It has long been known that the leading American Catholic theorist of Church-State relations, John Courtney Murray, S.J., was the object of ecclesiastical censure in the mid-1950s. Twenty years ago Donald Pelotte provided a generally accurate account of Roman actions against Murray, which it is now possible to supplement by recently discovered archival materials.

1. The American Background

Murray's interest in the relations between Church and State developed within a prior and more general concern for the Church's contribution to the solution to what from early on he called «the spiritual crisis in the temporal order». He appears to have brought this concern back with him when he returned from studies in Rome in the late 1930s. In lectures and published essays he argued strongly that the Church had a needed contribution to make to the crisis of social, political and cultural order that, already visible in

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that troubled decade, had exploded into the Second World War. While he set out distinctively theological arguments to motivate and guide Catholic involvement in the restoration of a rational and just social order, he also believed that the Church could not accomplish this task by itself and that intercredal cooperation in some organized form was therefore necessary.

Murray's call for such cooperation immediately encountered opposition. Many American Protestants at the time feared almost any Catholic activities in the public realm as efforts to take over the country and to establish here the kind of Church-State union seen in Italy, Spain, and much of Latin America. They regularly cited papal encyclicals and apparently authoritative textbooks published in the US to prove their contention that Catholics were committed to an ideal of Church-State relations which demands special favors for the Catholic Church and justifies restrictions on the activities of all other religious bodies. Several important American Catholics, on the other hand, believed that intercredal cooperation posed an unjustified danger of indifferentism, a surrender of the unique claims of the Church. To the Protestant fears they responded that the union of Church and State was simply the ideal «thesis» but that in the «hypothesis» of a pluralistic society American Catholics could quite sincerely accept the constitutional separation of Church and State.

One incident in the controversy over intercredal cooperation may have brought Murray to the attention of Vatican authorities. In 1943 Murray sought permission to lecture on challenges facing the Church to a mixed audience at the Institute for Religious Studies at Jewish Theological Seminary in New York. When auxiliary Bishop Francis J. McIntyre, vicar general of the Archdiocese of New York, denied this permission, Murray wrote a spirited defense of the position which several Jesuits and he had been defending in «Theological Studies». Frustrated by Murray's reply, McIntyre sent the dossier of their correspondence to the Apostolic Delegate. What archbishop Cicognani did with the matter is unknown.

As relations between Catholics and Protestants continued to deteriorate, Murray decided to confront the neuralgic issue of religious freedom head-on. After he aborted an initial effort, begun in 1945, he read widely in the works of European scholars such as Luigi Sturzo, Jacques Maritain, Jean Riviére, and Joseph Lecler. In 1948 he felt confident enough to accept an invitation to speak on the issue at the convention of the Catholic Theological Society of America (CTSA). He himself asked that the respondent to his talk be Father Francis J. Connell, CSSR, professor of moral theology at the Catholic University of America, one of the opponents of his views on intercredal cooperation and the author of a pamphlet on religious freedom that set out the classic Catholic position.

Murray's 1948 speech abandoned the purely theoretical approach on which he had insisted in his 1945 essay in favor of the sociological and historical approach championed by Sturzo and Lecler. He now began to articulate the position that papal teaching on Church and State in the nineteenth century was an appropriate response to the type of secularism being aggressively urged in Europe at the time but did not apply to the quite different political experience of the United States. The issue was not usefully treated by the distinction between «thesis» and «hypothesis»; the Spanish situation, for example, was as much «hypothesis» as the American. Recent papal teaching itself showed a growing appreciation of democratic institutions, he argued, and this development could justify

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2 A much-edited and abridged version of one set of lectures on this topic can be found in Bridging the Sacred and the Secular: Selected Writings of John Courtney Murray, J.L. Hoover (ed.), Washington 1994, pp. 101-123.

replacing the «top-down» management of Church-State relations typified by concordats by the mediation of religious truths and values through the consciences of the people. The US Constitution’s first amendment, Murray argued, represented a solution to the problem that could be justified in principle and not simply as something to be «tolerated».

Connell’s response at the convention and in several other essays was that this position was incompatible with recent papal teaching and with the claims of Christ the King. The ideal had to remain what it had been; anything less would compromise the unique claims the Church makes for itself and for Christ. But as he saw Murray’s views gain in popularity in the US, Connell embarked on an effort, which he would sustain for thirteen years, to have Rome intervene. On 1 August 1950 he wrote a letter to Cardinal Pizzardo, pro-prefect of the Holy Office and prefect of the Congregation of seminaries and universities, enclosing the Proceedings of the CTSA convention and expressing his concern that Murray’s view, which he found incompatible with Catholic doctrine, was spreading in the US. This was the first of more than twenty private letters Connell sent to various Vatican officials between 1950 and 1962 pleading for a public repudiation of Murray’s views.

In September 1950 Murray attended a meeting of Catholic ecumenists in Grottaferrata at which he gave a report on the sorry state of Catholic-Protestant relations in the US. While in Italy, Murray met with Msgr. Giovanni Battista Montini, who, he later said was «personally sympathetic with my “orientations” and rather wanted his hand to be strengthened». For that purpose Murray prepared a memorandum, The Crisis in Church-State Relationships in the USA. In sixteen single-spaced typed pages, Murray argued that the Church faced the danger of a new secularist and naturalistic faith, to combat which intelligent Protestants were willing to cooperate with the Catholic Church. But this promising opportunity faced the obstacle of the widespread belief that «americanism and catholicism are fundamentally in conflict», since Catholics appeared able to give only provisional and expedient support to the constitutional principles of American democracy. This had led to widespread «fear, distrust, and hostility towards the Catholic Church», which constituted a serious obstacle to the latter’s work in the US. Unless this obstacle could be overcome, the great opportunity represented by new interest in the Church would be lost. What was needed is an adaptation of traditional Catholic principles to the American political experiment, something possible because American political principles are not identical with European laicism and are in fact compatible with Catholic principles which need only to be «vitaliy adapted to this modern form of the democratic State». Murray ended with some practical suggestions which pleaded that the Italian and Spanish situations not be held up as ideals while the American situation is merely «tolerated».

8 Redemptorist Archives Baltimore Province (RABP), Connell Papers; Connell to Pizzardo, 1 Aug 1950.
9 On this meeting see É. FOUILLOUX, Les catholiques et l’unité chrétienne du XIXe et XXe siècle: Itinéraires européens d’expression française, Paris 1982, pp. 705-709; A Conference on Christian Unity at Grottaferrata, «Unitas» 8 (Winter 1950), pp. 494-497. Murray’s own description of his remarks: «I was obliged to report that practically no ecumenical activity was going on (...). The atmosphere was one of mutual mistrust, suspicion, not to say hostility», Woodstock College Archives (WCA), Box 6, File 461.
10 Murray to Ellis, July 20, 1953; Archives of the Catholic University of America (AGUA), Ellis Papers; see also Murray’s comments to Fr. Robert Leiber, late spring 1953: «On the occasion of my visit to Rome in 1950 I discussed the matter in some detail with His Excellency, Msgr. Montini. It seemed to me that he fully appreciated the delicate nature of the problem and the special difficulties which it creates in the United States. This was very encouraging to me and to many others who in this country and in Europe are investigating these questions scientifically and who have expressed their sympathy for the views which I have tried to formulate in various articles»; copy of a letter in my possession.
11 Dated October 29, 1950, a copy can be found in the papers of Clare Boothe Luce in the Library of Congress (LC). Murray may have given Ms. Luce a copy of the report in preparing her for Congressional hearings after her appointment as US Ambassador to Italy.
Six months later Murray wondered to the American assistant in Rome what had happened to his report: «My only information was that it had been called to the attention of the Holy Father by Msgr. Montini himself, and had been committed to the hands of “experts”. God help it, and me (...).»12. Unknown to Murray, among the experts to whom his report had been committed was Francis Connell whose papers include a five-page set of «Comments on “The Crisis of Church-State Relationships in the USA”» Undated but from internal evidence probably written in the summer of 1951, this report was clearly meant for a Vatican official, perhaps the apostolic delegate13. After denying that the situation in the US was as new or alarming as Murray had made it out to be, Connell argued that Murray's «adaptation» could not be «harmonized with revealed truth». The «per se» of traditional Catholic doctrine must continue to be urged; any adaptation to American principles would enable Protestants to «boast that they had forced [the Church] to change her teaching». Catholics should instead be urged to continue in an «open and honest exposition of Catholic doctrine»; «priests who are defending in principle the theory of the “lay state” should be admonished to be silent, at least until the Holy See has given a decision»; and Catholics should be urged to obey recent Holy Office instructions, «since there is a tendency on the part of some to favor indifferentism both in word and practice».

At around the same time, Connell was urging his colleague and friend Joseph Clifford Fenton, professor of fundamental theology at Catholic University, to press the issue during the latter's visit to Rome: «(...) be sure to emphasize strongly the necessity of a definite statement regarding the “lay state” theory. I doubt if theological controversy will settle the matter, however logical and strong the arguments may be that are adduced in favor of the traditional doctrine. If necessary, I believe that a declaration from the Holy Office may be desirable. The repercussions of this new idea are, I believe, very unfortunate in our land especially». On his return from Rome Fenton assured Connell that Murray's «case» was «much more serious than most people realize»14.

As Murray continued to set out his position, Connell was joined in opposition to it by a new protagonist, Father George Shea, professor of dogmatic theology at Immaculate Conception Seminary, Darlington, New Jersey. Both men argued that Murray's position on the merely lay character and responsibilities of the State could not be reconciled with Catholic doctrine. Murray's vigorous replies urged that the issue could not be resolved simply by syllogistic deductions from dogma but required both an historically informed hermeneutics of papal texts and a distinction between principle and application to replace the old logic of «thesis» and «hypothesis». Fenton turned to the issue himself by offering a summary of the debate between Murray and Shea in which he clearly came down on Shea's side15.

In February 1952 Connell again called for Roman action, this time sending Cicognani a copy from a newspaper article which tended toward Murray's opinion. «I feel that it emphasizes the growing need for an authoritative statement on this subject of Church and State from the Holy See». In his reply, Cicognani informed Connell: «I wish to assure you that I have recently had occasion to send to the Holy See certain material on this question. I

12 WCA, Murray to Vincent A. McCormick, April 24, 1951. As we shall see, his report was submitted for evaluation to the Holy Office.
13 RABP, Connell Papers, «Church and State». The report ends with the words, «These suggestions have been made in a spirit of profound respect and deference to any directives that may be issued by the Holy See».
14 Connell to Fenton, June 29, 1951; Fenton to Connell, August 29, 1951; RABP, Connell Papers, «Church State Letters».
am sure that it will be seriously considered but we know that the investigation and study take time. Rome, then, was interested in the American debate.

2. The European Discussion

Meanwhile, Murray's ideas had begun to attract attention in Europe where also Church-State relations had become a major issue. In 1948, the year when Murray began to articulate his developed position, a series of articles on the theme appeared in Europe, most of them prompted by or at least alluding to the situation of Protestants in Spain where late in 1947 several incidents in which Protestants had been harassed in their worship and attacks had been made on their churches had attracted international attention. Most of the articles written from outside of Spain not only deplored the incidents but attempted to assure critics that the constitutional status of non-Catholics in Spain was not one that derived by necessary deduction from Catholic doctrine. A number of them called into question the adequacy of the thesis-hypothesis distinction and argued that the Church could and should accommodate itself to the modern respect for the subject that is reflected in the rights of conscience. In succeeding years the number of articles and books making similar cases multiplied.

As Murray kept American readers abreast of this literature, European analysts began to make the American Jesuit's views known to their readers. «Herder Korrespondenz» and «La vie intellectuelle» in particular gave detailed summaries of his views. Two collective works on religious freedom published in France in the early 1950s included references to Murray's work.

16 Connell to Cicognani, February 23, 1952; Cicognani to Connell, February 27, 1952; RABP, Connell Papers, «Church State Letters».


says, which had many themes in common with European writers, differed by the careful details of his analysis of the teaching of Leo XIII and by his emphasis on the political differentiation of the democratic State rather than on the freedom of the act of faith stressed by the Europeans. It was clear that something of a consensus was emerging among a large number of Catholic thinkers on both continents that the classical teaching had to be adapted to new conditions in the modern world.

Defenders of the classical doctrine, of course, were not silent. A vigorous article on Protestantism in Spain in «La Civiltà Cattolica» deplored the criticisms of the ideal of the Catholic State. Spanish theologians vigorously defended their country's constitution and ridiculed the accommodations which some Catholics were willing to make to modern liberties. Their chief ideological target remained Jacques Maritain and his proposal of a «new Christendom» adapted to the values of democracy and pluralism. In 1949, Murray also came under criticism by a Spanish apologist, Eustaquio Guerrero, who criticized the American's argument that the ideal of the Catholic confessional state is not an implication of Catholic dogma and concluded by associating him with «Maritainians» whose dogmatic error is «to identify the regime of freedom and laicism appropriate in their countries with the ideal proposed by God and by the Church and to judge that the Catholic State is only one of the concrete historical forms for realizing the freedom of the Church and not the proper expression of the State's religious duty».

18 A very complete survey of the literature, including several references to Murray, can be found in three articles by C. MELZI, Laicità e confessionali dello Stato, «La Scuola Cattolica» 80 (1952), pp. 194-222; Stato e Chiesa, «La Scuola Cattolica» 81 (1953), pp. 169-195, pp. 249-273.


20 E. GUERRERO, Las Conversaciones Católicas de San Sebastián en Septiembre de 1949: Porqué no se aprobó la declaración de derechos de la persona humana, «Razón y Fe» 140 (Nov. 1949), pp. 398-418, at p. 415; from this point on, even after Vatican II, Murray would be a target of repeated criticisms by the prolific Guerrero.
Murray also became a target of more authoritative criticism in the pages of «La Civiltà Cattolica», where between April 1950 and September 1952 Antonio Messineo, the semi-official journal’s commentator on political affairs, published no fewer than nineteen articles on the lay State, religious freedom, and tolerance. Messineo strongly defended the classical doctrine of the ideal Catholic State against the relativistic and subjectivistic critiques it was receiving even from some Catholic thinkers. Among these, no doubt, the chief culprit again was Jacques Maritain, but three of the essays were unmistakably directed against Murray’s views. Messineo particularly criticized Murray’s argument that the confessional State was not an implication of Catholic dogma and what he considered the historicist hermeneutics the American Jesuit was applying to magisterial documents.

Vatican concern about the issues of Church and State was also expressed on more official levels. During the controversy over the treatment of Protestants in Spain, Vatican officials were involved in the negotiations that would end in the summer of 1953 with the signing of the Concordat with the Spanish government. On March 7, 1950, the Congregation for seminaries and universities sent a letter to the Bishops of Brazil warning them against a renascent liberalism that would deny the Church’s special authority and privileges and assert the State’s indifference in matters of religion. Finally, from early in 1949 to late in 1952 the apostolic delegate in Washington transmitted to the US Bishops the Vatican’s concern about the activities of American Protestant missionaries in Italy, particularly in the south where the Vatican maintained they had become, willy-nilly, collaborators with communist subversion. The issue of Church and State arose here, too: the Vatican saw the Protestant efforts as an attack on the privileged status of the Catholic Church in Italy, while the American bishops, sensitive to the domestic implications of the matter, invoked the separation of Church and State to explain their inability to do much to help.

All of this provides background for the incident that would precipitate official Vatican involvement in the career of John Courtney Murray.

3. Cardinal Ottaviani’s Speech

On March 2, 1953, shortly after having been made a cardinal and pro-secretary of the Holy Office, Alfredo Ottaviani used the occasion of a solemn celebration in honor of Pope Pius XII at the Lateran ateneo to give a speech on «Church and State: Some Present Problems in the Light of the Teaching of Pope Pius XII». The cardinal began by expressing distress that some Catholics were trying to deprive the Church of some of its «spiritual arms of justice and truth». Like «the delicatus miles who wants to win without fighting», they were calling into question the character of the Church as a «perfect society», the duty of the State to acknowledge the one

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24 See ACUA, NCWC/USCC, Church: Anti-Catholic Propaganda, Protestants in Italy. There are thousands of pages of documentation in the archives of the US Department of State on the treatment of Protestants in Italy, most of them reflecting American protestant complaints but a few also indicating that the State department and the roman embassy shared concerns about the possible manipulation of protestant missionaries by Italian «socialist-communists».

25 This was the original title of Ottaviani’s address, a copy of which can be found in the ACUA, NCWC/USCC.
true religion, the legitimacy of a Catholic State, and the Church’s right to the State’s special favors. Such views, he said, ran counter to the consistent teaching of modern popes and could not be justified by appeal to a distinction between the permanent and fleeting in the Church’s teaching. Ottaviani stated his own position clearly: «If there is a certain and indisputable truth among the general principles of Public Ecclesiastical Law, it is that of the duty of the Governors in a State composed almost totally of Catholics and, by logical consistency, governed by Catholics, to shape legislation according to Catholic principles». This truth implies «the social and not merely private profession of the Religion of the people» and «the defense of the religious patrimony of the people against every attack by those who would like to wrest from them the treasure of their faith and of their religious peace».

To the criticism that the Church employed a double-standard dependent on whether it was in the majority or not, Ottaviani gave an intransigent reply: «So be it, I do maintain precisely that there are two weights and measures to be used, one for truth and the other for error». If there was a double-standard, it was to be found among those who criticize Catholic countries for their policy towards non-Catholics while ignoring the savage persecution Catholics and others faced in communist countries. He also echoed the secretariat of State’s concerns about Protestant missionaries in Italy where they were being manipulated and used by the communists.

In the course of his speech, Ottaviani cited comments by several unnamed European Catholic authors. But Ottaviani also referred directly and at greater length to the recent debate in the United States:

Analogous mistaken theories are unfortunately spreading not only among some Catholics in Europe but are also being proposed in America. A controversy is known to have been carried on in the United States between two authors of opposing tendencies who published their writings in «The American Ecclesiastical Review».

26 These included Robert Rouquette and Jacques Maritain.

The controversy was very well summarized by Prof. Fenton, Editor of the review in an article published in the June, 1951, issue.

Ottaviani then summarized, in English, the arguments of the proponent of what he called «the liberalizing thesis»:

1. That the state properly speaking cannot perform an act of religion. (For him the state is a simple symbol or an ensemble of institutions).
2. That «an immediate illation from the order of ethical and theological truth to the order of constitutional law, is, in principle, inadmissible». With this axiomatic language he wants to maintain that the State’s obligation to worship God could never enter the constitutional sphere.
3. Finally, that even for a state composed of Catholics there is no obligation to profess the Catholic religion: as far as the obligation to protect it is concerned, this does not become operative except in determined circumstances, and precisely when the liberty of the Church cannot be otherwise guaranteed. In other words, even in a non-confessional state, the Church can very well be free, without need of relations with and of protection by the State as such.

Ottaviani concluded by noting that this position departs from the teaching of textbooks in Public ecclesiastical law, which, he said, «is for the most part based on the doctrine set forth in pontifical documents».

The controversy to which Ottaviani was referring was the exchange between George Shea and Murray. It appears that Ottaviani drew the three propositions attributed to Murray’s «liberalizing thesis», not from Murray’s article but from Fenton’s summary of the controversy, which would later lead Murray to accuse Fenton of having misrepresented his thought.

But, of course, the importance of Ottaviani’s speech lay not in the accuracy of his reporting nor in the force of his counter-arguments, but in the very fact that the pro-secretary of the Holy Office was interjecting himself into a debate that for several years had been agitating the Church not only in the United States but in sev-
eral other countries as well. The seriousness of his intervention was reflected in the reactions of churchmen and diplomats to the reports of Ottaviani's speech and, it seems, in the history of its publication.

Many rumors quickly circulated that high vatican officials, to whom several diplomats are said to have protested, were embarrassed by Ottaviani's intransigent speech. The French and Irish ambassadors to the Vatican were given assurances that the speech was not an official statement and that efforts would be made to see to it that it was not published in the form in which it had been delivered. In fact, «L'Osservatore Romano» gave only a brief summary of Ottaviani's speech, omitting all references to persons and to the American controversy. The speech was printed in pamphlet form at the end of April, with a preface by the cardinal, dated March 25, 1953. The printed version omitted references to discriminatory laws in Switzerland, France, and England, muted the reference to the US debate to «a controversy in a country overseas», and, perhaps most significantly, added a section on toleration. But the published version of Ottaviani's speech remained a vigorous defence of the Catholic confessional state.

The potential impact of Ottaviani's speech on public opinion in the US can easily be imagined. That the cardinal himself wished it to be known there is revealed by the fact that on the very day he delivered the address he sent a copy by personal messenger to the roman correspondent of the National Catholic News Service. News of the speech caused consternation at the US Bishops' Conference, and an effort was made by staff-members and several important archbishops and cardinals, perhaps supported in this by the apostolic delegate, to prevent publication of the speech in English. Fenton, on the other hand, wanted it known in the US and quickly received permission from the cardinal to publish it in a somewhat shortened version.

As it turned out, two English versions of the speech came out almost simultaneously in May. A complete translation of the Italian pamphlet was published in «The Newark Advocate», the archdiocesan weekly, probably through the efforts of George Shea. Fenton's version, a shorter text with significant alterations and omissions, appeared in the May issue of the «AER». Ottaviani's letter to Fenton gives reason to think that it was the Cardinal himself who had «condensed» his speech which in this version omitted reference to the Spanish constitution, the words «in a country across the ocean» in the introduction of the US controversy, references to the Amsterdam assembly of the World Council of Churches, the citation from Maritain, and a long section that had described the Soviet anti-religious legislation and had rebuked others, particularly Americans, for supporting Protestants and naively promoting communism. Fenton's version also considerably softened Ottaviani's response to the

27 Excerpts from despatch of the French Ambassador may be found in P. Scoppola, La libertà religiosa, in Le Deuxième Concile du Vatican (1959-1965), Rome 1989, pp. 560-562; for the Irish Ambassador's report to the Department of External Affairs, see J.P. Walshe to Sean Nunan, 18 July 1953 (National Archives, File No. 305/272). Curiously, the American Embassy in Rome, which had reported on statements by other Italian ecclesiastics on Church and State, appears to have taken no notice of Ottaviani's speech.

28 Card. A. Ottaviani, Doveri dello stato cattolico verso la religione, Roma 1953. This, and not the original text from which Ottaviani spoke, was the text from which most of the translations of the talk were made. It was published in no fewer than five Spanish journals, as well as in Portuguese and French.


30 «I received your letter and shall send you under separate cover a copy of the greater part of it. The conference was spoken and so I added other observations ex tempore which are not added in the copy I am sending. Of course you have permission to publish it»; Ottaviani to Fenton, March 17, 1953; Elms College Archives.

31 Card. A. Ottaviani, Church and State: Some Present Problems in the Light of the Teaching of Pope Pius XII, «AER» 128 (May, 1953), pp. 321-354. On May 22, the NCWC News Service sent out Fenton's translation of the speech as it had appeared in the «AER». The Italian pamphlet was also translated and published separately in Ireland, Duties of the Catholic State in Regard to Religion, Dublin 1953, an edition which was reprinted in the United States in 1993 by The Angelus Press, Kansas City.
objection of double-standards. Where in both the original speech and its published Italian text, the Cardinal had replied: «Ebbene, appunto due pesi e due misure sono da usarsi: l'uno per la verità, l'altro per l'errore», the «AER» version says simply, «But it is not a question of that. It is a question of a different situation».

Murray's own interest in the speech, needless to say, was great. In the late spring of 1953, he sent a letter of concern to Fr. Robert Leiber, S.J., personal secretary to Pius XII. In June Leiber sent him the following assurance: «Briefly with regard to Cardinal Ottaviani's conference: You know, and you are free to use this, that it represents the purely private view of the Cardinal. It has no official or even semi-official character».

Murray immediately began to use this information both in letters to friends and in a public statement when the secular press, which had ignored Ottaviani's speech in March, began to make reference to it.

Once again it was the Spanish situation that fueled the fire. On July 23, 1953, «The New York Times» published an article from Rome reporting that church officials in Spain had said that Ottaviani's speech represented a Vatican confirmation of the doctrinal position maintained by the Spanish hierarchy with regard to Church-State relations and religious freedom. The «Times» report noted that Ottaviani's lecture was «not generally known in its entirety» and proceeded to quote parts of the speech that had been omitted from Fenton's «AER» translation. It then said that Vatican circles had insisted that «no compromise was possible on the Vatican's "classic doctrine" concerning state-church relations but that in the application of the doctrine the Vatican undoubtedly was giving United States Catholics considerable freedom of action in the conduct of relations with non-Catholics in a secular state». The «Times» had then consulted a spokesman for Catholic critics here, perhaps Murray himself, who replied that «the Cardinal had spoken only in his personal capacity, neither officially nor semi-officially». The «Times» seems then to have asked the Vatican whether this American view of Ottaviani's speech was correct. A dispatch from Rome on July 20th reported that a «Vatican statement» had agreed with this interpretation but had also stressed the "unexceptionable" quality of the Cardinal's statement, which was largely based on papal documents. The «Times» ended by appending remarks of Murray which reflect what he had been told by Leiber:

Cardinal Ottaviani was speaking only in his purely personal capacity. His statement was neither an official nor a semi-official utterance. It was just the statement of a private theologian - one of very considerable reputation, of course - speaking on his own authority.

It is still entirely possible and legitimate for Catholics to doubt or dispute whether Cardinal Ottaviani's discourse represents the full, adequate and balanced doctrine of the Church.

Distressed by the «Times» report, Murray wrote at once to ask Leiber how the reported Vatican comment that Ottaviani's speech was «unexceptionable» could be reconciled with the assurances Leiber had given him only a month earlier. No reply from Leiber has yet been found.

Murray's local Jesuit superiors seem also to have had some anxieties. «The New York Times» July 23, 1953, pp. 1, 8. Basically the same story was repeated in «Time» on August 3, 1953. Connell sent a copy of the «Times» article to Ottaviani the very day it appeared and followed it, some months later, with a copy of «Time» magazine's report of the matter; he noted that Murray continued to hold a view contrary to Church doctrine and added, «and I presume he will continue to hold it until he is officially condemned»; Connell to Ottaviani, July 23, 1953; October 31, 1953; RABP, «Church State Letters» and «Ottaviani, Cardinal». Two years later Fenton would discuss the two articles in Catholic Polenmic and Doctrinal Accuracy, «AER» 132 (Feb. 1955), pp. 107-117.

32 WCA, Robert Leiber to Murray, June 12, 1953.
33 «The discourse by Cardinal Ottaviani in the spring may possibly precipitate something in Rome. As you doubtless know, it was a purely private utterance, possessing no official significance, either formal or informal. Moreover, I have it on the highest authority that our Holy Father was not pleased by the discourse, and did not consider that it represented the true and full mind of the Church»; Murray to John Tracy Ellis, July 13, 1953 (ACUA; Ellis Papers).

34 Murray to Leiber, July 23, 1953; copy in my possession.
ety about his status in Rome. The Rector of Woodstock College, Joseph F. Murphy, in his semi-annual letter to the father general, written in the summer of 1953, mentioned that Murray had been ill in the spring and attributed it in part to «the “unfortunate” Roman statement [Cardinal Ottaviani’s] of last March». On August 7th, father Janssens wrote in reply:

Longe abest ne P. Joannes C. Murray a Sancta Sede reprehendatur. Nihilominus passu cauto et bene ponderato prosequatur in suis studiis et investigationibus perficiendis, aliorum peritorum consilio libenter audito (...).36

But only months later the father general did have some concern. On November 21, 1953, Murray’s provincial wrote Murray that he had received the following paragraph from the American Assistant in Rome:

Read Can. 2316. If I assist a man to come into Italy for that purpose knowing that is why he is coming, do I fall under the penalty? Our highest superior — I was with him last month — thinks so, unless excused by ignorance. America might know that. I think the time has come for fr. Murray to put down in simple, clear statements his full, present position regarding this Church-State question and to send it to me for fr. General. Sic mandatum.37

Murray wrote to the assistant, Vincent McCormick, agreeing to prepare the statement of his views but asking if he could postpone it until he finished his last article on Leo XIII. He also sought clarification: «Am I suspectus de haeresi or simply the object of interest? (...) it would help to know whether I am speaking into a roman climate of hostility or receptivity». In an afterthought he wondered if canon 2316 had been invoked to refer not to him but to the new american ambassador to Italy, Clare Boothe Luce. McCormick replied at once to reassure Murray that the father general merely wished to have Murray’s views on the controversy that had erupted between the jesuit weekly «America» and certain spanish churchmen. He quoted the general: «One does not know what Madrid might do next. But Rome has not expressed any fear for the orthodoxy of fr. Murray, though not everybody in Rome, I presume, accepts his writings». McCormick also confirmed that the reference to the canon concerned Mrs. Luce: the pope was irritated because she had not sought an audience with him and because of her actions with regard to the American pentecostals38.

Within a few days Murray thought that he had reason to regain confidence about his situation in Rome. On 6 december 1953 Pius XII delivered a speech in which he stated that the question of religious freedom and tolerance now had to be placed in the context of an emergent international community and that there it was of his exclusive and final authority. Murray and his friends and advisers took these remarks to be a tactful repudiation of Ottaviani’s intrasigent position39. Murray’s friend, Gustave Weigel, S.J., was in

36 Joseph F. Murphy to John J. McMahon, Woodstock, December 6, 1953; Archives of the New York Province (ANYP). Only this excerpt from the father general’s letter is known. Murphy informed McMahon of Murray’s response to the General’s reply: «He was very grateful for the approval of his work indicated in the first sentence and observed that this is the only direct assurance he has had from Very Reverend Father General».

37 McMahon to Murray, November 21, 1953, ANYP. Canon 2316 of the 1918 Code reads: «Qui quocummodo haeresis propagationem sponte et scienter iuvat, aut qui communicat in divinis cum haereticis contra praescriptum can. 1258, suspectus de haeresi est».38 See Pelotte, John Courtney Murray..., cit., p. 41. Murray immediately wrote to Ambassador Luce urging her to seek a papal audience and to explain her activities with regard to the American protestants in Italy; Murray to Clare Boothe Luce, December 2, 1953; LC. The Roman Embassy was at the time trying to mediate between the American missionaries having trouble gaining visas or threatened with expulsion and the Italian government.

39 John Tracy Ellis wrote that this was the view of the Irish Ambassador to the Holy See, confirmed by Fr. Joseph Delos, O.P., theological adviser to the French embassy to the Vatican; Ellis to Murray, January 8, 1954; Walshe to Ellis, December 17, 1953; ACAU, Ellis Papers. For similar views elsewhere, see G. Courtaud, Un discours de Pie XII sur la tolérance, «Revue de l’Action Populaire», 75 (February 1954), pp. 182-186; R. Rouquette, Pie XII et la tolérance, «Études»
Rome when the discourse was delivered and was asked to comment on it over Vatican radio. Weigel summarized the pope's view as an endorsement of the idea of the «lay state»: «In the new world union it cannot be the obligation of the state to deal with the theological question of religious truth». And, even more pointedly, he saw two other effects of the papal speech: «It certainly clarifies the obscurities lurking in the minds of so many of our non-Catholic brethren who feel that the Catholic Church is a conspiracy to rob them of their right to follow conscience in their religious decisions (...). Above all, it will end the accusation of not a few who assert that the Catholic Church has a double norm for solving Church-State relationships». Upon his return to the US Weigel's address was published in «America».

Encouraged by these interpretations of the pope's speech, Murray now took the step that would bring his case to a climax. On March 25, 1954, in a speech at Catholic University, Murray made public use of the assurances he had been given by Leiber and others. He began by interpreting the papal address as Pius XII's «public correction of impressions left by C. Ottaviani's construction of Catholic doctrine». He informed his audience that the cardinal's speech had evoked diplomatic protests and that he had himself been assured by a close papal adviser that it represented merely private views of Ottaviani. The pope reacted diplomatically, of course, to preserve the cardinal's «buona figura», but his invocation of his own authority had led Roman circles to murmur: «Exit auctoritas Em-issimi». Two conclusions followed, Murray argued: «(1) appeal to Ottavani henceforth [must be] cautious and discriminating; (2) anyone whose theory is that of O. is under obligation of revising his views». The remainder of Murray's speech was a detailed exposition of the papal address, stressing the doctrinal advance it represented vis-à-vis the classic theory of tolerance. But many of those who heard Murray speak brought away in particular clear memories of the Jesuit's disparaging manner and remarks towards Ottaviani.

Murray's critics at Catholic University were not slow to react. Within four days both Connell and Fenton had written to Ottaviani to inform him of the speech. Fenton's letter has not survived but Connell's briefly described Murray's speech and once again pleaded for Roman action: «I believe that some positive statement from the Holy See is urgently needed. I am certain that father Murray will continue to teach his views as long as there is no explicit condemnation by the Holy See, mentioning him or his writings by name». Ottaviani sent back words of reassurance: «I have concluded that it is my duty to act, because it is not a question which affects my person (and in that regard I have till now disregarded the matter), but rather the common good, for the protection of the truth and for the defence of Catholic thought. Also, patience and charity have limits in the light of justice and truth».

4. The Roman Actions against Murray

Ottaviani set to work immediately. One of his first acts was to write to Cardinal Spellman to protest that a New York priest had invited Murray to speak and then had praised his speech. «In the lecture father Murray affirmed many things that were not true and was most offensive towards me», Ottaviani explained. «This personal offense does not interest me but I do object very much, indeed, when a lecturer dares to justify his false ideas by changing the sense of a speech delivered by His Holiness». In his reply Spellman asked


41 WCA, Murray Papers.

42 Connell to Ottaviani, Washington, March 27, 1954 (copy); Ottaviani to Connell, Rome, March 31, 1954; RABP, Connell Papers, «Church State Letters».
for more information, said that he would take up the matter with the rector of Catholic University, but informed Ottaviani that the New York priest in question was not under his jurisdiction. No record of Spellman's conversation with the University rector is known, but Spellman took no further action and neither did the Catholic University.

Ottaviani's actions had more effect at another major Catholic university in the US, Notre Dame. Connell's letter about Murray's speech had informed Ottaviani that the University's Press was about to publish a book containing an article by Murray on Church and State. Ottaviani immediately sought to prevent the publication of the book by appealing to the authorities of the University's sponsoring religious order, the Congregation of Holy Cross. On March 30, 1954, «at the express request» of Ottaviani, fr. William Doheny, a Holy Cross priest working in Rome as a consultor to the Congregation for the discipline of the sacraments, sent an alarmed letter to his superior general, Christopher O'Toole, then headquartered in New York. Doheny described the dramatic context: «After manifesting extraordinary patience and exemplary forbearance», the Holy Office was about to take «drastic measures and stringent rulings» against Murray, whose recent speech, «with disrespectful insinuations and untrue innuendos, indicates that benevolent counsels and gracious warnings have proved ineffectual». A «public condemnation» of Murray and his writings seemed likely. In a kind attempt to prevent the Order and the University from being implicated in the affair, Doheny went on, Ottaviani was asking O'Toole «to exercise the fullest authority of your Office to prevent such a catastrophe». Insisting on the strictest confidentiality, Doheny summed up the cardinal's request: fr. O'Toole, fr. Theodore J. Mehling, the local CSC provincial, and fr. Theodore Hesburgh, the president of Notre Dame, should send letters assuring Ottaviani that they and other members of the CSC do not share Murray's views, that they have halted the publication of the book, even at financial sacrifice, and that Murray would never be invited or permitted to preach, speak, or write articles for any CSC institution.

O'Toole immediately sent Rome two replies, but of contrasting tendency. His letter to Ottaviani assured the cardinal on all three points. But the second letter informed Doheny that some publicity had already been given to the volume and that some copies might already have been sent out. O'Toole also gave his own view of the matter which Doheny might use in conversing with the cardinal. He wondered whether «exaggerated reports of the situation have reached the Holy See»; in his view, Murray's theories were not being given too much prominence, and his CUA speech had received little publicity. A public condemnation of Murray would «create a furor (...) and would give our enemies a lot of ammunition for attacking the Church». It would also end Murray's rare ability «to make contact with and have influence on Protestant thinking».

Soon after, however, O'Toole learned that over half of the 6000 copies of the book had already been distributed, that it had begun to be reviewed, and that rumors were beginning to circulate in its

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43 Ottaviani to Spellman, April 1, 1954; Spellman to Ottaviani, April 5, 1954 (copy); Archives of the Archdiocese of New York (AANY). This was somewhat disingenuous on Spellman's part since every year the University had to ask for his formal permission for the priest to remain on the faculty.


45 MURRAY's chapter, *On the Structure of the Church-State Problem*, in *The Catholic Church in World Affairs*, ed. W. Gurian and M.A. Fitzsimons, Notre Dame 1954, pp. 11-32, was a concentrated form of the essential arguments he had been proposing for the previous five years.

46 W.J. Doheny, CSC, to Christopher J. O'Toole, CSC, March 30, 1954; Archives of the Congregation of Holy Cross (ACSC).

47 O'Toole to Ottaviani, April 6, 1954; O'Toole to Doheny, New York, April 6, 1954 (copy); ACSC. In a postscript, apparently to this letter, O'Toole communicated another piece of information: «Apparently, so I have learned, Father Murray has been aware of Cardinal Ottaviani's disagreement with his theories, but he is reported to have said that Mons. Montini, on the contrary, agreed with his (Father Murray) point of view. It might be well to keep this in mind, because I certainly would not like to see Holy Cross or the University of Notre Dame be caught so to speak, between two fires». «I still feel», O'Toole concluded, «that the entire affair has been overly magnified».
regard. O’Toole therefore wrote again to Ottaviani and to Doheny asking for further instructions, since refusing to allow the other copies to be sold would surely raise more questions. After consulting Ottaviani, Doheny cabled from Rome that sale and distribution of the book could be continued. A letter from Ottaviani confirmed that permission but asked that he be consulted before any eventual second edition appeared.

Information is not publicly available about what actions Ottaviani was at this time taking with Murray’s Jesuit superiors. A later letter to the American assistant indicates that Murray had sent Ottaviani a letter «in the nature of a personal apology», which the cardinal «lacked the grace to accept»66. In early May Murray briefly described his situation to Mrs. Luce: «Some of my “friends” at the Catholic University delated me to Cardinals Pizzardo and Ottaviani in consequence of a lecture I gave at Catholic University on March 25. The procedure was most unfair; my Father General was drawn into it, but I had a wonderful letter from him – he is a wonderful man.» The recent «trouble», he said, was «now pretty well cleared up»50.

That his troubles were not yet over Murray might have guessed if he read an article that appeared in «La Civilta Cattolica» in May 1954. Antonio Messineo gave an exposition of Ci riesce which concluded with a lengthy critique of the «specious arguments», «subjectivism», «distortions dictated by preconceptions», and «obstinance» of Catholics who saw in the papal address any departure from classic Catholic teaching. Cardinal Stritch, in Rome for the canonization of Pius X, learned that Messineo’s article was aimed at Murray, but «unquestionable authority» had also informed Stritch that «the piece represents only the opinion of the writer. No other importance, official or semi-official attaches to it»52.

But also in Rome at the time was Joseph Clifford Fenton, who had himself just published an article repudiating Murray’s thesis of a contradiction between Ottaviani’s position and that of Ci riesce53. Soon after his arrival in Rome in mid-May, Fenton was commissioned by Ottaviani to prepare two reports on Murray. The first of these was an analysis of Murray’s article in The Catholic Church in World Affairs, which Fenton indicted as contradicting Church teaching and subverting the authority of the magisterium. He concluded with his advice to the Holy Office: «Regretfully and after prayerful consideration I consider it my duty to recommend that Z’s [i.e., Murray’s] article be condemned nominativum by the Catholic public».

Fenton composed these reports between the 7th and 15th of June. After delivering the second report on the 15th, Fenton had a long talk with Giuseppe Di Meglio, an addetto in the Holy Office, who told him «that action will be taken in the affair of Z [Murray], rather serious action»55. Back in the US, Fenton, perhaps out of im-

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48 O’Toole to Ottaviani and to Doheny, April 12, 1954; Doheny to O’Toole, April 20, 1954; Ottaviani to O’Toole, April 20, 1954; ACSC.

49 WCA, Murray to McCormick, August 18, 1954.

50 Murray to Clare Boothe Luce, May 9, 1954; a month later, he continued to think the trouble over: Murray to Luce, June 7, 1954; LC. No copy of Janssens’ letter to Murray is now available.


52 From a letter of Howard J. Carroll to Paul Tanner, June 6, 1954; ACUA, NCWC/USCC, «International Affairs, Immigration», 1954, Jan.-June. Carroll wrote at Stritch’s instruction that if the NCWC News Service took any notice of Messineo’s article it was to «be sure that a sentence is inserted to indicate that the opinions are those of the author only, and as the H.F. [Holy Father] said in his talk to Italian jurists HE is the supreme teaching authority of the Church».


54 Drafts, written in code, of the two reports can be found in Fenton’s diary of his 1954 Roman visit; copy in my possession.

55 FENTON, 1954 Roman diary. In April Ottaviani had sent Fenton a brief ar-
patience, wrote in August to Di Meglio, who responded: «Ella, Monsignore, stia tranquillo; qui si segue con molta attenzione la situazione. Le sue notizie sono sempre preziose e perciò apprezzatissime [sic]».

5. The Holy Office's Censure

In fact, decisive steps had already been taken. The action is documented in a letter written by Cardinal Pizzardo, the pro-prefect of the Holy Office, to Fr. O'Toole on July 26, 1954:

E.mi ac Rev.mi Patres huius Sacrae Congregationis, in Coetu Plenario habito Feria IV, die 7 mensis labentis, attento subiecerunt examini sententias a R.P. JOHANNE COURTNEY MURRAY, S.J., super relationibus inter Ecclesiam et Statum prolatas.
Idemque statuerunt huiusmodi correctiones unicequies exemplari nondum vendito supradicti libri afficiendas esse, per Folium ab ipso Patre redigendum.
Curet, igitur, Paternitas Tua Reverendissima ut quae E.mi Patres statuerunt adamussim serventur, de qua executione ad hanc Supremam Sacram Congregationenm opportune referat.

Absent when Pizzardo's letter arrived, O'Toole did not reply until September, when he communicated a suggestion of Fr. Hesburgh that the remaining copies of The Catholic Church in World Affairs, whose sales had begun to decline, simply be removed from sale. If this were not acceptable, they would see to it that the insert with Murray's corrections, which had not yet arrived, was inserted in each volume sold. This letter seems not to have reached Pizzardo who wrote to O'Toole again on January 22, 1955 repeating the information given in his earlier letter and asking for a report on what had been done to implement it. O'Toole replied that no corrections had yet been received from Murray, but that the book had been withdrawn from circulation. To avoid the admiratio populi and critical comments in the secular press, O'Toole again made a counter-suggestion: that a second edition of the book be prepared with a corrected version of Murray's article. The University would be willing to pay the costs of this new edition in order to help resolve the thorny issue. This letter did reach Pizzardo who replied that since the book had been withdrawn from circulation it was now «superfluous» to invite Murray to write a new article. If Murray did submit an insert with corrections of the original article, O'Toole was to send a copy of it to the Holy Office before inserting it in the book. Upon learning that the Holy Office had received complaints that the book was still on sale in US bookshops, O'Toole wrote to Hesburgh requesting that the latter buy up whatever copies remained: «As long as copies are being sold, we are going to have difficulties». In a final letter to Pizzardo O'Toole explained that he had taken steps to see to it that Murray would not speak at CSC institutions and that the latter would not publish his writings. Once again, much of the documentation on Jesuit communications with regard to Murray's case is lacking, and we must be content with indirect references. As late as August 8, 1954, the americ...
can assistant seemed still ignorant of any further Roman action and simply advised Murray to ignore the recent article by Di Meglio. Ten days later, however, Murray received a communication from Rome, written on July 28, indicating that he would soon receive some «instructions» from the father general. «My feelings at the moment are pessimistic», Murray commented; «I have written so much on the subject, and my views have undergone such development, that it would be rather unlikely if I had not said some things that would be open to criticism. In fact, there are a number of things that I myself would wish to correct».

The «instructions» from the father general surely account for the letter Murray wrote in September to M.A. Fitzsimons, one of the editors of The Catholic Church in World Affairs.

You perhaps know that there are people who are after my head—preferably not attached to the neck. I had a private communication from my Father General in Rome to this effect. He is concerned about my head, and quite sympathetic. The net of it is this: (1) the most informed circles in Rome are now thinking about the Church-State problem in terms of these categories: principles, the application of principles, and the principles that govern the applications of principle; (2) there is some concern lest I be misunderstood, sc., lest I be understood to be talking about «principles» when in fact I am talking about the «application of principles» or the realization of principles in history; (3) my essay in your book might possibly give rise of [sic] this misapprehension.

Murray asked to be allowed, were there to be a second printing, to add «a note to the effect that I am giving an historical analysis, not a doctrinal-juridical statement». If any copies of the first printing were still unsold, he «might think of a page-insert that would clarify this central issue». He insisted that «there really is nothing that I have to retract. It is a matter of protecting myself—and the book too».

You will understand that there is no question of any public «condemnation». If any rumors about a condemnation reach your ears, you may blithely deny them. For your own information I shall say that I seem presently to be caught in a rather taut Roman situation. For my part, I believe and hope that it will resolve itself in a manner favorable to me and to my friends. But for the moment one treads on the well-known eggs (...).»

What else had been communicated to Murray remains unclear and can only be ascertained indirectly. It appears that Murray was placed under prior censorship. In January 1955, Murray wrote to Fr. McCormick inquiring about the status of another article he had published. The American assistant replied that he had kept it to himself on the grounds that this article had never entered into the affair:

Why stir up the embers? The flash had subsided; and His mind [Janssens? Pius XII?], I knew, was: let's forget it all now; the one little error had been noted; the mildest admonition had been given; let that simple, clear error be corrected, avoided, and for the present let us talk of the organist of the Gesu.

AWC, McCormick to Murray, Ash Wednesday, 1955. In another note, March 4, 1955, McCormick personally advised Murray not to come to Rome on the grounds that it would appear he had been summoned and that little would be
In a later letter, McCormick spoke vaguely of «the opinion or thesis that came under censure», of «what was declared untenable in fr. Murray's writings», and of «what the SO censured».

In Murray's reply there is the first indication of another document from the Holy Office:

The last trouble seems undoubtedly to have been inspired from over here. It was interesting to see in one of Msgr. F's [Fenton's] latest articles a direct quotation (not in quotes) from one of the HO's [Holy Office's] propositions. I have not seen it verbally in print anywhere else, not even in anything of mine. It is not unlikely that he wrote the four of them.

Two years later Murray made another reference to this text when writing to explore the possibility of publicly addressing the issues again:

I do not adduce, as a reason for making this proposal, a desire to clear up my own ambiguous situation, though I would most heartily welcome such a clarification, one way or the other, since at the moment I do not know whether I am right or wrong. It seems fair to state that no effective guidance has come from Rome. Five propositions were sent, none of them unambiguous and none of them held by me. For the rest a counsel to keep silent. I have observed the counsel, under assent to its prudence. Only now I wonder whether the time has come for counsels of prudence to cede to the claims of truth.

From all of these indications, the following seems to emerge: In the summer of 1954 the Holy Office formally declared there to be some errors contained in Murray's article in *The Catholic Church in World Affairs* and ordered him to correct them by including an insert in any copies of the book yet unsold. Murray was ordered, at least by his Jesuit superiors, to submit his writings to prior Jesuit censorship. In addition, the Holy Office's censure included a set of propositions presumably representing the errors found in Murray's writings.

6. «Four Erroneous Propositions»

It is now possible to identify the propositions censured by the Holy Office. In the Roman diary of Joseph Clifford Fenton and in the papers of Francis Connell can be found the following text:

**PROPOSIZIONI DOTTRINALI ERRONEE**

a) The Catholic confessional State, professing itself as such, is not an ideal to which organized political society is universally obliged.

b) Full religious liberty can be considered as a valid political ideal in a truly democratic State.

c) The State organized on a genuinely democratic basis must be considered to have done its duty when it has guaranteed the freedom of the Church by a general guarantee of liberty of religion.

d) It is true that Leo XIII has said: «(...) civitates debent eum in colendo numine morem usurpare modumque quo coli se Deus ipse demonstravit velles» (Enc. Immortale Dei). Words such as these can be understood as referring to the State considered as organized on a basis other than that of the perfectly democratic State but to this latter strictly speaking are not applicable.

A convergence of arguments enables one to conclude that this set of censured propositions is in fact the text sent to Murray.

First, they are the work of the Holy Office. Fenton received them from Cicognani at the Apostolic delegation on October 28, 1954, and he immediately added: «Sicut in alia materia adfuit SOFTHO», which I take to mean: «As in the other material there

66 WCA, McCormick to Murray, February 3, 1956.
67 WCA, Murray to McCormick, February 16, 1956 (copy).
69 FENTON, 1954 *Roman Diary*; CONNELL, RABP, *Church-State Letters*. 
was the Secret [or Seal] of the Holy Office». In Connell’s papers the same text is found in an envelope on which is typed: «Under the seal of the Holy Office».

Second, from Fenton’s Diary it is also clear that the mistaken propositions are meant to represent Murray’s views. He was told that «X [Murray] must have retraction printed and added to CCIWA [The Catholic Church in World Affairs]» and that Connell and he were «to see how and when this is done». They were not, however, to make any mention of higher authority.

Third, Murray himself, as noted above, spoke of the four propositions of the Holy Office. (I take his later reference to five propositions to be a failure of memory.)

Fourth, Murray maintained that Fenton had quoted one of these propositions, and the passage in question in Fenton’s article approximates (c) above: «Thus it could not be said that any Catholic state, democratic or otherwise, would be doing its duty, would be acting according to the objective norm, if its collaboration consisted only in guaranteeing the freedom of the Catholic Church by generally guaranteeing the freedom of religion».

Finally, the four propositions are found, in exact French translation and under Murray’s name, in a document generated within the Holy Office. Unfortunately it is impossible to determine whether this undated text was part of the process which led to the censuring of these propositions in 1954 or belonged to a later stage when the Holy Office was contemplating a general condemnation of various positions on Church and State. This and other documents reveal that fr. Rosaire Gagnebet, O.P., was mandated to prepare reports on several publications of the early 1950s on Church and State and religious freedom. Among the works he reviewed were several publications of Maritain, two collections of essays, and articles by Serrand, Pribilla, and Robert Rouquette. The works of Murray examined were not only published articles but also the private report that he had prepared for Montini in 1950. In 1958 Gagnebet’s review of recent publications on the subject served the preparation of a formal statement of the Holy Office which would forbid Catholics to teach twenty-one propositions. Among them are several which were considered to represent the views of Murray.

Although of the 1954 propositions Murray himself said that «none of them [is] unambiguous and none of them held by me», one may ask from which of Murray’s writings they were drawn. With regard to the first proposition, Murray argued in a 1949 essay that the confessional state is not «the theologically necessary, permanently valid, unalterably ideal realization of Catholic principles on Church-state relationships», but a particular way of responding to historical challenges that might have been legitimate in earlier circumstances but had lost its legitimacy, at least as universal ideal, now that the problem had shifted from «Church and state» to «Church and society» and indeed to «Church and Christian citizens».

The second and third condemned propositions resemble comments in Murray’s 1950 paper for Montini, The Crisis in Church-State Relationships in the USA. Compare the second to: «[American...».

70 See FENTON, The Holy Father’s Statement on Relations between the Church and the State, «AER» 133 (Nov. 1955), pp. 322-331, at 329.

71 A despatch from the US Embassy in Rome, 26 Oct 1953, informed the State Department that according to «a reliable source conversant with Vatican activities», «Vatican circles are now debating the advisability of issuing an encyclical on Church-State relations». According to the despatch the internal Vatican debate focused on the impact of such a document, aimed principally to clarify the situation in western democracies, on the condition of the Church in communist countries; Edward L. Freers to Department of State; State Department, RG 59, Box 5326.

72 MURRAY, Contemporary Orientations, cit., p. 229; see also The Problem of the «Religion of States», «AER» 124 (May 1951), p. 334: «Since the institution of the state-church was an adaptation to a particular historical context, it does not represent a permanent and unalterable exigence of Catholic principles, to be realized in any and all historical situations in which there is verified the general hypothesis of a “Catholic population”. This legal institution need not be defended by Catholics as a sort of transtemporal “ideal”, the single and only institutionalized form of Church-State relationships which can claim the support of principles, the unique “thesis” beside which all other solutions to the Church-State problem must be regarded as “hypothesis”, provisional concessions to force majeure». 
Catholics regard full constitutional and religious liberty as a valid democratic political ideal (p. 14); compare the third to Murray's statement with regard to "the democratically organized State", that "it may, and must, consider that it has done its political duty when it has guaranteed the freedom of the Church, by a general guarantee of the freedom of religion" (p. 12; see also pp. 9-10).

I have been unable to find a passage in Murray's writings that approximates the fourth condemned proposition. It may be that it resulted from a compressed statement of Murray's position by some commentator or critic. As the other propositions, the argument it states is developed with much more nuance in Murray's writings, particularly by distinctions between "society" and "State" and among the various responsibilities of both society and State towards religion.

It is perhaps of interest to note that none of the indicted propositions can be found in the essay in The Catholic Church in World Affairs, which was used as the excuse for disciplining him. The materials justifying this action are all prior to that publication. This may suggest that the action against Murray had been well underway before his speech at Catholic University and that essay gave the Holy Office a pretext for action.

73 See also: On Religious Freedom, «TS» 10 (September 1949), p. 425: «(...) the freedom of the Church (...) is the single necessary end that the Church directly seeks in her relations with political society»; The Problem of the «Religion of States», cit., p. 338: "the freedom of the Church is guaranteed in a guarantee to the people of the free exercise of religion"; Ibidem, p. 347n: "I am inclined to say that the only form of cura religionis on the part of the state that is inherent in the idea of the political relationship is the cura libertatis religionis, which in the hypothesis of the founding of the Church, must extend itself to a cura libertatis Ecclesiae. Everything else is history"; Leo XIII: Two Concepts of Government, «TS» 14 (December 1933), p. 566n: "Government renders its essential service to God – i.e., to the good which is true religion in society – by serving the freedom of the Church».

74 This article exists in galley-form in the WCA and has now been published as Leo XIII and Pius XII: Government and the Order of Religion in John Courtney Murray, Religious Liberty: Catholic Struggles with Pluralism, J.L. Hooper (ed.), Louisville 1993, pp. 49-125. On the galley-sheets Murray made certain changes. The sentence quoted above he changed to read: "That there is an ideal of Christian Society to which men in community are universally obliged (...)»; see Hooper, cit., pp. 100-101, p. 123. It is not possible to determine when Murray made these changes.
simply on the grounds that the US is a democracy in the Anglo-American tradition.\textsuperscript{73}

And, finally, the fourth of these propositions was explicitly rejected: «And the social duty of worship is to be rendered in the form that is pleasing to God, that is, according to the rites and forms of Catholic worship», to which he appended a note: «The duty of social worship binds human societies no matter what may be the form of their political regime - monarchic, democratic, despotical, etc. It would be false to say that this duty is not binding on a society organized on a democratic basis.»\textsuperscript{76}

Despite this effort at appeasement, on July 9, 1955, McCormick informed Murray that his Jesuit censors advised against publishing the article:

The article, as you see, cannot be published. These men have your interests at heart and they know the scene over here. As one wrote to me: «Textu bis ex toto perlustrato, censeo: textum prout est publicum iuris fieri non posse; accusaretur auctor sine mora a suis “amicis” in America et hic Roma [sic] apud S. Officium. Nihilominus non pausero in MS sunt perfune dicta». It seems to me a mistake to wish to carry on with that controverted question under present circumstances. What you have thus far contributed to it will be found useful later on; for the time being no comparable good can be attained by provoking those who will not be appeased. Fr. General agrees with the final verdict, though not with every comment of the censors. He adds: Leave Spain out of it. So, fiat. Time will bring changes.\textsuperscript{77}

Murray replied to McCormick’s letter thanking him for his «delicate way of saying, “You’re through”», and adding: «Since I am natively of a pessimistic turn of mind, the result was not unexpected. But the whole thing represents a defeat and a failure of the first order.» McCormick replied that he thought Murray «far from through, I hope: but let the State-Church question rest for the present». Murray remained distressed:

It was kind of you to say, «You are far from through, I hope». I do not share the hope (...). All the books on Church and State and on allied topics have been cleared from my room, in symbol of retirement, which I expect to be permanent (...). And all other practical measures will be taken to close the door on the past ten years, leaving all their mistakenesses to God. (At that I do not believe that I was mistaken on the central issue – the need for a unitary theory).\textsuperscript{78}

Late in the summer Murray began to inform Jesuit friends of his circumstances. One of these descriptions is fuller than others:

It seems that a certain Roman Cardinal was «personally offended» by a report he got from one of my CU «friends» about a speech I gave there in March, ’53 [sic: 1954]. The report was badly distorted. The man had not even been present at the speech. Anyhow, the finger was on me. To avoid trouble, I sent my last article (before publication) to our Curia in Rome. After months of waiting, the judgment came back: in effect, no doctrinal errors, but it would be «inopportune» to publish it – given the enduring wrath of the Cardinal – & a conflict within Roman circles (which the Pope has twice delicately handled – without making an impression – cfr. the Nov. issue of «AmEcclRev»). The General’s judgment, put to me in most consoling paternal terms, was to keep quiet for a while – until «mutatis quibusdam adjunctis» (direct quote) I may again come forward. Some of the rather «dirty» aspects of the business had me down for a bit. But God through”. But John is a good religious and this will not crush him, despite his feelings at the moment. ANYP, Joseph T. Murphy to Hanneberry, July 18, 1955.

\textsuperscript{73} See HOOPER, John Courtney Murray, Religious Liberty: Catholic Struggles with Pluralism, cit., p. 121.
\textsuperscript{76} HOOPER, John Courtney Murray, Religious Liberty: Catholic Struggles with Pluralism, cit., p. 54 and p. 118.
\textsuperscript{77} ANYP, McCormick to Murray, July 9, 1955 (copy). The rector of Woodstock, communicating this information to the provincial, commented on Murray’s reaction: «At the moment, I might mention that he is a bit restless and somewhat depressed. For, quite unrealistically, he looked forward to complete and public vindication by Rome. Last night he cleaned all the books on Church and State out of his room and returned them to the library. His mood at the moment is: “I’m still not through”. But John is a good religious and this will not crush him, despite his feelings at the moment»; ANYP, Joseph T. Murphy to Hanneberry, July 18, 1955.
pursues His purposes in strange ways. And it was frustrating to have to stand up without having said one’s last word. The “inopportune article pretty much wrapped up my whole position. Anyhow our own Society (God bless it) was wonderful. And it was worth everything to have had the experience of the loyalty, prudence, & fatherly care that the General has - even towards such as me, who really occasioned some unpleasantness between him & the Cardinal (Ottaviani)79.

Inquiring at the end of 1955 about the extent of the constraints upon him, Murray did not receive an encouraging answer from McCormick: «I suppose you may write poetry. Between harmless poetry and Church-State problems, what fields are taboo I don’t know; but ordinary prudence will give the answer. We’ll try to keep out of controversy for the present»80.

8. Later Developments

If some Roman circles had great reservations about Murray’s views, they were not unanimously shared by the American bishops. In August 1955, the Education department of the NCWC asked Murray for help in preparing a statement to be offered to proposed Congressional hearings on the the First amendment. The letter of invitation included this encouraging word:

Archbishop Alter (with no prompting from me) several times insisted that the only person who could present really effective testimony on Church-State questions was yourself. He has read everything you have written and made no bones about saying that he agreed fully with your position and thought that the Fenton line of thought was a real menace to the welfare of the Church in this country. I was quite surprised to find him so emphatic on this point. The Archbishop very directly advised us that we should do everything in our power to seek your help in the preparation of a well-balanced Catholic statement on the Church-State question. It was a directive that I did not find hard to take81.

In the years that followed Murray was not only regularly asked by bishops to give retreats to priests but was also asked to participate in various discussions concerning matters of public morality and the role of religion in society. His continuing influence in the Church and in the wider American conversation led Connell and Fenton to continue to urge Rome to issue a public condemnation of his views. Fenton expressed his frustration some years later: «There has never been anything less effective in the Church than a secret condemnation of an error»82.

Murray himself had been urged by the Catholic publishing house, Sheed and Ward, to collect his essays on Church and State. In 1955, after his Jesuit superiors had urged him to find another area of work, he thought to cancel his agreement with the firm83. A

79 WCA, Murray to Leo A. O’Connor, S.J., undated. See also Murray to Philip Donnelly, S.J., September 12, 1955; Weston College Archives; and Murray to a Fr. Murphy, March 23, 1957, cited in PELOTTE, John Courtney Murray, cit., p. 72, where Murray specifies things a bit more: «One censor made no adverse criticism. The other, while he approved the substance of the argument, thought I had overemphasized the polemic intentions of Leo XIII. However both censors independently agreed that it would be imprudent and inopportune to publish the article. This judgment was affirmed by my Father General. The reasons were related to the fact, which you know, that there is a difference within “Rome” itself, not indeed with regard to Catholic doctrine but with regard to its impostazione (that glorious untranslateable word!). Moreover, it happens that I am persona non grata in certain powerful circles, quite apart from the question, whether I hold doctrina non recta. This is one of the repercussions of the famous “controversy” over here.


81 ACUA, NCWC/USCC, Education Department, William McManus to Murray, August 26, 1955 (copy); Murray did work on the statement, but at the last minute the hearings were cancelled. KJ. ALTER, Archbishop of Cincinnati, had long been interested in the question; in his article, Church and State: Diarchy or Dualism, «The Ecclesiastical Review» 106 (May, 1942), pp. 321-340, he had quoted generously from Sturzo’s Church and State and implied that Ottaviani’s textbook-approach was no longer adequate.

82 FENTON, Roman Diary, March 16, 1962.

83 See PELOTTE, John Courtney Murray, cit., p. 53.
year later, however, he reviewed his writings on the subject «with a view to making the revisions, corrections, etc. necessary before putting out all the matter in book form»84. People continued to consult him on the issue85, however, and perhaps it was their urging that led Murray to make one more effort to persuade Rome of his position. But there were other reasons as well, outlined in a letter to McCormick:

The occasion is the bid being made by Mr. Kennedy for the Democratic Presidential nomination. His office approached me indirectly [sic] some time ago on the question of a statement to be made on the perennially troublesome question: Can a Catholic support, in principle, the religion-clauses of the Constitution. More recently Kennedy has decided not to make a statement unless he is forced by circumstances (it was Cardinal Spellman who told me this early in June). However, it may still be necessary; and the idea is to do better than Al Smith did. Again, the question of a Catholic for President has begun to be a journalistic issue. Harry Luce has asked my advice about an article that «Life» intends to run sometime in the fall. Finally the Bishops have been considering the problem of formulating a united opinion. I was told by Archbishop Brady of St. Paul that a draft of

84 WCA, Murray to John J. Castelot, S.J., March 7, 1957. These would appear to be the early negotiations that resulted in Murray’s book, We Hold These Truths: Catholic Reflections on the American Proposition, New York 1960. An «Times», the weekly newsmagazine, prepared a cover story on Murray to promote the book, Connell informed the new Apostolic delegate, Egidio Vagnozzi: «The purpose of the article will be to extend the doctrine of Fr. Murray as fully “American” and that of Msgr. Fenton and myself (and perhaps Cardinal Ottaviani) as not American and “un-American”. I am more and more fearful that in the United States we are developing an “American church”, that some day may go into schism or heresy». Four months later, at Vagnozzi’s request, Connell prepared a lengthy comment on Murray’s book, which, he said, showed that he still held views opposed to Catholic tradition (…). I sincerely hope that the Holy See will make a public statement on this matter in the near future, for many American Catholics are accepting Father Murray’s theory, which is so closely in accord with American ideas of separation of Church and State»; RABF, Connell to Vagnozzi, 25 Nov 1960 and 20 Mar 1961.

85 See PELOTTE, John Courtney Murray, cit., pp. 56-58.

a position written by r. F.J. Connell was turned down, as unsatisfactory, at the spring meeting of the Administrative Board.

More important than the occasion is the reason. In the present confused state of Catholic thought no American Catholic can safely and with authority say the one thing – no more and no less – that he must be able to say, sc., that within the total religious-political situation of the US the First Amendment is good law that can be and is defended by Catholics in principle, that is, in terms of the structured ensemble of principles that govern human legislation with regard to the relations of religion and government.

«To put a footing of doctrinal argument under this assertion» Murray had written an article, Unica Status Religio, which he wished to submit to «La Civiltà Cattolica». Publication there, which he knew to be impossible without official, perhaps even papal, approval would create a desirable and needed «freedom of argument», manifesting that the «disjunctive theory» held in «certain high Roman circles» was not the only view tenable. It would also clarify his own «ambiguous situations»86.

McCormick’s quick reply deflated Murray’s hopes:

I am afraid that you do not know that Rome of today. I very seriously doubt that there would be any chance of the Civiltà accepting an article by you on the subject of Church-State relations. No; we must be patient; some people never forget; if the possible, political situation in the USA should put the «Civiltà» et al. on the defensive, then would be the time for some explaining to be done over here, and a clearer and perhaps authoritative statement of the Church’s essential teaching on the matter might be made. I really think that you must wait for that, not expose yourself by trying to hasten it. In the end what is correct in your stand will be justified. Meanwhile be content to stay on the sidelines, unless the hierarchy forces you into play; deepen and clarify your own position, and be ready with your solution approved, when the opportune time comes. That is not coming in the present Roman atmosphere87.

86 WCA, Murray to McCormick, July 22, 1958 (copy).
87 PELOTTE, John Courtney Murray, cit., p. 59, citing McCormick to Murray,
How right McCormick was in this judgment is revealed in documents generated within the Holy Office. On January 1, 1958, Pizzardo informed fr. Gagnebet that «an important dubium» on the matter had been submitted by the Archbishop of Toledo, Cardinal Enrique Pla y Deniel, in his capacity as president of the Conference of Spanish metropolitans. Gagnebet's work led him to prepare a set of forty-two propositions held by «authors who have recently departed from the traditional theses». Of these a commission had extracted twenty-one propositions «which seemed deserving of repubication». In March 1958 these were printed in French under a general title: Chiesa e Stato: Concessioni di diversi autoris sulle relazioni tra Chiesa e Stato. Troisième partie: Liste des propositions résumant les positions soutenues ci-dessus. Translated into Latin, a revised text was printed in June 1958 as Ecclesia et Status: De officiis Status catholici erga religiorem.

The first part of this text presented a «Synthesis of Catholic Doctrine» which set out the classical and «immutable» position. The State has a duty to exclude by legislation whatever the Church believes impedes its mission and to promote the Christian life. If it must never coerce consciences, it must support «the moral, intellectual, social conditions by which people may more easily attain divine truth». To preserve its subjects from error and «to maintain the society's unity of faith», it has a right to prohibit false worship and to prevent the spread of false ideas. «But there can be special conditions in which the good of both religion and the society require the Catholic State to display a just tolerance both to avoid a greater evil and to procure and preserve a greater good (in which matter it must take into account not only national order but also the good of the universal Church and the common international temporal good)». The text admits that this full doctrine can only be applied in a «Catholic nation, in which all the citizens not only have been baptized but also really profess the Catholic faith». But when it cannot be applied, damage is done to the Church, to souls, and to the State itself. «This is why Pope Leo XIII correctly stated: “the more evil it is necessary for a state to tolerate the more does that kind of state depart from the ideal”. The justice of this statement is confirmed by the history of the last century».

But a need now existed to restate the Catholic doctrine. Some philosophers and theologians were claiming that this doctrine is simply a codification of former relations between Church and monarchical regimes when citizens were not yet treated as adults and before the secular realm had achieved a proper autonomy. Some thought the traditional doctrine could be reduced to very few principles which need to be applied differently in a regime of «profane Chrasteendom». Today, they argue, in democratic regimes citizens are ultimately responsible for the State's conduct, and democracy requires «perfect freedom and perfect equality of all citizens without any discernment between the various religious confessions».

In all these respects, these «novae doctrinae autores» are departing from the traditional doctrine. While they believe their «new thesis» can be deduced from immutable Catholic doctrine, others think that their new propositions abandon the nearly unanimous teaching of theologians confirmed by past popes and by Pius XII himself. This state of confusion had led to a request for a Holy Office judgement as to whether these new propositions can be spread with impunity. The present document provides the Congregation's answer: «The following theses cannot be taught by Catholics».

August 5, 1958, in WCA. Nonetheless, McCormick did submit Murray's essay to a Jesuit censor, R. Bortolotti, whose response raised some substantive questions about Murray's argument, questions which he said could be overcome but the effort «può prestare ansa a pericolosi malintesi, a equivoci e a inutili polemiche». He went on to offer a proposal that would make Murray's argument «ancor più immediato ed evidente, difficilmente attaccabile o contestabile, scervo di pericolì di equivoci e difficoltà la cui soluzione esigerebbe spiegazioni e comporterebbe inevitabili polemiche», in WCA. For those who had eyes to see, this was a judgment that Murray's essay should not be published as written.

88 Pizzardo to Gagnebet, January 1, 1958; private documents.
89 Information in a «Note d'envoi» of a later date, some time after the announcement of the Second Vatican Council by Pope John XXIII; private documents.
90 A revised version, Chiesa e Stato: Conceptions de divers auteurs sur les devoirs de l'Etat catholique, is dated 30 April 1958.
There followed the second part of the text: «Opiniones quorundam auctorum modernorum de Statu catholico laico», containing the twenty-one propositions that could not be taught. If Maritain's ideas about the «new Christendom» certainly are a primary target intended here, it is also clear that several of them state views that Murray had espoused. For example, the second censured proposition maintains that there are only four immutable principles to be drawn from papal teaching: the independence and freedom of the Church, the freedom of the act of faith, the «primacy of honor» due to the spiritual order, the need for collaboration between Church and State. «Everything else is to be considered an application of these principles to particular circumstances the Pontiffs had in mind in the individual documents. The application of these principles to other circumstances must be made in an essentially different way».

The sixth proposition maintains that the State is of a merely natural character, cannot depend on the Church, is never bound to divine positive law or to Church precepts, and is bound only to the precepts of the natural law. The eighth proposition surely was meant to reflect Murray's views:

Because it is not a physical person, the State is incapable of making an act of faith, for which reason it cannot be forced by any obligation to make a public profession of the true faith. The only way of worshipping God that is appropriate to the State is the care entrusted to it of procuring the common good by appropriate laws in its daily governance of the people.

The fourteenth proposition also is aimed at Murray:

The public religious duties of the State, such as the acknowledgement of the true God, defence of the rights of the truth, the observance of divine laws, the right relationship between the temporal and spiritual, etc. may not be fulfilled by the leaders of a democracy without the consent of the people. In a democracy the way in which harmony is established between Church and State and they are of aid to one another is not to be determined by treatises signed by the governors of both powers, but only by the civic actions of Catholic citizens in conformity with the laws of conscience and with political prudence.

What happened to this Holy Office text is not now known. Four months after it was printed pope Pius XII died, but a last effort to salvage the text appears to have been made under John XXIII. A brief undated note by Gagnebet indicates that he further synthesized the errors into ten untenable propositions, to which he added a new one in defense of the Catholic school. But Gagnebet added a significant note: «(...) on prête au Souverain Pontife la volonté d'établir une atmosphère de sympathie parmi les chrétiens séparés autour du Concile Oecuménique. On sait combien ils sont susceptibles sur ce point. Pour ces raisons, j'ai atténué un peu dans la forme certaines formules»92. And he even anticipated «des difficultés contre l'affirmation de cette doctrine dans les circonstances actuelles (...)»93.

Clearly the change in the roman atmosphere anticipated by Fr. McCormick had begun. In their vote for Vatican II, the great majority of the US Bishops who wished the Council to address the issues of religious freedom and Church-State relations did so in terms sympathetic to Murray94. «Disinvited», as he put it, from the first session of the Council95, Murray was sponsored by cardinal Spell-
man and appointed an official *peritus* in the spring of 1963. Murray became the chief spokesman of the US Bishops on the issue of religious freedom and one of the main architects of *Dignitatis humanae*, which was promulgated a little more than ten years after he had been reduced to silence.\(^6\)


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**1. Un projet théologique**

Nous restons attachés à l'idée d'une intelligence de la foi, dans la foi. Giuseppe Alberigo, qui se veut un intellectuel laïc au sens le plus prrègnant et le plus indépendant du terme, a su ne pas s'engager comme d'autres dans une attitude anti-théologienne. Mais nous savons que cette intelligence a eu dans l'histoire et peut connaître aujourd'hui encore des formes diverses. Le modèle de la construction systématique, synthétique, n'est pas le seul possible. La lutte de la raison dans la foi, pour et contre elle, cet aspect «agonistique» qu'aimait défendre Unamuno et qui a souvent fait des philosophes — un Kierkegaard, un Blondel, un Ricœur — les théologiens peut-être les plus novateurs de leur temps, n'est pas étranger à ce chrétien attaché au combat spirituel. Ni les modalités narrative ou poétique qui, dans leur ordre, peuvent parvenir à une véritable rigueur ne le céder en rien à celle des concepts, n'étonnent cet homme de culture (au sens français de ce mot). Et moins encore la fonction critique de la théologie\(^1\) mettant en jeu l'exégèse, l'histoire, les sciences humaines, pour évaluer les représentations, les institutions.