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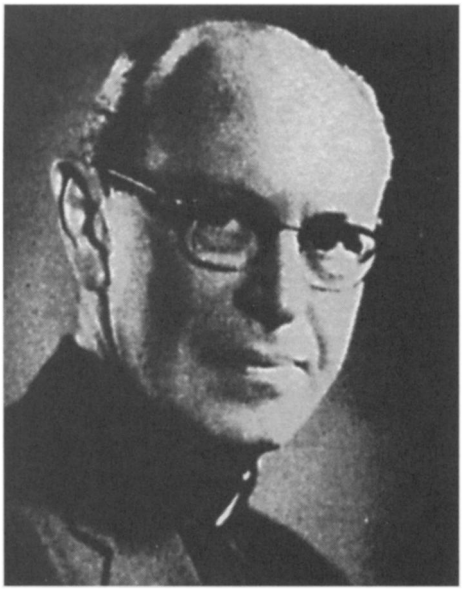
Catholic Principle and the American Experiment: The Silencing of John Courtney Murray

Joseph A. Komonchak

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 I will take to be reasonably familiar to readers and will supplement by recently discovered archival materials.[1]

Murray was brought to the attention of the Vatican in 1943 when Bishop Francis McIntyre, auxiliary bishop of New York, sent to the apostolic delegate, Archbishop Amleto Cicognani, a correspondence between McIntyre and Murray over the question of inter-religious cooperation.[2] Cicognani himself shared the concerns of Archbishop John T. McNicholas and other United States bishops over the inter-religious cooperation with Protestants and Jews that Murray and other Jesuits were urging in order to deal with the general social and cultural crisis that had exploded into the Second World War; and the apostolic delegate had encouraged Francis J. Connell, C.Ss.R., in his opposition to such efforts on the grounds that they would inevitably compromise Catholic exclusivism and promote religious indifferentism.[3] In his writings on the subject, Connell recalled the teaching of Leo XIII on religious freedom, which he insisted also applies to the United States, and cited



John Courtney Murray, S.J.

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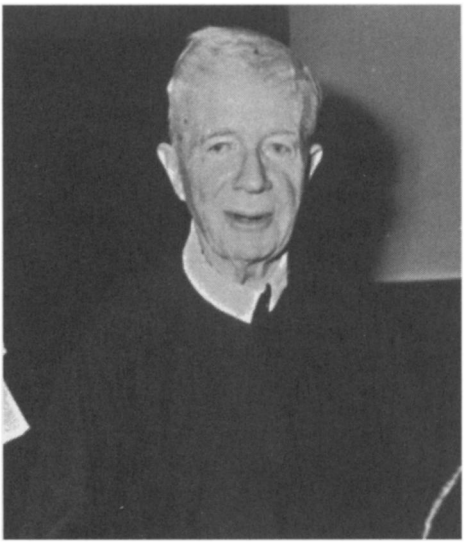
that same pope's disapproval of joint meetings with non-Catholics such as had occurred at the World Parliament of Religions in 1893.[4]

When to this Catholic objection was added the reluctance of Protestants to cooperate with a Church that in principle might one day deprive them of their religious freedom, Murray turned in 1945 to the underlying question of Church-State relations. After aborting an initial effort to think out the problem of religious freedom, he spent the next three years reading widely on the subject, particularly in European sources. At the 1948 convention of the Catholic Theological Society of America, he first began to articulate his mature position which was that nineteenth-century papal teaching on Church and State was an appropriate response to the type of secularism then being aggressively urged in Europe 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 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 U.S. 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" as a lesser evil.



Rev. Francis J. Connell, C.S.S.R. (Courtesy: Archives of The Catholic University of America, ACUA)

Francis Connell, whom Murray had asked to reply to his CTSA address, was unconvinced. There and in other essays, Connell maintained that Murray's position was incompatible with recent papal teaching and that the principled ideal had to remain that of the Catholic confessional state; anything less would compromise the claims of Christ the King.[5] But as he saw Murray's views gain in popularity in the U.S., Connell also embarked on private efforts, which he would sustain for thirteen years, to have Rome intervene. On 1 August 1950 he wrote a letter to Cardinal Giuseppe Pizzardo, Secretary 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

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view, which he found incompatible with Catholic doctrine, was spreading in the U.S.[6] 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, Italy, at which he gave a report on the sorry state of Catholic-Protestant relations in the U.S.[7] While in Italy, Murray met with Msgr. Giovanni Battista Montini, whom he found "personally sympathetic with my 'orientations'" and who, Murray said, "rather wanted his hand to be strengthened."[8] For that purpose Murray prepared a memorandum, "The Crisis in Church-State Relationships in the USA,"[9] in which he argued that the Church in the United States confronted the danger of a new secularist and naturalistic faith, one which elicited intelligent Protestants to cooperate with the Catholic Church in an alliance against these anti-religious trends. But this promising opportunity was threatened by 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." Unless this obstacle could be overcome, the great opportunity represented by the 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 "vitally 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."

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. . . ."[10] From within the Secretariat of State Montini sent the text to some American churchmen asking for their evaluation of it. Cardinal Samuel Stritch of Chicago replied that he did not think the report comprehensive in that it failed to note the long history of Protestant suspicion of Catholics and that the new clashes were provoked by the very growth of the Church. He disagreed with Murray's argument that Leo XIII's teaching did not apply to the peculiar conditions of the United States, of which that pope was clearly aware. Catholics can accept the First Amendment without any change in church-teaching and without accepting Protestant notions of religious freedom. On the other hand, Stritch thought that it would be helpful if the pope were to develop his teachings about democracy.[11]

Murray's memorandum to Montini was also sent to Connell who replied

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with a five-page set of "Comments on 'The Crisis of Church-State Relationships in the U.S.A.'"[12] After denying that the situation in the U.S. 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."

As Murray continued to set out his position in a series of articles, Connell was joined in his criticism 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." Connell's colleague at Catholic University, Father Joseph Clifford Fenton turned to the issue himself by summarizing the debate between Murray and Shea in which he clearly came down on Shea's side.[13]

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 am sure that it will be seriously considered but we know that the investigation and study take time."[14] Presumably, this material was the dossier on Murray's memorandum for Montini. A year later it became clear that the Holy Office had also interested itself in Murray's views.

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 to give a speech on "Church and State: Some

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Present Problems in the Light of the Teaching of Pope Pius XII."[15] The cardinal criticized Catholics who were calling into question the character of the Church as a "perfect society," the duty of the State to acknowledge the one true religion, the legitimacy of a Catholic State, and the Church's right to the State's special favors. 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."

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 American debate:

> 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*.

The controversy was very well summarized by Professor 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

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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 published summary of the controversy, which would later lead Murray to accuse Fenton of having misrepresented his thought.[16]

Murray's own interest in Ottaviani's speech, needless to say, was great. In the late Spring of 1953, he sent a letter of concern to 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."[17] 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.[18]

Murray's local Jesuit superiors seem to have had some anxiety about his status in Rome. The rector of Woodstock College, Joseph F. Murphy, S.J., in his semi-annual letter to the Jesuit 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 7, 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....*[19]

But only months later the Jesuit 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.*[20]

Murray wrote to the assistant, Vincent McCormick, S.J., 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 2136 had been invoked to refer not to him but to the new American Ambassador to Italy, Clare Boothe Luce. McCormick replied at once

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to reassure Murray that the Jesuit 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 on behalf of American Pentecostals.[21]

Within a few days Murray thought that he had reason to regain confidence about his situation in Rome. On December 6, 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 intransigent position.[22] Murray's friend, Gustave Weigel, S.J., was in 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 U.S. Weigel's address was published in *America*.[23]

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 the Catholic University of America, 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 the 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 beyond the classic theory of tolerance.[24] But many of those who heard Murray speak

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brought away in particular clear memories of the Jesuit's disparaging manner and remarks towards Ottaviani.

Murray's critics at the 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."[25]

The Roman Actions Against Murray

Ottaviani set to work immediately. One of his first acts was to write to Cardinal Francis Spellman to protest that a New York priest, Father Henry Browne, archivist of the Catholic University, 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." Spellman's reply deflected the implicit call for measures against Browne, and the incident seems to have had no consequences at Catholic University.[26]

Ottaviani's actions had more effect at the University of 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.[27] 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, Father 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, C.S.C., 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 warn-

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ings 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: Father O'Toole, Father Theodore J. Mehling, the local C.S.C. provincial, and Father Theodore Hesburgh, the president of Notre Dame, should send letters assuring Ottaviani that they and other members of the order 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 Holy Cross institution.[28]

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 added 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 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."[29]

Soon after, however, O'Toole learned that over half of the 6,000 copies of the book had already been distributed, that it had begun to be reviewed, and that rumors were beginning to circulate in its 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 continue. A letter from Ottaviani confirmed that permission but asked that he be consulted before any eventual second edition appeared.[30]

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."[31] 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."[32]

That his troubles were not yet over Murray might have guessed if he read an article that appeared in *La Civiltà Cattolica* in May 1954. Antonio Messineo

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gave an exposition of *Ci riesce* which concluded with a lengthy critique of the "specious arguments," "subjectivism," "distortions dictated by preconceptions," and "obstinacy" of Catholics who saw in the papal address any departure from classic Catholic teaching.[33] 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."[34]

Joseph C. Fenton (Courtesy: ACUA)

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 riesce*.[35] 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* [*CCIWA*], 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 *nominatim* by the Cath[olic] public." The second report gave Fenton's analysis of the attitudes of the U.S. bishops in the question. He argued that the major figures in the U.S. hierarchy disagreed with Ottaviani and sided with Murray. Fenton's practical proposal here was the rapid appointment of two or three bishops who were known to agree with Ottaviani.[36]

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 *adetto* in the Holy Office, who told him "that action will be taken in the affair of Z [Murray], rather serious action."[37] Back in the U.S., Fenton, perhaps out of impatience, wrote in August to Di Meglio, who responded: "Be calm, Monsignor, the situation is being followed very carefully here. Your information is always precious and so highly appreciated."[38]

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The Holy Office's Censure

In fact, decisive steps had already been taken. The action is documented in a letter written on July 26, 1954, by Cardinal Pizzardo, the Secretary of the Holy Office, to Father O'Toole, informing him that on July 7, the Holy Office had examined Murray's views and concluded that he must correct errors contained in his article in *CCIWA* and include a page of corrections to be inserted in all copies of the book not yet sold.[39] O'Toole and Hesburgh suggested instead that the unsold copies be withdrawn from sale, an arrangement that Pizzardo found acceptable.[40]

Once again, much of the documentation on Jesuit communications with regard to Murray's case is not yet available, and we must be content with indirect references. Correspondence between Murray and M.A. Fitzimons, one of the editors of *CCIWA*, reflects instructions from the Jesuit general similar to those involved in Pizzardo's correspondence with the Holy Cross authorities.[41] What else had been communicated to Murray remains unclear and can only be ascertained indirectly. It appears that Murray was placed under prior censorship.[42] Correspondence between Murray and the American assistant, Father McCormick, says that "the one little error has been noted; the mildest admonition has been given" and speaks vaguely of "the opinion or thesis that came under censure."[43]

In response to another letter from McCormick on the censure issue by the Holy Office, Murray referred to a document from that 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 H.O.'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, this time speaking of five propositions.[44]

"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:

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PROPOSIZIONI DOTTRINALI ERRONEE [ERRONEOUS DOCTRINAL PROPOSITIONS]

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 velle*" (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.[45]

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 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" 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.)

Finally, the four propositions are found, in exact French translation and under Murray's name, in a document generated within the Holy Office.[46] 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 Father Rosaire Gagnebet, O.P., was mandated to review and evaluate recent literature on Church and State and on religious freedom. The

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works of Murray examined were not only his 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 have forbidden Catholics to teach twenty-one propositions on Church and State and religious freedom. Among them are several which were considered to represent the views of Murray. This official statement reached an advance stage of preparation ended, it would appear, by the death of Pius XII. But the statement, without the condemned propositions, would be revived as a chapter in the schema on the Church prepared for the Second Vatican Council.

Although of the 1954 propositions Murray himself said that "none of them [is] unambiguous and none of them held by me," one may note some similarities in his writings. 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 citizen."[47]

The second and third condemned propositions resemble comments in Murray's 1950 paper for Montini, "The Crisis in Church-State Relationships in the USA," where he wrote that American Catholics "regard full constitutional and religious liberty as a valid democratic political ideal" and said of "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."[48]

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. Any similar texts of Murray are prior to that publication. This may suggest that the action against Murray had been well underway before his speech at Catholic University and that this essay gave the Holy Office a pretext for action.

Murray made an effort to reply to the Holy Office in what was intended to be his concluding essay on Leo XIII.[49] Jesuit censors in Rome counselled against publishing the article, however, and his Roman superiors advised him

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to find other topics to think and write about. In 1958, ignorant of the Holy Office's preparation of a document which would have again repudiated his views, Murray wrote for permission to return to the subject in an article for *La Civiltà Cattolica*, but Father McCormick urged patience on him: "Be content," he wrote, "to stay on the sidelines, . . . 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 atmosphere."[50]

The change in atmosphere in fact came, more quickly than McCormick anticipated, with the death of Pius XII and the election of John XXIII. Just ten years after Murray was silenced, the Second Vatican Council was to vindicate the views for which he was censured. The Council's Decree on Religious Freedom (*Dignitatis Humanae*) effected the adaptation of Catholic teaching on Church and State and religious freedom for which Murray had called in his 1950 memorandum and made it clear that American Catholics could be faithful at once to Catholic principle and to the American political experiment.

Notes

1. Donald E. Pelotte, *John Courtney Murray: Theologian in Conflict* (New York: Paulist Press, 1976) 7-73. For a fuller account, see Joseph A. Komonchak, "The Silencing of John Courtney Murray," in *Cristianesimo nella Storia*, ed. A. Melloni *et al.* (Bologna: Il Mulino, 1996) 657-702.

2. James F. McIntyre to Cicognani, New York, July 7, 1943 (copy); Archives of the Archdiocese of New York. The dossier concerned McIntyre's refusal of the permission Murray requested to give a series of lectures at Jewish Theological Seminary that would have included a discussion of inter-religious cooperation.

3. See Amleto Cicognani to John T. McNicholas, August 24, 1943, where Cicognani says that Connell's article in the March 1943 issue of the *American Ecclesiastical Review* "was undertaken at my suggestion and with my full approval;" Archives of the Archdiocese of Cincinnati (AACinc.), McNicholas Papers, 24/27. For the larger context, see R. Scott Appleby and John H. Haas, "The Last Supernaturalists: Fenton, Connell, and the Threat of Catholic Indifferentism," *U.S. Catholic Historian*, 13 (Winter 1995) 23-48.

4. See Francis J. Connell, "Pope Leo XIII's Message to America," *American Ecclesiastical Review, (AER)* 109 (October 1943): 249-56.

5. See, for example, Francis J. Connell, "Christ the King of Civil Rulers," *AER*, 119 (Oct. 1948) 244-53.

6. Francis Connell to Giuseppe Pizzardo, 1 Aug 1950, Connell Papers; Redemptorist Archives Baltimore Province (RABP).

7. On this meeting see Etienne Fouilloux, *Les catholiques et l'unité chrétienne du XIXe au XXe siècle: Itinéraires européens d'expression française* (Paris: Centurion, 1982) 705-709; "A Conference on Christian Unity at Grottaferrata," *Unitas* 8 (Winter 1950) 494-97. 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.

8. Murray to Ellis, July 20, 1953, Ellis Papers; Archives of the Catholic University of America (ACUA); see also Murray's comments to Father 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.

9. Dated October 29, 1950, a copy can be found in the papers of Clare Boothe Luce in the Library of Congress (LC) and another in the papers of Cardinal Stritch, Box 4, File 10, Archives of the Archdiocese of

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Chicago (AAC), Box 4, File 10. Murray's memorandum and the comments on it by Stritch and Connell will be published next year in *The Review of Politics*.

10. Murray to Vincent A. McCormick, April 24, 1951; WCA.

11. J. B. Montini to Samuel Cardinal Stritch, Vatican City, May 4, 1951 AAC, Box 4, File 10. Stritch delayed in answering and a year later, May 5, 1952, Msgr. Joseph F. McGeough wrote to him that "the other comments on the Father Murray memorandum have been received." Stritch replied on May 15, 1952, enclosing his five-page reply.

12. RABP, Connell Papers, "Church and State."

13. Connell, "The Theory of the 'Lay State,'" *AER* 125 (July 1951): 7-18; "Reply to Father Murray," *AER* 126 (January 1952) 49-59; George W. Shea, "Catholic Doctrine and 'the Religion of the State,'" *AER* 123 (September 1950) 161-74; "Catholic Orientations on Church and State," *AER* 125 (December 1951) 404-16; Murray, "The Problem of 'the Religion of the State,'" *AER* 124 (May 1951) 327-52; "For the Freedom and Transcendence of the Church," *AER* 126 (January 1952): 28-48; Joseph Clifford Fenton, "The Status of a Controversy," *AER*, 124 (June 1951) 451-58; see also "Principles Underlying Traditional Church-State Doctrine," *AER*, 126 (June 1952) 452-62.

14. Connell to Cicognani, February 23, 1952; Cicognani to Connell, February 27, 1952; RABP, Connell Papers, "Church State Letters."

15. This was the original title of Ottaviani's address, a copy of which can be found in the ACUA, NCWC/USCC.

16. It is also conceivable that Fenton might have prepared a private memorandum on the controversy for the Holy Office.

17. Robert Leiber to Murray, June 12, 1953; WCA.

18. "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, Ellis papers; ACUA. On July 23, 1953, *The New York Times* quoted Murray: "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." 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."

19. "It is not at all the case that Fr. John C. Murray is about to be censured. Nevertheless, he should proceed cautiously and very thoughtfully in his studies and investigations and be willing to listen to the advice of experts;" Joseph F. Murphy to John J. McMahon, Woodstock, December 6, 1953; Archives of the New York Province (ANYP). Only this excerpt from the Jesuit general's letter is known.

20. McMahon to Murray, November 21, 1953; ANYP. Canon 2316 of the 1918 Code reads: "Anyone who in any way willingly and knowingly assists in the propagation of heresy or who shares in worship with heretics against the prescription in canon1258 is suspect of heresy."

21. See Pelotte, *John Courtney Murray*, 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.

22. John Tracy Ellis wrote that this was the view of the Irish Ambassador to the Holy See, confirmed by Father 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; ACUA, Ellis papers. For similar views elsewhere, see G. Courtade, "Un discours de Pie XII sur la tolérance," *Revue de l'Action Populaire* #75 (February 1954) 182-86; Robert Rouquette, "Pie XII et la tolérance," *Etudes*, 280 (February, 1954): 241-48; A.S., "Tolleranza religiosa nella Comunità Internazionale," *Aggiornamenti Sociali* 5 (May 1954): 161-65; Richard Egenter, "Staat, Toleranz und Konfessionen," *Hochland* 40 (1954): 305-12; and the survey in

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HerderKorrespondenz 8 (March 1954) 278-83, which interprets *Ci riesce* as a vindication of Murray over Ottaviani. This article begins by citing an unpublished essay of Murray, written in 1953, which suggests some contact, otherwise unverifiable, between Murray and the editors of the German journal.

23. Gustave Weigel, "Religious Toleration in a World Society," *America* 90 (January 9, 1954): 375- 76.

24. WCA, Murray Papers.

25. Connell to Ottaviani, Washington, March 27, 1954 (copy); Ottaviani to Connell, Rome, March 31, 1954; RABP, Connell Papers, "Church State Letters."

26. Ottaviani to Spellman, April 1, 1954; Spellman to Ottaviani, April 5, 1954 (copy); Achives of the Archdiocese of New York (AANY).

27. Murray's chapter, "On the Structure of the Church-State Problem," in *The Catholic Church in World Affairs*, ed. Waldemar Gurian and M.A. Fitzsimons (Notre Dame: University of Notre Dame Press, 1954) 11-32, was a concentrated form of the essential arguments he had been proposing for the previous five years.

28. William J. Doheny, C.S.C., to Christopher J. O'Toole, C.S.C., March 30, 1954; Archives of the Congregation of Holy Cross (ACSC), Rome.

29. O'Toole to Ottaviani, April 6, 1954; O'Toole to Doheny, New York, April 6, 1954 (copy); ACSC. In a postcript, 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 to be caught, so to speak, between two fires." "I still feel," O'Toole concluded, "that the entire affair has been overly magnified."

30. 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.

31. Murray to McCormick, August 18, 1954; WCA.

32. Murray to Clare Boothe Luce, May 9, 1954. No copy of Janssens' letter to Murray is now available.

33. A. Messineo, "Tolleranza e comunità dei populi," *La Civiltà Cattolica*, 105/2 (May 8, 1954) 371-83.

34. 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."

35. Fenton, "The Teachings of the *Ci Riesce*," *AER*, 130 (February, 1954): 114-23.

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

37. Fenton, 1954 Roman diary. In April Ottaviani had sent Fenton a brief article by Di Meglio denying any conflict between the Cardinal's views and those of Pius XII; Fenton published it as "*Ci riesce* and Cardinal Ottaviani's Discourse," *AER* 130 (June 1954): 384-87.

38. Di Meglio to Fenton, September 29, 1954; Elms College Archives, Chicopee, MA. Fenton's letter of August 14 has not been found.

39. Pizzardo to O'Toole, July 16, 1954; ACSC.

40. O'Toole to Hesburgh, February 19, 1955; O'Toole to Pizzardo, February 20, 1955; Hesburgh to O'Toole, March 2, 1955; ACSC.

41. Murray to Fitzsimons, September 13, 1954; WCA. Two months later, Murray sent a similar interpretation to Clare Boothe Luce: "I was interested in the Roman rumors about me mentiojed [*sic*] in your note. I have heard others--that, of some fifty-odd propositions culled from my obscure works, some twenty-odd were condemned. Etc. If you should happen to hear any more of this sort of thing, you can say that it is all (*a*) false, and (*b*) calumnious. Direct quotes authorized;" Murray to Luce, November 17, 1954; LC.

42. "Since Father Murray's censure, if it may be called that, all that he writes for publication is to have Roman censorship;" Joseph F. Murphy, S.J., to Thomas E. Henneberry, S.J., July 18, 1955; ANYP.

43. McCormick to Murray, Ash Wednesday, 1955; McCormick to Murray, February 3, 1956; WCA.

44. Murray to McCormick, February 16, 1956, July 22, 1958 (copies); WCA.

45. Fenton, 1954 Roman Diary; Connell, RABP, "Church-State Letters."

46. The dossier described here may be found in the papers of Rosaire Gagnebet, O.P., at the Istituto per

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le Scienze Religiose, Bologna, Italy.

47. Murray, "Contemporary Orientations," 229; see also "The Problem of 'the Religion of State,'" *AER* 124 (May 1951): 334.

48. See also: "On Religious Freedom," *TS* 10 (September 1949): 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 the State,'" 338: "the freedom of the Church is guaranteed in a guarantee to the people of the free exercise of religion;" 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 1953) 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."

49. 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*, ed. J. Leon Hooper (Louisville: Westminster, 1993) 49-125.

50. McCormick to Murray, August 5, 1958, as cited in Pelotte, *John Courtney Murray*, 59.

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