pass?

Now, freedom of worship does not mean freedom of the priest alone, though many think it does; it means also the freedom of the worshipper. Who is the worshipper in this case? Freedom to the worshipper is freedom to the child, therefore, freedom is to be given by this law to the child in person, and then, what would be the result? A little child rises on Sunday morning and says, "I didn't like that man's religion last Sunday," and this act says he has the right to do that,—“and I will have another religion to-day ;” and each child, not knowing the difference of one creed from another, with us for about a year only, of an average age of about thirteen, is given by the great State of New York the privilege of choosing every Sunday in the year a different religion, and the right by law of insisting on the public performance of its rites and ceremonies! Is that a good law? Is that a good law to reform the child? Whenever did the strifes of religion better men, and is that the food you are going to bring up these children on? Again, this famous law of freedom to all the world does not provide for the Jew, it does not allow them to come on their Sabbath. It does not provide for the Jew, and he is a large and respectable element in our population; he is left out entirely. Why should not the Jew and Seventh-day Baptist have their Saturday. To these various Sunday celebrations that are to create pandemonium in the House of Refuge, the Jew cannot come and have his share. Why do you not let him have his Saturday?

I also say that this bill is a new and untried experiment. In this State it has never been tried. You will be told that it has

been tried in this State. It is not true. I do not say it irreverently or unkindly, but I mean to lay emphasis on the fact. It is *permitted* in the Western House of Refuge, *permitted*, remember, permitted in their discretion by the managers. This bill *enforces* it. There the priest is on his good behavior. It has been said by some one that religion is a bad master, but a good servant. I say you make the priest the master. In the Western House of Refuge he is the servant, he is there by permission, and if he creates discord or disturbs the discipline, they have the power to say "begone." Here he comes by the power of the State, a power transcending our own, imposing the duty on us, he is our master; that is the first great difference which makes me say it has never been tried. In the Western House of Refuge they have tried only two sects, the Roman Catholic and a Protestant, with a chaplain for each, here you propose to try all. This is another respect in which it has never been tried anywhere; the result of it would be the entire destruction of the discipline of the institution.

It is also impracticable from the duty that would be imposed upon the managers to ascertain what are the various religions, what are the various creeds of these children. I do not mean to dwell on that, but I am told that in one case in the fruitless effort to make the classification, that they arrived at a certain number of children, a very large number, of whom they could not ascertain where they were to be sent, to which chapel; so they numbered them all from one upwards, even numbers were distributed to the Catholic chapel and the odd number to the Protestant, and that is freedom of worship! And in another case they might have had to resort to Solomon's judgment, or to the woman that brought the child to Solomon, the case where the mother was a Catholic and the father was a Protestant, and the child did not know in what religion he was brought up in, and that poor little waif was left without any rule to apply to him. So it

is utterly impracticable to make any classification or to determine what should be done for all these varieties of children. It is objectionable because it erects in reformatory institutions a power higher than the officers. It establishes the Catholic religion and other religions in these reformatories, and the officers of the institutions are inferior to the priests who come armed with the power of the State, and in that respect it is injurious and destructive to the discipline. It is objectionable because it creates a new crime. I am told that as last amended, the word "not" has been inserted so that it reads that it shall not be a misdemeanor to disobey the law. I do not know whether this absurdity is true, but I cannot tell what change it will undergo before it gets through, and I do know that it has always had that invariable incident of an established and a State religion, a penal infliction. Wherever the State has established religion, always, in all times, in all countries, penal inflictions is the incident, and in this case, all the way through, this statute has been accompanied with the provision that we are to go to prison if we don't find out what it means and obey it, and I may, in passing, further object to the law that it is somewhat difficult to find out what it means, different parties claiming different meanings, and we may have to stay in prison sometime, and then not know. I further object to this law that it creates in this State a new ecclesiastical jurisdiction, a thing that has been unknown before. The courts of the State have never had anything to do with religion except as an incident to the rights of property. Now they are to determine the rights of priests and sects to enter reformatories and public institutions. They are to determine whether they are the representatives of any sect or rite, thus introduce what was unheard of in America before, a new ecclesiastical jurisdiction. Again, this law opens wide the door to every sect, to their rivalry, to their contests, to their heats, to their warmth, and to all that is painful in them. Why is it that the word "fire"

is always the favored metaphor whenever you talk of the religious contests of a people, that in all the illustrations of poets and prose writers about those contests, they talk of "fire and flames?" It is because they are wilder and more bitter and more unreasonable, more consuming than any other differences or dissensions among men, and that is that you are opening the door of this institution to. We object to it.

Now, I come to the great objection. We object to it because you consciously are passing a law which you must know the majority of the people of the State of New York are opposed to. You know that this law owes its support solely to one sect, a large sect, a sect for which I have the greatest respect, as I have for all men who labor in the cause of religion, but they are but one sect, and a very small portion of the inhabitants of the State, and when you pass a law for the benefit of one religious sect, I tell you, Mr. Chairman, you array against that legislation and against that law all the other sects of the State of New York. What is this one sect that to them should be given power and consideration above all the others? Is not the voice of all the others to be heard in this free country? Is the minority to rule, and is the majority to be trampled under foot? When you pass the law you do not represent the people, and you must know that. The people, if they were asked about it, would answer with a universal shout of condemnation against it and against you, if you passed such a law as this. Now, it has not been much thought of, but it is worth pondering over and reflecting upon, that the people are against it, and whilst they are patient, and whilst they do not open their eyes and ears quickly to coming evil, they are prompt to correct it if it has come; and I need only point to the Grey Nun's legislation of the year 1875, when the Legislature of the State of New York and the Governor of the State of New York gave control to that society of nuns—doubtless very estimable ladies—gave them a partial control over the common schools of the State of New

York, by directing that they might send out young women with diplomas granted by these Nuns, which they, on presenting to the Superintendent of the Public Schools of the State of New York these diplomas, those young women should receive a certificate that they were competent teachers in the public schools ; that is, introducing one sect as teachers in the public schools. What did the people do? They paid no heed when the law was being passed, but they paid heed the moment it was passed, and their sentiment was universal and controlling, so that at the opening of the next Legislature this act was repealed, among the earliest acts of that Legislature. And that is what you are going through here if you pass the law. It will never stand. The people will have their way, you may defy them as you will. •

There is a temptation—I do not call it a temptation—there is a suggestion which comes to the mind of anyone speaking on this subject, to say something of its political aspect. I do not want to say much about that, and yet I have been asked to. It has its political aspect, and for that matter it is its principal aspect. It is not the poor children that are much thought of, it is not the church that is much thought of, it is the votes! I am a Democrat, but I am not a very active one, but a very earnest and ardent one. I was born one. I was nourished and brought up in the principles of the Democratic party. I am with it to-day, and I shall die in it. I believe its principles are those that are best adapted to the welfare of this country. I was going to ask the Republican party what they expected to get by this law. Do they know the universal condemnation that the majority of the people of this State will pronounce upon them if they allow this bill to pass? Do they know if this bill passes there is no escaping the responsibility that rests upon them because they are the majority? Without the consent of the Republican party in the Legislature this bill cannot pass. My friends of the Democratic party, I am sorry to say, with some

few exceptions, are afraid to oppose this bill. Their measure of condemnation or approval is settled, whatever it may be, and whatever may be the fate of this bill, and that you cannot destroy, it stands and cannot be cancelled. They have had this sect for an ally and they have found it an expensive luxury. It costs them in the city of New York over nine hundred thousand dollars a year. They stand by their ally, and they are judged, and will be judged, whether you pass this bill or not; they will not lose, but the Republican party are in the majority now in this Legislature and they must answer. I do not like to speak irreverently of politicians, I do not esteem them much, some say that they are very necessary. Parties are necessary. But the responsibility has got to be met not only by the Republican party, but by its politicians, and upon them will rest the responsibility of passing a law in defiance of the will of a majority of the people of this State, for without them this law cannot pass. I said that to my party, the Democratic party, the affiliation of a religious sect had been expensive, that it is very dear, and it costs more and more every year. I will prove it by reading some statistics. In the year that has just passed, the sum of one million six hundred and five thousand dollars was paid to charities in the city of New York. Of that sum \$933,000 was paid to Roman Catholic charities, \$355,000 to Protestant charities, to Hebrew, \$92,000, and to non-sectarian, \$223,000 (I do not give the odd dollars)—is this a fair distribution, considering the relative numbers of these sects and the relative amounts that are paid into the tax office by their respective members? Hardly fair. Certainly, no one would say it is fair. It may have its merits and it may have been paid for, but hardly fair. That is what I meant when I said the alliance, the unholy alliance of religion and party has been a very expensive item to my party, a very expensive luxury, and perhaps as an economically administered party, if they weighed the matter, my party

might say to the Republican party, "We will make you a present of them, and you can pay hereafter." But I would like to say to the Republican party, that if you are making any calculations about the vote in New York city that in New York city you would have to give more than \$933,000 to get it, and you have not got a cent there, and probably, you never will have, so you had better dismiss all illusions and give it up, and obey the people, and not obey a sect.

I have nearly finished. My friend who thought I was going to weary him, I am glad to see, is not here. So I have but two quotations to present and then I will stop; and as they are not my own language, I hope they may be listened to with patience. One is from that silent man who has just been wrestling with disease and death, and seems to have gained a victory as wonderful as all he gained before, General Grant, and this was what he said. It was a warning; it is an historical warning. Addressing the Army of the Tennessee in Iowa in 1876—and any man who lived and thought and listened in those days cannot forget the impression that those words made on the country, every man that heard them, whether he approved or disapproved, thought that they were words of great moment and of great weight. It was a prophetic warning:

"If we are to have another contest in the near future of our national existence, I predict that the dividing line will not be Mason and Dixon's, but it will be between patriotism and intelligence on one side, and superstition, ambition and ignorance on the other. In this centennial year the work of strengthening the structure laid by our forefathers one hundred years ago at Lexington should be begun. Let us all labor for the security of free thought, free speech, free press and pure morals, unfettered religious sentiment and equal rights and privileges for all men, irrespective of nationality, color or religion. Encourage free schools, and resolve that not one dollar appropriated to them shall be applied to the

support of sectarian schools. Resolve that every child in the land may get a common school education, unmixed with atheistic, pagan or sectarian teachings. *Keep the Church and the State forever separate.* With these safeguards I believe the battles which created the Army of the Tennessee will not have been fought in vain."

Lord Bacon, one of the wisest men that has lived in modern times, said this: "If there be fuel prepared, it is hard to tell whence the spark shall come that shall set it on fire." And then speaking of the sparks that may come, and of the causes and motives of such fire when kindled, he says: "*They are innovations in religion, taxes, alteration of laws and customs, and oppressions, * * * and whatsoever in offending people joineth and knitteth them in a common cause.*" I do not know how you could better describe all the elements that are involved in this discussion. You have in this law, in Bacon's language, "the innovation in religion, the alteration in laws and customs, the oppressions, the common cause," and you are thus preparing—have prepared—the fuel. Pass this law, and you will kindle the flame that shall traverse this State from border to border, and shall sweep before it with its devouring fire foreign priestcraft, Jesuit and politician, and everything that stands in the way of the will of the people, and of real freedom of worship, and that flame shall purify and clear the atmosphere, and leave, when it has passed away, all the principles that I have contended for and presented: liberty and freedom, true freedom of worship, freer, stronger and more valid and better sustained than ever.