

Property and Power: Women Religious Defend Their Rights in Nineteenth-Century Cleveland

BY LESLIE LIEDEL

During the first half of the nineteenth century, Catholics fought over concerns of power and authority in the local church that often appeared in debates addressing the ownership of church property. In the early history of American Catholicism, church building depended more on lay leaders than missionary priests. Activists incorporated, purchased land and materials, and requested that bishops assign a priest to fulfill their spiritual needs. Parishioners involved themselves in every aspect of the construction process, ranging from public votes taken on how much to pay for bricks to how thick a building's walls should be.¹

Although laymen often considered themselves better suited than their clergymen to administer the temporal goods of their churches, as Catholicism in the United States grew and the availability of clergy increased, the need for such initiative on behalf of local Catholic populations declined. Priests and bishops revealed their desire to increase

hierarchical control over the laity by assuming more responsibility over temporal affairs. In 1829, following the establishment of national church councils, church leaders began legislating against the holding of church property by lay trustees while favoring a system under which all diocesan property would be under the direct control of local bishops. Still, because they enjoyed such privileges as holding title to church property and being involved in church government, laymen often refused willingly to surrender their responsibilities as trustees.²

Although their position failed to gain the overwhelming support of the laity, most American bishops shared the opinion that the diocese should hold parish property as opposed to the parish or a church council and endorsed such a policy for several reasons. And they worked to establish a degree of uniformity in their dioceses, fearing that ownership of church property by lay trustees worked against this

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1. Jay Dolan, *The American Catholic Experience: A History from Colonial Times to the Present* (Garden City, N.J., 1985), 163, 167.

2. Dolan, *The American Catholic Experience*, 171–72; Jay Dolan, *The Immigrant Church: New York's Irish and German Catholics, 1815–1865* (Baltimore, 1975), 49; David Gerber, "Modernity in the Service of Tradition: Catholic Lay Trustees at Buffalo's St. Louis Church and the Transformation of European Communal Traditions, 1829–1855," *Journal of Social History*, 15 (Summer, 1982), 655; Patrick W. Carey, "Republicanism Within American Catholicism, 1785–1869," *Journal of the Early Republic* 3 (Winter, 1983), 136.

goal. Upon the death, departure, or resignation of a bishop, property could be easily transferred to a successor, eliminating unforeseen disputes that often occurred when trustees held property. Historian Patrick W. Carey has argued that lay trustees favored creating an American Catholic Church that adapted to republican ideals. In turn, they argued that the separation of church and state, which they saw as rooted in American political and social ideology, protected their right to oversee the temporal goods of the church. Moreover, in defending their faith in an anti-Catholic environment, trustees insisted upon playing an active role in the administration of their parishes in an attempt to rebut those who accused them of submission to a foreign church. In part, rather than resulting in a clean break, this loyalty to American ideals encouraged trustees to force the hierarchy to cater to the unique needs of the American church.³

Another view has it that trustees were less affected by the abstract political ideology of republicanism than with tradition and protecting their ethnic dominance of individual parishes. In his assessment of the St. Louis parish in Buffalo, New York, historian Andrew P. Yox has noted that the Alsatian trustees resented Bishop John Timon's request to translate their parish records from German to English. Yox has characterized such control by one element of the parish as an episode in ethnic rivalry and nationalism, whereby the

Alsations were determined to maintain their control over a local church that was becoming more ethnically diverse. Moreover, trusteeism was far from democratic and bore little resemblance to the United States' system of government. "As an instrument of the majority" trustees failed to subscribe to an intricate system of checks and balances. When church council vacancies occurred, trustees carefully chose successors from a select group of sympathetic parishioners.⁴ Lay trustees overwhelmingly believed that the clergy's responsibilities were limited to spiritual issues, such as administering the sacraments and preaching the gospel.

As bishops became increasingly powerful during the nineteenth century, they attempted to assert their authority by bringing property under their personal control. And while they were often able to resolve property disputes between dioceses and the laity, they found situations involving dioceses and religious orders to be far more complicated. Quite simply, most American bishops argued that property supported by the faithful belonged to the diocese, and that they should hold the title in the name of local Catholics. But hospitals and orphanages, almost always serviced by religious orders, were only partially dependent on the financial contributions of local Catholics. Moreover, several orders of women religious had incorporated, and individual states recognized these corporations as the legal owners.⁵

3. Carey, "Republicanism Within Catholicism," 124–25.

4. Andrew P. Yox, "The Parochial Context of Trusteeism: Buffalo's St. Louis Church, 1828–1855," *Catholic Historical Review*, 76 (October, 1990), 727, 730.

5. By the Third Plenary Council held in Baltimore in 1884 most American bishops argued against religious orders owning property supported by the diocese. See the following: Gerald Fogarty, "Bishops *versus* Religious Orders: The Suppressed Decrees of the Third Plenary Council of Baltimore," in *The American Catholic Religious Life*, ed. Joseph M. White (New York, 1988), 151, 153–55, first published in *The Jurist*, 33 (1973), 384–98; Fogarty, *The Vatican and the Americanist Crisis: Denis J. O'Connell, American Agent in Rome, 1885–1903* (Rome, 1974), 36, 47; George F. Houck, *A History of Catholicity in Northern Ohio and the Diocese of Cleveland*, vol. 1 (Cleveland, 1903), 130; Peter Guilday, *History of the Councils of Baltimore (1791–1884)* (New York, 1932), 160. The Roman Catholic Church uses the term "woman religious" to identify a female member of a religious order.

In the Cleveland diocese the property disputes involving the Sisters of Charity of St. Augustine, the Sisters of Charity of Montreal (familiarily known as the Grey Nuns⁶), and Bishop Richard Gilmour demonstrate how women religious attempted to protect their interests against such action and illustrate how nineteenth-century nuns and bishops exercised power within the context of a simultaneously diverse and increasingly centralized church structure. Moreover, these cases demonstrate how the Roman Catholic Church rectified this power imbalance by addressing the needs of religious orders and preserving peace and balance between the diocese and the sisters in an effort to protect the American Catholic Church.

At a time of substantial growth of the church, bishops were in need of women religious to establish missions, provide services, and aid in the development and expansion of the church. To achieve their objectives, foreign-born American bishops often requested the services of European apostolic orders of women religious of which they were familiar. This practice was beneficial for local Catholic populations in the United States. Not only did these women provide much needed services, they also often spoke the native languages of immigrant Catholics

and shared a similar culture and traditions.

The first bishop of Cleveland, French-born Amadeus Rappe, returned to his native land to recruit nuns willing to work in his diocese.⁷ He convinced Mother Bernadine Cabaret, the Augustinian mother superior of St. Louis Hospital in Boulogne-sur-Mer, France, to join him in his newly established diocese. Resigning her office she, another professed sister, and two postulants left France to establish a hospital in Cleveland in October 1851. The following spring, the small contingent relocated to a two-story frame house on Monroe Street in the Ohio City neighborhood and opened St. Joseph's Hospital, which became the first public hospital in Cleveland. Initially, the hospital served the needs of disadvantaged Clevelanders and orphans. In 1856 it closed and the sisters used the building exclusively to provide services for orphans until the completion of a new St. Vincent Orphanage in 1859.⁸

Soon after the opening of the original hospital, citing language barriers and poor health, the two professed sisters returned to France and the two younger sisters, who by this time had taken the religious names Sister Joseph and Sister Augustine, were left to maintain the recently established mission. Therefore, Bishop Rappe was left with two

6. This Canadian religious order was founded in 1745 by Madame d' Youville. The sisters have always been referred to as the Grey Sisters or Grey Nuns because of the color of the order's habit.

7. Mary Oates has suggested that after 1840 the increase in the Catholic population in the United States influenced American bishops to recruit actively European women religious. Bishop Michael O'Connor of Pittsburgh requested the assistance of the Irish Sisters of Mercy, while Bishop John Purcell of Cincinnati made several trips to Europe. Mary Oates, *The Catholic Philanthropic Tradition in America* (Bloomington, Ind., 1995), 14. Rappe also recruited Ursuline sisters from France. Leila Mahoney, *A Tree in the Valley: The Highlights of the Ursuline Convent of the Sacred Heart, Toledo, Ohio, 1854-1979* (Toledo, 1979), 1-3.

8. The sisters who traveled to Cleveland were part of an independent religious community at Boulogne-sur-Mer, France, that followed the Rule of St. Augustine. During their first years in the Cleveland diocese, they were simply known as the "Sisters of Charity" or the "Hospital Sisters." With the promulgation of the doctrine of the Immaculate Conception in 1854, they became known as the "Sisters of Charity of the Immaculate Conception" before later adopting the name the "Sisters of Charity of St. Augustine." Mary Denis Maher, *In All Things Charity, Sisters of Charity of St. Augustine: A Brief History* (Cleveland, 1992), 1-4; Donald P. Gavin, *In All Things Charity: History of the Sisters of Charity of St. Augustine, Cleveland, Ohio: 1851-1954* (Milwaukee, 1954), 4-5.

young nuns dedicated to the work of caring for the sick and orphaned, but lacking in experience. Although Rappe intended to expand the presence of an established European order, he had little choice but to create a diocesan community. To fill the vacuum created by the departure of the more mature sisters, Rappe called on Sister Ursula Bissonette, an Ursuline novice, to serve as the congregation's first mother superior. In 1854, under Mother Ursula's leadership, Bishop Rappe transferred the eight acres of Monroe Street property to seven members of the community who incorporated as the St. Joseph Hospital Society.⁹

Three years later the Grey Nuns traveled from Montreal to Toledo to "provide care for the ill, the aged, and orphans."¹⁰ In 1857, following Rappe's policy that permitted the holding of property by religious orders, the sisters purchased two acres at a cost of \$2000 for the construction of an asylum which, after the building of a separate hospital in 1875, exclusively served orphans. Noting the source of the funds used to purchase the property is essential because when the dispute between the Grey Nuns and Rappe's successor, Bishop Richard Gilmour, occurred nearly thirty years later, Gilmour maintained that the purchase of the property was wholly dependent on diocesan contributions. The contract, signed between Father Charles Evrard, procurator for the

sisters, and Mr. D. B. Scott, stipulated an initial one-third down payment, followed by two additional payments over the next two years at an interest rate of 7 percent. The sisters acquired enough money for the down payment from an orphan fair they hosted in November 1856, which raised more than \$1200 from both Catholics and Protestants who "contributed liberally." Bishop Rappe referred to the money earned at orphan fairs as belonging to the sisters, as opposed to the orphans or the diocese, and he encouraged the nuns to use these resources in order to purchase land. This action suggests that Rappe considered it perfectly acceptable for women religious operating in his diocese to hold title to property.¹¹

Bishop Gilmour's first Lenten pastoral, issued just weeks after his 1872 appointment, all but confirmed his position on the tenure of church property. He stated: "Titles to church property, whether in the form of deeds or land contracts, shall be made directly to the bishop."¹² Soon after the release of the pastoral, he further clarified his position when he visited the Sisters of Charity of St. Augustine's orphanage for the first time and commented that it was situated on a beautiful parcel of land that would be an ideal location for the seminary he was planning to build. Months later he ordered the superior to remove the two hundred orphans so that the building

9. Gavin, *In All Things Charity*, 23–24.

10. "Sketch of the St. Vincent's Orphan Asylum and Hospital," Estelle Mitchell and Mary John, eds., "The Grey Nuns in Toledo," 12, *St Vincent Hospital and Medical Center Historical Sketches*, St. Vincent Hospital and Medical Center Historical Data Box I, 1855–1893, St. Vincent Hospital and Medical Center Archives, hereafter cited AVH (in accordance with archival regulations). Most of the documents and correspondence originating in AVH are arranged in the following manner: Historical Data, 1855–1893, Boxes I, II, and III, hereafter cited as Historical Data Box I, Historical Data Box II, and Historical Data Box III, respectively. There exist two additional boxes titled Historical Data, Cleveland, 1855–1909 and Historical Data, Cleveland, 1880–1899 and will be cited as such.

11. Rappe to Deschamps, 29 November 1856, "Sketch of the St. Vincent's," "Notes for Chronicles of the Mission," St. Vincent Hospital and Medical Center Historical Sketches, property deed, recorded 30 March 1857, photocopy, Historical Data Box I, AVH.

12. Quoted in Paul Hallinan, "Richard Gilmour, Second Bishop of Cleveland, 1872–1892" (Ph.D. diss., Western Reserve University, 1963), 106.

could be used for a summer retreat for the diocesan clergy. Mother Joseph pleaded that moving the orphans and preparing the building for a retreat were impractical. Gilmour eventually yielded to her pleas and held the exercises elsewhere. Yet this failed to prevent him from requesting to “examine” the property deed that he then held for several months. In a similar vein, following the completion of the Grey Nuns’ hospital, the nuns combined the laundry and kitchen facilities of the two institutions. Gilmour opposed such action and insisted that the sisters separate the financial records. This division of accounts would assist Gilmour in his ultimate goal of acquiring the property title to the orphanage.¹³

Meanwhile, the St. Joseph Hospital Society was the first to encounter Gilmour’s policy on the tenure of church property but failed to comply with his demand to transfer the deed. Instead, in the spring of 1882, the St. Joseph Hospital Society incorporated under the new title, the St. Joseph Hospital Association, “to better serve the purposes of this corporation and in a safer manner and to the greater interest

and benefit of the same.”¹⁴ The sisters involved in creating the new corporation did so out of fear that the next community election might produce leaders who were not members of the corporation and thus might be bullied into transferring the disputed property to Gilmour.¹⁵

The old corporation transferred all currently held property titles, most significantly the title to the orphanage property, to the new corporation. Their action angered Gilmour because this distinct group within the community maintained the right to the property title in the first place, and the women audaciously exercised their authority by transferring the title to a new corporation. Furthermore, he chastised the sisters for including at least one Protestant and an excommunicated Catholic in the membership of the new corporation. Finally, Gilmour found difficulty in accepting the fact that Mother James, whom he removed from office seven years earlier, was part of what he considered a blatant conspiracy.¹⁶

Gilmour insisted that the corporation

13. Sister Stanislaus, “History of the Sisters of Charity of St. Augustine,” 66–67, Archives of the Sisters of Charity of St. Augustine, hereafter cited ACSA (in accordance with archival regulations). Much of the correspondence pertaining to the Grey Nuns was organized while the dispute was taking place. In 1885 the mother house produced a typescript titled “Mémoire Sur Les Difficultés Existantes Entre Mgr Gilmour, Évêque de Cleveland (E.-U.) Et Les Sœurs de la Charité, (Sœurs-Grises) de Montreal.” The sisters published this booklet for Roman authorities when the sisters appealed for intervention in the spring of 1885. In 1888, a more extensive printed memoir titled “Copie De La Correspondence Officielle Dans La Cause Des Sœurs-Grises De Toledo, Ohio” was produced. Correspondence originating in Montreal is usually in French, while correspondence from Toledo and Cleveland is in English. At times an English translation appears next to the French in the actual printed memoir. Some of the correspondence not translated in 1888 was translated at an unknown later date, and is contained in “Copy of the Official Correspondence in the Cause of the Gray [*sic*] Nuns of Toledo, Ohio (translated from the French).” All three documents are located in Historical Data Box III, AVH. Hereafter they will be cited as “Memoir of the Difficulties,” “Copy of the Official Correspondence,” and “Copy of the Official Correspondence (translation)” respectively. Gilmour to Deschamps, 9 December 1879, “Copy of the Official Correspondence,” Deschamps to Gilmour, 28 February 1884, Historical Data Box I.

14. Quoted in Gavin, *In All Things Charity*, 58.

15. Father Charles Evrard, “Argument Before the Most Reverend W. H. Elder, Archbishop of Cincinnati for the Sisters of Charity of Cleveland,” 11 August 1884, typed transcript, ACSA; Mother Joseph to Elder, 29 November 1883, AVH. Although this piece of evidence actually concerns the dispute between the Sisters of Charity of St. Augustine and Bishop Gilmour, the author located it in the archives associated with the Sisters of Charity of Montreal.

16. Gilmour to Father Francis, 19 August 1883, ACSA. During the winter of 1878, a prominent Cleveland physician, Dr. Gustav Weber, accused Mother James (who as then serving as mother superior of the Sisters of Charity of St. Augustine and also as chief administrator of the hospital) of alcoholism and suggested that she spent too much

members had illegally transferred the property titles to the new corporation because their agreement with Bishop Rappe stipulated that they could not sell or otherwise alienate the property without the permission of the Bishop of Cleveland. Father Charles Evrard, who often served as the procurator for Cleveland nuns, assisted the Sisters of Charity of St. Augustine in preparing their defense and creating the new corporation. He argued that it consisted of the same membership as the former society, and in reality the women had not sold the property to a third party.¹⁷ Bishop Gilmour further responded to the new corporation's refusal to transfer the deed by introducing a series of punishments, the most damaging of which was administered on 15 August 1883 when he sent a message carried by the nuns' newly appointed confessor, Father Francis Manning, informing the sisters that the defiant corporation members were excommunicated until they agreed to dissolve the corporation and transfer the property to the community, an action which he believed would deed the property to him.¹⁸

By the fall of 1883, because neither side was willing to surrender, the Vatican advised Archbishop William Henry Elder of Cincinnati to investigate the case. In response, the corporation appointed Father Evrard as the sisters' advocate, and he prepared an appeal to Rome. Meanwhile several of the nuns, succumbing to the pressure rather than continue their fight with the bishop, withdrew

from the corporation. Soon after it appeared that the corporation, as requested by the bishop, had transferred the property back to the original St. Joseph Hospital Society. Conversely, with the assistance of Evrard, the group incorporated as the St. Joseph Hospital, which on the surface appeared to be the same society established in 1854. Gilmour, incensed that the sisters sent the necessary documentation to Columbus (rather than file the paper work in Cuyahoga County), charged that they attempted to deceive him into thinking they had transferred the property back to the original society. In the aftermath of the fiasco, the bishop forbade the sisters to meet with Evrard without his permission. Although the nuns protested Gilmour's restriction, he believed that any meeting they arranged with Evrard would result in further dishonest activity; until the property was transferred back to the 1854 corporation, he refused to discuss the issue.¹⁹

The corporation, however, was not alone in believing that Gilmour had abused his position. When Cardinal Simeoni, Prefect of the Propaganda,²⁰ received notice of Gilmour's action, he suggested to Archbishop Elder that while the case was under investigation by the Holy See, Gilmour should allow the sisters to receive the sacraments to "remove all appearance of severity on the part of the Bishop for them to complain of." Elder, in turn, believed that if Gilmour removed his restriction, much of the tension surrounding the

time in the room of an unnamed priest. Mother James, however, was more troubled by the fact that Weber had requested that the sisters accompany his female patients to the operating amphitheater, so that medical students could observe techniques and that he permitted medical students to attend to maternity cases. The mother superior denied both requests and in her view this noncompliance resulted in the doctor's demand for her removal.

17. Evrard to Elder, 4 December 1883, Evrard, "Argument Before the Most Reverend W. H. Elder," ACSA.

18. Sister Stanislaus, "History of the Sisters of Charity of St. Augustine," 83, Gilmour to Mother Alexis, 6 June 1884, ACSA.

19. Gilmour to Evrard, 14 March 1884, Gilmour to Evrard, 1 February 1884, Gilmour to Elder, 12 April 1884, ACSA.

20. As the Pope's representative the Prefect of the Sacred Congregation for the Propagation of the Faith was responsible for the organization and administration of the Roman Catholic Church in all states and territories that were not governed by Catholic rulers.

case would disappear and the parties would be more amenable to an agreement. To protect Gilmour, Elder informed him that he would not tell the sisters that the directive originated in Rome, so that they would consider it “a spontaneous act of good will on your part.”²¹

Gilmour refused to follow Elder’s advice, arguing that to allow the sisters to receive the sacraments would be to admit that he had erred and that they were thus justified in their noncompliance. To prove just how defiant the corporation members were, he briefed Elder on a particular sister who, in the presence of the whole community, informed Gilmour that her behavior was justified and that she would rather die lacking the sacraments than acquiesce. After suggesting that these sisters were merely seeking attention, he discouraged Elder from requesting assistance from other members of the American hierarchy, cautioning him that to involve anyone else in the controversy would only exaggerate the significance of the case.²²

Finally, on 10 August 1884, Archbishop Elder arrived in Cleveland to investigate the case personally. Proceedings in the form of an ecclesiastical hearing began on 11 August and continued for two days. Father Evrard presented the position of the corporation members, while Bishop Gilmour defended his cause, after which he assured those present that whatever the outcome of the meeting, he would take the case to Rome even though the sisters had already filed their own appeal.²³

Following their presentation, the sisters consulted but could not agree on their next course of action. After meeting privately with Elder, Evrard informed the sisters that the archbishop recognized their legal status as a

corporation and did not share Gilmour’s opinion that the sisters had attempted to deceive him, but did believe, however, that their status as a religious community was abnormal. In any case, Elder refused to hand down a decision, instead preferring to refer the matter to Rome for a final decision. Although Evrard had fervently fought for the nuns by arguing that they had every right to the property in question, he suggested that they “give another proof of [their] religious spirit” and surrender their claim. This seems to be precisely what the defiant sisters hoped to hear and they unanimously voted to follow the advice of their advocate and the property was transferred to the bishop.²⁴ Although the sisters’ change of heart united a divided community, they relinquished their right to the disputed property.

Success in the Sisters of Charity of St. Augustine case encouraged Gilmour to expand his efforts to bring all property under diocesan control. Responding to his October 1884 demand for the Toledo orphanage property that belonged to the Grey Nuns, the mother superior, Julie Deschamps, not only refused but instead submitted an appeal to Rome. Gilmour reacted by imposing similar restrictions to those utilized against the Sisters of Charity of St. Augustine. In fact, he grew so angry at the sisters’ refusal to honor his demand that he withdrew their ability to take collections for the benefit of the orphans and forbade anyone living in the diocese to contribute to the orphanage. To their horror, Gilmour also prohibited them from taking Communion in their own chapel. Once again, in the spring of 1886, Cardinal Simeoni

21. Quoted in Elder to Gilmour, 24 October 1883, Gilmour Collection III, Archives of the Diocese of Cleveland, hereafter cited ADC. The Cleveland Diocesan Archives permits citations to collection name only.

22. Gilmour to Elder, 27 October 1883, ACSA.

23. Sister Stanislaus, “History of the Sisters of Charity of St. Augustine,” 85.

24. Sister Stanislaus, “History of the Sisters of Charity of St. Augustine,” 85.

authorized Elder to investigate the case and recommend a solution.²⁵

The following year, Elder concluded that he was unable to close the case because Gilmour declined to respond to the charges brought by the nuns or to defend his position. Elder's failure indicated to Simeoni that Gilmour refused to acknowledge the proper protocol of submitting to a higher authority and to recognize the rights of women religious. Rome denounced the bishop's removal of the Eucharist from the Grey Nuns' chapel, and Elder characterized his action as an unfair "act of hostility" possibly designed to force a formal ecclesiastical hearing, resulting in a decision that would protect American bishops' control over church property. In the midst of a growing number of appeals on behalf of religious orders as well as individuals, levied against several authoritative bishops, Roman authorities concluded that the American Church required increased attention.²⁶

In the summer of 1888, Roman authorities determined that these debates over the tenure of church property necessitated greater involvement on behalf of the Holy See. To these ends, the Vatican appointed Cardinal James Gibbons, Archbishop of Baltimore, as apostolic delegate,

directing him to base his decision regarding the ownership of church property on *Romanos Pontifices*, an apostolic constitution put into effect in the United States in 1885 that addressed the relationship between bishops and the clergy. In addition to forbidding orders from establishing new missions or erecting schools without the consent of the local bishop, *Romanos Pontifices* required them to render an account of the goods and money given to missions for their maintenance.²⁷ Gibbons's decision protected the rights of the Grey Nuns by allowing the order to retain ownership of their institution and to resume diocesan collections. In exchange, the resolution required the sisters to provide the bishop with yearly reports of receipts and expenditures associated with the maintenance of the mission and to drop any pecuniary claims made against the bishop. Improvements made upon the property, or attempts to sell, mortgage, or "otherwise encumber the property in question," required the written consent of the bishop.²⁸

Because these cases occurred within a few years of one another, the opposing outcomes compel us to consider what factors may have influenced the decisions. On the surface, the basic facts associated with both cases seem

25. Bishop Gilmour to Local Superior Fernand, 15 October 1884, Gilmour to Father Sigg, 5 February 1888, Elder to Gilmour, June 1886, Elder to Gilmour, 1 October 1887, Gilmour Collection III; Gilmour to Deschamps, 28 October 1884, Gilmour Letter Books, ADC; 85-O-4, Gilmour to Gibbons, 11 January 1889, Archives of the Archdiocese of Baltimore, hereafter cited as AAB. The Archives of the Archdiocese of Baltimore employs a coding system to access documents. No references to folders or boxes are encouraged. Correspondence from the archives of the Archdiocese of Baltimore will be cited hereafter by the index number only.

26. Elder to Gilmour, 20 September 1887, Elder to Gilmour, 1 October 1887, Gilmour Collection III.

27. Fogarty, "The Bishops *versus* Religious Orders," 150; Frederick J. Zwierlein, *The Life and Letters of Bishop McQuaid*, vol. 2 (Rochester, N.Y., 1926), 306–08; John Tracy Ellis, *The Life of James Cardinal Gibbons: Archbishop of Baltimore, 1834–1921*, vol. 2 (1952; reprint, Westminster, Md., 1987), 328; Leslie L. Liedel, "Indomitable Nuns and an Unruly Bishop: Property Rights and the Grey Nuns' Defense against the Arbitrary Use of Diocesan Power in Nineteenth-Century Cleveland," *The Catholic Historical Review*, 86 (2000), 476.

28. "Decision of James Cardinal Gibbons, Archbishop of Baltimore, Delegate of the Sacred Congregation de Propaganda Fide, to hear and determine the cause of *The Diocese of Cleveland per Rt. Rev. R Gilmour D D versus The Sisters of Charity of Toledo, commonly known as the Grey Nuns*, involving the right of ownership in two acres of land in the city of Toledo, Ohio, purchased by the said sisters of Charity in A.D. 1857, and the buildings subsequently erected by said sisters thereon, and commonly known as 'St. Vincents' Orphan Asylum,'" Gilmour Collection III.

nearly identical. (The orphanages even shared the same name.) Yet there exist several differences that influenced how the American hierarchy and Roman authority responded to the disputes, and therefore why one religious order was able to maintain its right to own property while another was not.

The most apparent contrast is the question of who actually held title to the properties in question. The Sisters of Charity of St. Augustine and the Grey Nuns incorporated to serve the needs of their missions and to hold legal title to property. The word *corpus* refers to a body “sharing a common purpose in a common name,” and traditionally corporations had been communal or religious in nature, such as monasteries, bishoprics, and guilds. Historically, incorporation was customary among religious orders and permitted them to hold property and legally place it in the hands of a particular community. In the United States, prior to the Civil War, individual states primarily granted corporate charters to organizations whose sole purpose was in the interest of public service.²⁹

Acts of incorporation not only insured consistency but prevented misunderstandings that resulted in several parties holding property and securing loans. Hence, women religious employed secular law to protect themselves against the actions of priests and bishops who attempted to control their temporal affairs. Articles of incorporation, for example, often stipulated that a certain number of sisters must

serve on boards of directors, and that the president of the board must be a member of the religious order charged with administering the mission. Even so, this did not prevent bishops from attempting to gain seats on such boards. Although incorporation provided religious orders with more control over their benevolent institutions, the practice also affected bishops’ attitudes toward particular institutions. Because incorporation awarded nuns with a level of control, prelates often provided only conditional support because they enjoyed limited influence.³⁰

Although incorporation was customary, the St. Joseph Hospital Society, unlike the Grey Nuns, was a closed corporation, distinct from the Sisters of Charity of St. Augustine as a whole.³¹ The membership in the corporation that held title to the Monroe Street property was limited to a select number of sisters, much like the trustee organizations that controlled parish property. This uncommon practice not only served as a catalyst for future problems, but in the end influenced the atypical corporation to oblige Gilmour’s demand. Despite his inconsistencies, Gilmour insisted that all property dependent on the diocese should be in the bishop’s name and noted that the Cleveland sisters had paid only a token \$5.00 at the time of transfer from Rappe.³²

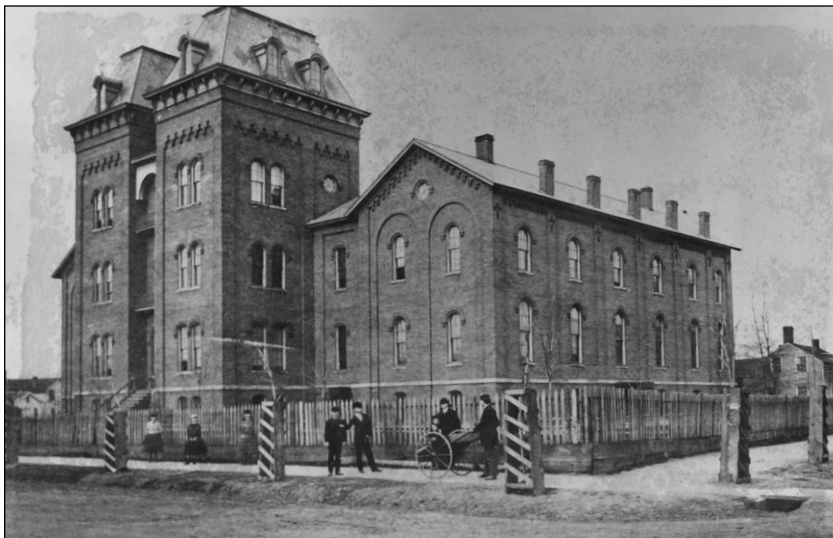
This piece of evidence has encouraged historian Lawrence Cahill to conclude that Rappe’s permission allowing sisterhoods to hold title to property was a formality used to

29. Alan Trachtenberg, *The Incorporation of America: Culture and Society in the Gilded Age* (New York, 1982), 5.

30. Oates, *The Catholic Philanthropic Tradition*, 24; James O’Toole, *Militant and Triumphant: William Henry O’Connell and the Catholic Church in Boston, 1859–1944* (Notre Dame, Ind., 1992), 24; Florence Deacon, “Handmaids or Autonomous Women: The Charitable Activities, Institutional Build and Communal Relationships in Nineteenth-Century Wisconsin” (Ph.D. diss., University of Wisconsin, Madison, 1989), 219.

31. The Grey Nuns had incorporated as the Sisters of Charity of St. Vincent’s Hospital and granted membership privileges to the entire Toledo congregation. Evrard, “Argument Before the Most Reverend W. H. Elder”; Constitution of St. Vincent’s Hospital of Lucas-County, AVH.

32. Lawrence Cahill, “Bishop Gilmour and the Tenure of Church Property” (Master’s thesis, John Carroll University, 1956), 53; Hallinan, “Richard Gilmour,” 166.



St. Vincent's Hospital in 1867. (p223, LOUIS BAUS PHOTOGRAPH COLLECTION, OHIO HISTORICAL SOCIETY.)

avoid his paying taxes on it, and that the bishop never actually considered that the property belonged to the congregation, much less this distinct group affiliated with the Sisters of Charity of St. Augustine.³³ Yet Rappe's behavior, at least in the case of the Grey Nuns, contradicts Cahill's assertion. Father Robert Sidley, who was serving as the pastor of St. Francis de Sales in Toledo when the Grey Nuns arrived, witnessed the nuns taking up collections in their own name for the purpose of purchasing property. In a sworn affidavit Sidley stated that he was aware of and personally opposed the Grey Nuns' holding title to the asylum property on Cherry Street and argued that it should be vested in the bishop. In the summer of 1857, Sidley communicated his concern to Rappe, who, after examining the case, determined that the sisters could possess property in their own name and, according to

Sidley's recollection, they "should continue to hold the title to property then in question."³⁴

To justify their ownership, the St. Joseph Hospital Society and the Sisters of Charity of St. Vincent's Hospital argued that, although the maintenance of the orphanages was dependent on generous contributions from the local Catholic populations, rarely was there enough money to adequately maintain the mission. Moreover, the mother superior of the Grey

Nuns reminded Gilmour that the diocese failed to pay the full indemnity for the service of the sisters customarily required of other missions.³⁵ The St. Joseph Hospital Society notified Gilmour that Bishop Rappe purchased the eight acres of disputed property, authorized the creation of a closed corporation, subsequently transferred it to the sisters, and the original corporation members agreed that they would not sell or otherwise alienate the property in question without the consent of the Bishop of Cleveland. Although Gilmour's behavior resembled that outlined in the agreement between the corporation and Rappe, the members felt that allowing Gilmour to acquire the title challenged the legacy of Bishop Rappe. By transferring it to the diocese, the property would no longer exist for the sole benefit of the orphans, and charitable proceeds previously linked exclusively to the orphanage would be

33. Cahill, "Bishop Gilmour and the Tenure of Church Property," 24; Evrard, "Argument Before the Most Reverend W. H. Elder."

34. 84-V-7, affidavit signed by Robert A. Sidley, 84-W-1, "Answer of the Defendants to the Complaint of the Plaintiff."

35. Deschamps to Gilmour, 28 February 1884, "Copy of the Official Correspondence." Customarily, dioceses made indemnity payments to mother houses that were used for clothing and travel expenses for the sisters assigned to the mission.

combined with all diocesan charitable activities. Evrard described this alteration as “communism in church matters.” Benefactors donated their money exclusively to the orphans, he said, not to a diocesan general charity fund.³⁶

The refusal by the St. Joseph Hospital Society to comply with Bishop Gilmour’s request led to his demand that the corporation be dissolved and that the property be deeded to the community. Gilmour was confident that the community as a whole would succumb to such a plan. Unfortunately for Gilmour, the corporation and community leadership were one and the same, making it difficult to achieve his goal of gaining title to the disputed property. It was not until the 1883 congregational election that Gilmour’s luck began to change. As predicted by corporation members, the newly elected executive board was unaffiliated with the defiant corporation members, and they favored transferring the property to Gilmour; and when faced with Elder’s advice, the corporation finally yielded.³⁷

* * * * *

To paint a comprehensive portrait of the property dispute involving the Sisters of Charity of St. Augustine, a series of events beyond the irregular incorporation procedures,

which provided for a distinct corporation within the congregation as a whole, must be further analyzed. Prior to Gilmour’s appointment, the community had been living under the Rule of St. Augustine brought from France by the founding sisters.³⁸ At the time of Bishop Rappe’s 1870 resignation, the community had not yet completed the writing of its constitutions, and most important, a chapter on governance was absent. Rappe recognized this inconsistency but had verbally approved the method by which the sisters governed themselves. The void did not seem crucial at the time, but eventually the bishop’s and the community’s failure to write this element of their constitutions would negatively affect their position in the future because community governance lacked official authorization. Because the nuns had failed to complete their constitutions, they had not obtained any sort of recognition from Rome. So an incoming bishop had a substantial level of freedom to alter their practices, a highly common activity among Gilmour’s colleagues in the American hierarchy.³⁹

The sisters’ demand for a change in government in 1870 was a reaction to Bishop Rappe’s appointment of Sister James to replace the second mother superior of the community, Sister Augustine. Her appointment came as a

36. Evrard to Elder, 4 December 1883, ACSA; Evrard, “Argument Before the Most Reverend W. H. Elder.”

37. Sister Stanislaus, “History of the Sisters of Charity of St. Augustine,” 66–67, 85.

38. Rules and constitutions guide all Catholic religious orders. The rule is often connected to a particular founding saint, such as Dominic, Francis, or Augustine, and usually encompasses a particular work for which the order was founded. Examples include such activities as educating children, maintaining hospitals, and working in orphanages. Constitutions are the mechanisms that carry out the rule by establishing principles to govern a particular congregation. Because essentially constitutions are part of the rule, these terms are often interchanged, even though constitutions usually address the governmental structure and regulations of a particular order and the rule encompasses the charism (the gift received by an individual or group that assists in building and maintaining the Christian community) associated with the institute. Historian Florence Deacon has suggested that “the Catholic Church has officially sanctioned only a limited number of ‘Rules’ for religious communities. Later congregations were required to base their documents on an earlier approved ‘Rule,’ so their specific guidelines were usually called ‘the Rule and Constitutions’ of their particular community. In popular usage, ‘constitutions’ and ‘rule’ are often interchanged.” Deacon, “Handmaids or Autonomous Women,” 219, n. 2.

39. Sister Stanislaus, “History of the Sisters of Charity of St. Augustine,” 64. The Sisters of Mercy in Portland,

surprise to the entire congregation who expected Rappe to commission Mother Augustine's first assistant, Sister Joseph (both of whom were the original French postulants), following the death of Mother Augustine on 29 June 1868. Rappe defended his decision by informing the sisters that, on her deathbed, Mother Augustine had recommended that he appoint the twenty-six-year-old Sister James instead of the more experienced Sister Joseph. Although the congregation accepted Mother James's appointment, many sisters demanded to hasten the process by which the community, as opposed to the bishop, selected officers. The response of the community to Mother James's appointment suggested that the sisters were unhappy with Rappe's decision, that they wanted to decrease the authority granted to the local ordinary and secure more control over its governance. In 1870, for the first time, the sisters elected their own leaders. Although the 1870 community election placed Sister Joseph in the position of mother superior, according to the community's first historian and member, Sister Stanislaus, the parties who pushed for an election were unsatisfied with the result, "but charity [forbade] us to say more." In any event, although by 1870 the community had achieved a level of autonomy and stability, internal structural and temporal weaknesses would make it difficult for the sisterhood to defend its

position in the future, especially in the aftermath of Rappe's resignation and Gilmour's attempts to rebuild a scandal-ridden diocese.⁴⁰

Apparently some members of the community and Bishop Gilmour disapproved of both the results of the 1870 election and the method by which officers were elected. The sisterhood bestowed voting privileges upon the chapter that consisted of the twenty-five longest professed sisters within the community and included lifetime membership. To hold an office, however, one had to be a member of the council, a subgroup of the chapter consisting of thirteen members who also enjoyed lifetime affiliation. Bishop Gilmour preferred a more democratic system, one in which a larger number of sisters participated in the election process. He proposed that chapter membership be determined by an election, held every three years, in which the entire community participated. This method challenged the security of the twenty-five longest professed sisters but provided the younger women with a more active voice in community governance. Gilmour's motivation, however, went beyond the issue of community government and the process by which the superior and her assistants were elected.⁴¹ The newly appointed bishop hoped that his efforts to promote a more democratic form of governance within the congregation would encourage loyalty on

Maine, experienced much interference from Bishop James Healy. Not only did the bishop outlaw the tradition of handshaking among the sisters, he also forced them to promote children attending schools they operated and expelled students without the sisters' consent. Kathleen Healy, *Frances Warde: American Founder of the Sisters of Mercy* (New York, 1973), 399–400.

40. Gavin, *In All Things Charity*, 51; Sister Stanislaus, "History of the Sisters of Charity of St. Augustine," 61–62. Sister Stanislaus, an eyewitness to the aforementioned events, suggested that both Bishop Rappe and Mother Augustine were impressed with Sister James's capabilities in administering the hospital. Because the mother superior also served as the chief hospital administrator and because "all knew that Mother Joseph was not used to dealing with the different classes of people as Mother James," the latter was appointed. The 1870 election placed Sister James in the position of first assistant, Sister Mary Teresa as second assistant, and Sister Mary Alphonsus continuing as mistress of novices.

41. Sister Stanislaus, "History of the Sisters of Charity of St. Augustine," 67; Father Patrick Quigley, "Sisters of Charity of St. Augustine, 1878–1884 and Trouble with Bishop Gilmour," 6–7, typescript of appeal written to Rome on behalf of the sisters, ACSA.

behalf of the newly enfranchised sisters. If the older sisters were steadfastly loyal to his predecessor who founded the congregation in the first place, the younger sisters might be more willing to accept Gilmour's authoritative style of leadership.

The situation was further complicated by the fact that membership in the St. Joseph Hospital Society required membership in the chapter as well. Therefore, older sisters, some of whom were the original members of the corporation, dominated not only the governance of the community but controlled the congregation's property. An alteration in the sisterhood's leadership would inevitably lead to changes in the membership of the society, who, as predicted by the corporation, would be more agreeable to Gilmour's demand for the disputed property. Hence, for wholly different reasons, elements within the community and the bishop looked favorably toward the prospects of a more democratic government.⁴²

The fact that both voting rights and office-holding privileges were limited to a particular group within the community was not especially unique to women religious in the United States, a situation which was particularly apparent within congregations that had European roots. Unlike many European orders, the Sisters of Charity of St. Augustine were not divided into the customary lay/choir dichotomy. In this tradition, choir members were literate, could afford a dowry, and were thus designated elite members of a particular order which enjoyed both voting and officeholding privileges. Lay sisters were tied to the peasantry, almost always illiterate, served as domestic servants, and enjoyed far fewer privileges. American

congregations that maintained their European ties were more apt to retain this tradition, whereas diocesan orders and communities that broke with their European roots often adopted a less hierarchal form of government.⁴³

How an anomaly evolved within the community of the Sisters of Charity of St. Augustine is difficult to assess. The original members were French, but they returned to their native country only a year after their arrival in Cleveland. It seems that the community should have developed a more democratic structure because members did not maintain ties to their French roots and evolved as an American congregation. In fact, by 1883, only three of the eighty-nine members were natives of France. Possibly the French-born Amadeus Rappe was wholly responsible for this complicated and hierarchal structure, or perhaps it was an attempt by the early members to protect their own interests by assuring that the congregation, as opposed to any bishop, would have ultimate authority in the election process.⁴⁴

Whatever the case, the community's structure mirrored Rappe's ideology that a hierarchal form of governance, which encouraged the views of the sisterhood as a whole, best suited orders of women religious. In his work *In All Things Charity*, Donald P. Gavin has argued that Rappe endorsed concentrated authority whereas Gilmour preferred a more democratic form of government. Significantly, the more than twenty years that separated the appointments of Rappe and Gilmour witnessed dramatic growth and change within the American Catholic Church overall and the Cleveland diocese in particular. Unlike Rappe,

42. Sister Stanislaus, "History of the Sisters of Charity of St. Augustine," 77-78, 82; Quigley, "Sisters of Charity of St. Augustine," 4-6.

43. Margaret Susan Thompson, "Sisterhood and Power: Class, Culture, and Ethnicity, in the American Convent," *Colby Literary Quarterly*, 25 (September, 1989), 150-51.

44. Thompson, "Sisterhood and Power," 151; membership roster, ACSA.

Gilmour emerged as a national leader in a more firmly established church and sought greater consistency in governance, as opposed merely to maintaining the faith of local Catholics. The new leadership of the diocese and the ideological differences between Rappe and Gilmour contributed to the nascent factionalism that was already developing within the community.⁴⁵

Because both the bishop and the sisters realized that the absence of an approved rule caused much of the trouble between them, they hastened to call for one which would settle their disagreement over the issue of congregational governance. Frustrated by Gilmour's behavior, the sisters appealed to Rome for intervention and requested approval of the rule they had adopted but which lacked Gilmour's approval because it failed to fulfill his wishes for a more democratic election process. The bishop, tired of the difficulties with the Sisters of Charity of St. Augustine, personally wrote the congregation's rule and appealed to Rome for approval, even though his version lacked community support. In the spring of 1882, Gilmour traveled to the Vatican to have his version promulgated, an action which encouraged the corporation members to incorporate under a new name in an effort to tighten their control over the disputed property.⁴⁶

The lack of an approved rule also affected the sisters' ability to rely upon consistent and strong leadership, another element that affected the contradictory outcomes. The mother superior of the congregation also served as chief administrator of Charity Hospital (built in

the aftermath of the Civil War and following the closing of St. Joseph's).⁴⁷ Not long after Gilmour's 1872 arrival in the diocese, Dr. Gustav Weber, a prominent physician affiliated with the hospital, insisted that the bishop remove Mother Joseph from her position. Gilmour quickly honored Weber's request and Mother James succeeded her. Because Mother James denied Weber's requests that she allow sisters to accompany his female patients to the operating amphitheater and also refused to permit male medical students to attend in maternity cases, he demanded her removal as well. The doctor threatened not only to resign, but to take the case to the local press if his requests went unmet. Because Gilmour had previously succumbed to Weber's demand for Mother Joseph's removal, he was slow to react to the doctor's second call for the removal of a superior. Although Gilmour stated "I would rather nail up the door of the hospital than permit Dr. W. to interfere . . .," he called for a special election to be held on Christmas Eve 1877, thus attempting to appease Weber and hoping that the chapter would choose a mother superior more agreeable to Weber.⁴⁸ Indeed, Gilmour found himself in a difficult situation. To give priority to protecting the interests and reputation of the sisters and the hospital meant losing a respected and popular doctor. To add to his problems, the doctor had accused several sisters of immoral behavior and Mother James of alcoholism. Not surprisingly, the local press published these stories (and others) which influenced popular opinion concerning the hospital and the sisters who ran it, as well as the Catholic faith in Cleveland. Bowing to the

45. Gavin, *In All Things Charity*, 56.

46. Sister Stanislaus, "History of the Sisters of Charity of St. Augustine," 78.

47. The need for a hospital was realized during the Civil War. Bishop Rappe paid \$10,000 for the land upon which Charity Hospital was built. Clevelanders donated approximately \$50,000 for the construction of the new hospital which was completed in 1865. Though the sisters administered both the hospital and the orphan asylum, they held property title to the latter only. Gavin, *In All Things Charity*, 43-44.

48. Quoted in Quigley, "Sisters of Charity of St. Augustine," 25, 8-10.

exaggerated claims of the doctor would result in Gilmour's turning his back on the Sisters of Charity of St. Augustine and negatively affect an already unstable relationship.

Although the Weber incident was unanticipated, the timing was perfect for Gilmour to demand a significant change in the election process. Council members, many of whom also served on the corporation board and therefore controlled the congregational property, unfavorably viewed Gilmour's request to implement his plan for a more democratic system because it would ultimately fail to protect their positions. More important, it would challenge the corporation's right to maintain the orphanage property. In fact, one council member went so far as to blame Gilmour for causing the factionalism that had developed within the congregation. According to her assessment, the sisterhood was happy with the status quo but Gilmour had placed thoughts into younger members' heads, encouraging them to demand more rights.⁴⁹

Although internal developments weakened the community as a whole, and although Gilmour genuinely supported the cause of a more democratic environment, he effectively took advantage of the situation with the call for the 1877 election.⁵⁰ The hastily arranged event revealed not only the internal divisions within the sisterhood as a whole, but also the increasingly onerous relationship between the bishop and the congregational leadership. In

the end, the chapter failed to elect a new superior, which only infuriated Dr. Weber who used the local press to expose the alleged behavior occurring within the walls of Charity hospital. Following the appearance of newspaper articles in the first months of 1878 that condemned the proselytizing activities of the mother superior and many sisters, Gilmour deposed Mother James and replaced her with Mother Joseph, who remained in office until the 1883 election that resulted in more acquiescent leadership.⁵¹

* * * * *

The instability caused by a lack of governance in the constitutions of the Sisters of Charity strengthened Bishop Gilmour's position concerning property rights in his jurisdiction. Alternately, the Grey Nuns benefitted from Rome's 1880 approval of their rule and constitutions and consistent leadership stationed at their mother house in Montreal.⁵² Rome often upheld the rights of women religious against the demands made by bishops by citing an order's obligation to observe its constitutions.⁵³ Constitutions served as stabilizing mechanisms and allowed the organizational church and religious orders to operate more efficiently in the secular world. Pontifical approval was a valuable tool for nineteenth-century women religious, providing them a measurable level of respect and

49. Quigley, "Sisters of Charity of St. Augustine," 25.

50. Quigley, "Sisters of Charity of St. Augustine," 26, 30, 34.

51. *Cleveland Leader*, 5, 7, 9, 11, 12, and 13 January 1878; Sister Stanislaus, "History of the Sisters of Charity of St. Augustine," 78.

52. Estelle Mitchell, *Love Spans the Centuries, Volume IV: 1877-1910*, trans. Antoinette Benzairre (Montreal, 1991), 169.

53. Robert C. Broderick, ed., *The Catholic Encyclopedia*, rev. ed. (Nashville, 1987), 135, 530. Historian Mary Ewens has maintained that Rome commonly upheld the constitutions of orders in order to protect women religious against the encroachments of bishops. Mary Ewens, "Women in the Convent," in *American Catholic Women: An Historical Exploration*, ed. Karen Kennelly (New York, 1989), 20. Florence Deacon has argued that women religious utilized civic and church structures in flexible ways to their own advantage. Deacon, "Handmaids or Autonomous Women," 273-74.

liberating them from the control of local bishops by allowing orders to seek recourse from Rome in times of conflict with the local clergy. Diocesan orders, like the Sisters of Charity of St. Augustine, were created by individual bishops and enjoyed only his authorization. Bishops could freely intervene in diocesan orders' elections and financial matters, and they had the power to force congregations to accept or dismiss members. They could even demand changes in ministry and customs, or refuse to accept alterations proposed by the nuns themselves.

During the second half of the nineteenth century, the number of religious orders requesting and eventually receiving Roman approval dramatically increased. According to canon lawyer Lynn Marie Jarrell, between 1814 and 1862 a total of 124 male and female religious orders applied for Roman approbation, and five female organizations with simple vows received full approval by 1850. But from 1862 to 1865 "74 new groups received Roman approbation." This dramatic increase suggests that women religious viewed the grueling legitimacy process as a worthwhile endeavor that would provide them with greater autonomy and relieve them of intrusive bishops.⁵⁴ Such status was difficult to obtain,

however, especially since bishops of dioceses in which women religious worked had to recommend approbation to Roman authorities. Quite simply, because bishops held less authority over pontifically approved orders, they often declined to support congregations who pursued Roman approval of their constitutions.⁵⁵

Therefore the Sisters of Charity of St. Augustine's diocesan status made it more difficult for the congregation to protect its interests against the arbitrary control exercised by Bishop Richard Gilmour. The fact that the community was operating in the absence of an approved rule when Gilmour assumed leadership of the diocese permitted him to write one that satisfied his objective to place in positions of leadership more acquiescent sisters who would succumb to his demand for the orphanage property. Unlike the constitutions of the Grey Nuns which specified that the mother general "shall hold in her name the title to all the property of all the Institutions in which said Gray [sic] Nuns conduct their works," Gilmour's rule failed to provide the Sisters of Charity of St. Augustine with pontifical status, much less property rights, and the congregation remained under his control.⁵⁶

Constitutions have guided the affairs of

54. Lynn Marie Jarrell, "The Development of Legal Structures for Women Religious Between 1500 and 1900: A Study of Selected Institutes of Religious Life for Women" (Ph. D. diss., Catholic University of America, 1984), 304-05.

55. Joseph Gallen, "Diocesan or Pontifical?" *Review for Religious*, 9 (1950), 68; Margaret Susan Thompson, "The Canonical Conundrum: A Historical Perspective," *National Coalition of American Nuns*, 22 (1993), 1-2. Although Bishop Neraz "was ever a kind father to Mother Florence," when she informed him of her plan to seek Roman approbation of the rule of the Sisters of Divine Providence, he told her that such status was extremely difficult to obtain and that the procedure usually took forty to fifty years. Although he suggested they could discuss the matter further, there is no evidence of follow-up conversation, nor were the order's constitutions approved during his lifetime. Callahan, *The History of the Sisters of Divine Providence*, 157, 161; Liedel, "Indomitable Nuns and an Unruly Bishop," 472.

56. 84-W-1, "Answer of the Defendants to the Complaint of the Plaintiff," 2, "IN THIS HIGH COURT OF THE MOST EMINENT AND ILLUSTRIOUS JAMES CARDINAL GIBBONS, DELEGATE OF THE HOLY APOSTOLIC SEE, TO examine and judge the case of the Rt. Revd. Richard Gilmour, Bishop of Cleveland *versus* the Sisters of Charity, otherwise called the Gray [sic] Nuns of Toledo, in the Diocese of Cleveland, Ohio." Though the Sisters of Charity of Montreal are commonly known as the "Grey" Nuns, some of the correspondence, either written on their behalf or addressed to them, spelled their name "Gray."

religious orders for centuries, but their significance in this study reveals an expanded purpose: protecting women religious from the unsolicited interference of local prelates. Historian Jay Dolan has suggested that the phrase “*Roma locuta est; causa finita est*” (Rome has spoken; the case is closed) described internal church affairs during the second half of the nineteenth century when Roman Catholicism faced both internal and external challenges. In an environment in which American bishops were exerting more power, constitutions approved by papal authority protected orders of women religious from intrusive bishops.⁵⁷

The Grey Nuns utilized their pontifical status by appealing to the Holy See in the spring of 1885. Mother Deschamps believed that Rome’s support of her position and the Holy See’s approval of their constitutions permitted the Grey Nuns to retain their property.⁵⁸ During the period in which the sisters waited for a response from Cardinal Simeoni, the bishop continued to demand the property and doubted their sincerity, to which

Mother Deschamps responded: “In this we are not conscious of doing anything against the Obedience we owe to the Holy Church of which we hope to ever be submissive.”⁵⁹ Deschamps’s reference to the Holy Church indicates not only that she was willing to submit to Roman authority that she believed would recognize her order’s rights, but that she disliked the prospect of complying with a bishop who, by disregarding their constitutions, challenged the canons of the church.⁶⁰

* * * * *

Florence Deacon’s work on Wisconsin congregations suggests that mothers superior showed leadership promise from a young age, remained in positions of power for the rest of their lives, exhibited an exceptional level amount of independence, and therefore led the more autonomous orders. When compared with their more subservient counterparts, such women found negotiating with bishops to be a less arduous task.⁶¹ Indeed, Deschamps exerted many of the qualities found in other

57. Gilmour to Deschamps, 26 October 1880, “Copy of the Official Correspondence,” in which Gilmour congratulates the approval of the Grey Nuns’ constitutions by Rome and assures them of their rights; Dolan, *The American Catholic Experience*, 221–22. A number of studies address the issue of conflict between women religious and bishops and the ways in which women religious attempted to defend their rights. See for example: Margaret Susan Thompson, “Women, Feminism, and the New Religious History: Catholic Sisters as a Case Study,” in *Belief and Behavior: Essays in the New Religious History*, ed. Phillip R. VandeMeer and Robert P. Swierenga (New Brunswick, N.J., 1991); Ewens, “Women in the Convent,” 20; Barbara Misner, “*Highly Respectable and Accomplished Ladies*”: *Catholic Women Religious in America, 1790–1850* (New York, 1988), 253; Florence Wolff, *From Generation to Generation: The Sisters of Loretto, Their Constitutions and Devotions, 1812–Vatican II* (Louisville, 1982), 15–45; Carol K. Coburn and Martha Smith, “Creating Community and Identity: Exploring Religious and Gender Ideology In the Lives of American Women Religious, 1836–1920,” *U.S. Catholic Historian* 14 (Winter, 1996): 105.

58. Deschamps to Hogan, 1 December 1884, in folder titled “Toledo Hospital: History,” located in the Archives of the Grey Nuns of Montreal, hereafter cited as ASGM (in accordance with archival regulations). All correspondence from this archive is located in this folder.

59. Gilmour to Sister Brady, March 20, 1886, “Copy of the Official Correspondence.” Gilmour states to Brady: “The letter of your Superior is worse than yours, and both show your determination to trifle with me, and to disobey Rome.” Deschamps to Gilmour, 29 March 1886, “Copy of the Official Correspondence” (translation).

60. Liedel, “Indomitable Nuns and an Unruly Bishop,” 474.

61. Deacon, “Handmaids or Autonomous Women,” 383. This was not the case with the Chicago Sisters of Mercy. Through the efforts of a strong-willed Mother Mary Agatha O’Brien, the sisters successfully defended their right to twenty acres of property located on the North Shore against the demands of Bishop Oliver Van de Velde. The

powerful and independent mothers superior. During her twenty years in office, the Grey Nuns opened seventeen new houses in the Montreal area, extended their presence into Ontario and western Canada, and solidified an international presence by establishing missions on American soil. Significantly, because she contributed personally to the establishment and maintenance of the Toledo mission, she remained steadfastly committed. Finally, that she operated out of the Montreal mother house limited her personal contact with the bishop, resulting in the absence of unsolicited intervention experienced by the Sisters of Charity of St. Augustine which remained a diocesan community under authority of the local ordinary.⁶²

The final element that affected the opposing outcomes lies in how the orders' advocates defended the cases. Father Charles Evrard had been a longtime associate of both orders. Not only did he assist the Sisters of Charity of St. Augustine in their quarrel with Gilmour, he also served as the procurator for the Grey Nuns and assisted with the temporal affairs of both congregations. Initially he fought fervently to defend the property rights of the St. Joseph Hospital Society, disagreeing with Gilmour, for example, who insisted that the corporation was not a distinct unit within the congregation and therefore did not have

ultimate control over the property in question. Despite Evrard's initial attempts, however, eventually he advised the nuns to acquiesce and they lost control of the property.

Although Evrard would have most likely served as the Grey Nuns' advocate, his death forced the sisters to appoint Father Patrick Quigley, a doctor of divinity educated in Rome, who possessed a more comprehensive knowledge of ecclesiastical law. Although Evrard tended to focus specifically on the case at hand, Quigley viewed the conflict involving the Grey Nuns as an example of Gilmour's despotic control and utilized his role as advocate not only to defend the cause of the sisters, but to demonstrate Gilmour's poor administrative skills to the Holy See. In order to legitimize his case with Roman authorities, Quigley requested and received personal assistance from leading American Catholic theologian, Monsignor James Corcoran, founder and editor of the *American Catholic Quarterly Review*, who arrived in Toledo in the summer of 1888 and remained in the city until the completion of the ecclesiastical hearings in August. Corcoran agreed with Quigley, and both encouraged Roman authorities to discipline Gilmour for his lack of respect toward religious orders operating in the diocese.⁶³ In fact, Corcoran's reports eventually encouraged Rome to mandate a wider

untimely death of the mother superior subsequently placed a weak Mother Vincent McGirr in office. Frances Warde, American founder of the Sisters of Mercy, realized her fear when she heard news of the latest election results. "Always docile to the Hierarchy," McGirr relinquished the congregation's right to the property to the succeeding Bishop Anthony O'Reagen. Healy, *Francis Warde*, 204–05; Kenneally, *History of American Catholic Women*, 47.

62. Estelle Mitchell, SGM, *Love Spans the Centuries, Volume IV: 1877–1910*, 17, 133.

63. Although Gilmour and Quigley initially shared a congenial relationship, in 1885 Gilmour relieved Quigley of his duties at St. Mary's Seminary in Cleveland and assigned him to the pastorate of St. Francis de Sales in Toledo. Quigley resisted the transfer even after Gilmour informed him that the new position was actually a stepping stone and that Quigley should immediately begin renovating the pastor's house so that it could serve as the bishop's residence for the Toledo diocese. Although Gilmour seemed to be preparing Quigley for his own see, Monsignor Houck, historian of the Cleveland diocese and Gilmour's chancellor, suggested not only that Quigley "had long lost the bishop's confidence" which led to his removal from the seminary, but also that the priest possessed a "well known eccentric character." Gilmour to Quigley, December 31, 1886, Historical Data Box II; Houck, *A History of*

investigation of the diocese.⁶⁴ Obviously, both Quigley's and Corcoran's initiatives ultimately aided the Grey Nuns.

During the second half of the nineteenth century, women religious took advantage of the church's centralized control to protect their rights and the integrity of their orders. This hierarchal structure, which granted American bishops more authority, fostered the growth of orders of women religious who, through acts of incorporation, employed secular law to protect their right to own property. Moreover, Roman approbation placed orders under direct supervision of the Vatican, which further secured their rights outlined in constitutions. Although both the Sisters of Charity of St. Augustine and the Grey Nuns challenged Gilmour's actions, only the latter enjoyed an elevated status in the eyes of Rome, and it responded by authorizing Cardinal Gibbons to decide the case within the limits of an apostolic

constitution. And only the latter benefitted from consistent and strong leadership coupled with group cohesiveness. Although nineteenth-century nuns were obedient servants whose primary obligation was to the church and the demands of local clergy and lay Catholics, they often asserted their rights in order to protect themselves against authoritarian bishops. The issue of property rights is just one example in which women religious and bishops, in the midst of the growing and increasingly bureaucratized and centralized Roman Catholic church, were forced to address the issues of power and authority and, accordingly, define their roles. In doing so, they proved historian Barbara Misner's assertion that the authority of a sisterhood versus that of a local bishop "was perhaps the single most important factor within each community."⁶⁵

Catholicity, 155–56; Hallinan, "Richard Gilmour," 198; Ellis, *James Cardinal Gibbons*, 332. Quigley had also assisted the Sisters of Charity of St. Augustine and remained at odds with Bishop Gilmour until the latter's death. Just weeks after Gibbons's decision regarding the Grey Nuns was handed down, Gilmour removed Father John Primeau from his pastorate at St. Louis in Toledo who refused to vacate the premises by way of a court injunction. In the spring of 1889 he removed Quigley from his pastorate at St. Francis de Sales. Both priests appealed to Rome, and Quigley served as Primeau's advocate. In the aftermath of these cases, Rome demanded an investigation of the diocese and Gilmour was censured for his actions. For summaries of these two cases see: Ellis, *James Cardinal Gibbons*, 334–35, and Hallinan, "Richard Gilmour," 198–201.

64. Corcoran to Gibbons, 7 September 1888, Corcoran Papers, Philadelphia Archdiocesan Historical Research Center, hereafter cited as PAHRC. All citations attributed to the PAHRC are from the Corcoran Papers. In the aftermath of the dispute Gilmour admitted to Cardinal James Gibbons that in his seventeen years as bishop of the Cleveland diocese, he had corresponded with Rome less than ten times, and he lamented that possibly he misjudged and should have contacted the Holy See more frequently. In the aftermath of the dispute Gilmour admitted to Cardinal James Gibbons that in his seventeen years as bishop of the Cleveland diocese, he had corresponded with Rome less than ten times, and lamented that possibly he misjudged and should have contacted the Holy See more frequently. 85-P-6, Gilmour to Gibbons, 19 January 1889.

65. Barbara Misner, "*Highly Respectable and Accomplished Ladies*," 253; Liedel, "Indomitable Nuns and an Unruly Bishop," 479.