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“The Crisis in Church-State Relationships in the U.S.A.” A Recently Discovered Text by John Courtney Murray

Joseph A. Komonchak

In October 1950, John Courtney Murray, S.J., wrote for the use of Msgr. Giovanni Battista Montini of the Vatican Secretariat of State a memorandum: “The crisis in Church-State Relationships in the U.S.A.” An attempt by Murray to encourage a development of Catholic teaching on church and state and religious freedom that would enable American Catholics to give support in principle to the First Amendment of the U.S. Constitution, the memorandum was submitted to some American churchmen and to the Vatican’s Holy Office. The dossier here published for the first time includes the texts of Murray’s memorandum and of responses to it written by Samuele Cardinal Stritch and Fr. Francis J. Connell, C.S.S.R. The introduction to these texts sets the memorandum in context and explains the Holy Office’s actions against Murray.

Between 1948 and 1954 the American Jesuit, John Courtney Murray (1904-1966) attempted to effect a development in Catholic teaching on church-state relations and on religious freedom. In 1954 four propositions thought to sum up his views were declared “erroneous” by the Vatican’s Holy Office and a year later he was advised by his Jesuit superiors in Rome to refrain from further publication on the subjects. Ten years later the Second Vatican Council published its Declaration on Religious Freedom (*Dignitatis humanae*) in whose preparation Murray played a major role and whose teaching incorporated central aspects of the position for which he had been silenced.¹

To recently discovered material in various archives which illumines this story may now be added the text of a memorandum

1. See Donald E. Pelotte, *John Courtney Murray: Theologian in Conflict* (New York: Paulist Press, 1975); Dominique Gonet, *La liberté religieuse à Vatican II: La contribution de John Courtney Murray* (Paris: Éd. du Cerf, 1994); Joseph A. Komonchak, “The Silencing of John Courtney Murray,” in *Cristianesimo nella Storia: Saggi in onore di Giuseppe Alberigo*, ed. A. Melloni et al. (Bologna: Il Mulino, 1996) 657-702 (a shorter version of this essay has been published as “Catholic Principle and the American Experiment: The Silencing of John Courtney Murray,” *U.S. Catholic Historian* 17 [1999]:28-45).

which Murray prepared in 1950 for the use of Msgr. Giovanni Battista Montini, the future Pope Paul VI and at the time substitute secretary of state at the Vatican. Written, it seems, at Montini's request at a moment in which the issues of religious freedom and church-state relations were very controversial both in the United States and in Europe, the memorandum, "The Crisis in Church-State Relationships in the U.S.A.," has an unusual significance. First, it provides a very convenient summary of Murray's views as he was developing his own thought, a summary which, given its addressee and the probability that it would be reviewed at the highest levels in Rome, we may be sure he prepared with great care and precision. Second, it is perhaps the clearest brief statement of what Murray wished to see by way of a development of the Church's teaching. Third, the responses to it both in the United States and in Rome throw great light on the state of the question in the 1950s and provide a way of measuring the distance traversed in the fifteen years between Murray's preparation of the text and the promulgation of *Dignitatis humanae*. All these reasons make it appropriate to publish for the first time both the text of the memorandum along with two comments on it, solicited by Rome from Samuel Cardinal Stritch, Archbishop of Chicago, and Father Francis J. Connell, C.S.S.R., dean of the School of Sacred Theology at The Catholic University of America.

BACKGROUND

John Courtney Murray's interest in the social and political mission of the Church was first revealed in the early 1940s when he promoted interreligious cooperation among Catholics, Protestants, and Jews to meet the spiritual and cultural crisis that had resulted in the Second World War. But the idea encountered serious resistance both among his fellow Catholics and from Protestants. Among the Catholic opponents was Francis Connell who feared that such cooperation would promote the religious indifferentism he thought endemic in American culture and lead Catholics to surrender their Church's claim to unique rights. To prevent this he published an article, later reprinted as a pamphlet, on the Catholic doctrine of religious freedom.² This presented in

2. Francis J. Connell, "The Catholic Position on Freedom of Worship," *Columbia* 23/3 (December 1943): 6, 24; reprinted as *Freedom of Worship: The Catholic Position* (New York: Paulist Press, 1944).

clear and simple language the classic doctrine on church and state, that is, the thesis or ideal of the Catholic state, in which the Catholic Church enjoys official recognition and the State may justly place limits on the public activities of other religious bodies. The hypothetical conditions of a religiously pluralistic society justify extending full freedom to non-Catholic religions, and this is the ground on which American Catholics may support the First Amendment to the U.S. Constitution.

The defense of the ideal of intolerance led many American Protestants to be wary of any kind of cooperation with a church which in theory maintained that one day they might be deprived of their religious freedom, and it was this impediment to cooperation in the temporal sphere that led Murray to undertake a study of the classic Catholic doctrine and to propose a development of it that would permit Catholics to endorse the First Amendment on grounds other than simple expedience. After aborting an initial effort and devoting himself to three years of study of the question, Murray began to articulate his matured views in an address at the 1948 convention of the Catholic Theological Society of America. Connell accepted Murray's invitation to be the official respondent to this paper and in his brief reply argued that Murray's views were incompatible with modern papal teaching on the legitimate claims of Christ the King to reign also over civil society.³

In the years that followed, as Murray continued to develop his ideas, Connell became alarmed that they were gaining popularity in the United States, and he engaged Murray in a public controversy in the *American Ecclesiastical Review*.⁴ But even before this exchange, Connell had also initiated a long series of private letters to various Vatican officials asking for action to halt the

3. John Courtney Murray, "Governmental Repression of Heresy," *Proceedings of the Catholic Theological Society of America* 3 (1948): 26-98; Francis J. Connell, "Discussion of 'Governmental Repression of Heresy,'" *ibid.*, 98-101; see also Connell, "Christ the King of Civil Rulers," *American Ecclesiastical Review* 119 (October 1948): 244-53.

4. John Courtney Murray, "The Problem of 'the Religion of the State,'" *American Ecclesiastical Review* 124 (May 1951): 327-52; Francis J. Connell, "The Theory of the 'Lay State,'" *ibid.*, 125 (July 1951):7-18; Murray, "For the Freedom and Transcendence of the Church," *ibid.*, 126 (January 1952): 28-48; Connell, "Reply to Fr. Murray," *ibid.*, 126 (January 1952): 49-59.

spread of Murray's views. In the first of these, 1 August 1950, Connell sent a Latin memorandum on Murray's views to Joseph Cardinal Pizzardo, sub-secretary of the Holy Office, along with a copy of the *Proceedings* of the 1948 CTSA convention and of a recent article by Connell in the *American Ecclesiastical Review*. The memorandum contrasted Murray's CTSA paper to the teachings of Leo XIII and Pius XII and gave examples from the popular press of American sympathy for Murray's views.⁵ A year later Connell urged his friend and Catholic University colleague, Father Joseph Clifford Fenton, to pursue the matter while he was in Rome. "If necessary, I believe that a declaration from the Holy Office might be advisable. The repercussions of this new idea are, I believe, very unfortunate in our land especially." Upon his return from Rome, Fenton, whose usual contacts there were with officials in the Holy Office and in the Congregation for Seminaries and Universities, was able to assure his colleague that Murray's "case is much more serious than most people realize." "Your reputation," he told Connell, "is soaring in Rome."⁶

In February 1952 Connell sent Archbishop Amleto Cicognani, Apostolic Delegate to the U.S., a copy of an article in the *Washington Evening Star* which further illustrated "a confusion of thought regarding the Catholic doctrine, a failure to perceive the distinction between the thesis and the hypothesis, with a tendency toward the opinion advocated by Father Murray. 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."⁷ It now

5. Connell to Pizzardo, Washington, 1 August 1950 (copy), Redemptorist Archives Baltimore Province (RABP), "Church-State Letters"; the accompanying memorandum, "Adnotationes de quadam nova theoria theologica," is dated 2 August 1950; RABP, Connell Papers, "Church-State Writings, John Courtney Murray."

6. Connell to Fenton, Washington, 29 June 1951 (copy); Fenton to Connell, 29 August 1951; RABP, Connell Papers, "Church-State Letters."

7. Connell to Cicognani, Washington, 23 February 1952 (copy); Cicognani to Connell, Washington, 27 February 1952; RABP, Connell Papers, "Church-State Letters."

appears possible to identify some of this "material" sent by Cicognani to Rome.

THE MEMORANDUM

In 19-22 September 1950, Murray participated in a meeting of Catholic ecumenists in Grottaferrata, Italy.⁸ Sponsored by Unitas, a semi-official Roman center for ecumenical study headed by Charles Boyer, S.J.,⁹ the meeting was feared by many of those involved in the nascent Catholic ecumenical movement as a command performance intended to bring them into line and to associate them under Unitas. These fears, only slightly lessened by learning that the meeting was encouraged by Montini, proved to be baseless.

In the circumstances of the day, six months after the publication of a Holy Office instruction on ecumenism and a month after the issuance of the Encyclical *Humani generis*, which had included a warning against "false irenicism," it was thought prudent for participants simply to give reports on the state of ecumenical relations in their countries. Murray later described his own report: "When it came my turn to speak, as the representative of the United States, I was obliged to report that practically no ecumenical activities were going on...The atmosphere was one of mutual mistrust, suspicion, not to say hostility. There was very little even in the way of cooperation in the temporal concerns of the community."¹⁰ A diary entry about the event by Fr. Yves Congar, O.P., gives a

8. 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; "Catholic Leaders in Unionistic Field Meet at Grottaferrata," *Unitas*, 2 (1950) 303; "A Conference on Christian Unity at Grottaferrata," *Eastern Churches Quarterly* 8 (Winter 1950): 494-97; Yves Congar, *Dialogue between Christians: Catholic Contributions to Ecumenism* (Westminster, MD: Newman Press, 1966), pp. 38-39.

9. Boyer had been in touch with Murray in the planning stages of Unitas and had asked him to consider establishing "a national committee of Unitas for America" (Murray to Parsons, 13 December 1945, Woodstock, WCA, Parsons Papers, Box 11, File 40).

10. From an untitled, undated Chicago lecture, ca. 1965, after the promulgation of Vatican II's Decree on Ecumenism (Woodstock College Archives [WCA], Box 6, File 461). A year or two later, Murray gave a similar description of the event: "In my turn I had to report that there was no ecumenical

little more information: "Then Fr. Murray's conference, of a quite remarkable precision, quality, and intellectual rigor. Fr. Murray thinks that the question of tolerance and, more generally, of the relationship of the temporal order to the Church, is a decisive question now." Murray's views were taken into account in the preparation of a summary of conclusions, the seventh of which read:

In the face of the present controversies over religious freedom and Church-State relations (controversies which constitute a serious obstacle to friendly relations among separated brethren), an historical and doctrinal study of these problems seems necessary. It seems desirable that Catholics in the various countries make an effort to reach a unity of thought and sentiment on these questions.¹¹

Perhaps at the conference, perhaps in connection with the papal audience granted to participants on 22 September Murray met with Montini. Three years later, when he knew his views on Church and State to be under criticism in Rome, Murray described the conversation to Fr. Robert Leiber, S.J., personal secretary to Pius XII:

On the occasion of my visit to Rome in 1950 I took up 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 in scholarly fashion and who have expressed their sympathy for the views which I have tried to formulate in various articles.¹²

Not long after, in a letter to John Tracy Ellis, Murray repeated the comment: "This subject came up in a conversation with Msgr. Montini

activity in the United States, and that no one wanted any, least of all the Catholic bishops"; see John Courtney Murray, "A Memorable Man," in *One of a Kind: Essays in Tribute to Gustave Weigel* (Wilkes-Barre, PA: Dimension Books, 1967), pp. 16-17.

11. For these two quotations from Congar's unpublished journal, which may be found in the archives of Le Saulchoir, Paris, I am grateful to Professor Étienne Fouilloux in his letter to me of 20 December 1991, and to Eric Mahieu in a communication, 8 April 1998; my translation from the French.

12. Murray to Robert Leiber, undated but before 12 June 1953, when Leiber replied to it; copy in my possession; my translation from the German.

in Rome in 1950. He was personally sympathetic with my 'orientations,' and rather wanted his hand to be strengthened—but..."¹³

This meeting appears to have led Murray, perhaps at Montini's invitation, to compose the memorandum, "The Crisis in Church-State Relationships in the U.S.A.," whose text is given below. Till now its existence has been known only from Murray's letter of 24 April 1951, to Fr. Vincent A. McCormick, S.J., American Assistant at the Jesuit Curia in Rome:

I have been wondering what happened to the memorandum that I wrote for Msgr. Montini on the Church-State problem. 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". Heaven help it, and me.¹⁴

The whole letter, and Murray's concern about his memorandum, reflect the tense situation created for theologians by the issuance of *Humani generis*.¹⁵

The only other use by Murray of his memorandum can be inferred from the presence of a copy of it among the papers of Clare Booth Luce in the Library of Congress.¹⁶ Murray was a close friend of Henry Luce and his wife and helped the latter prepare for her appearance before Congress upon her appointment as U.S. ambassador to Italy. "Before she left I did some briefing," Murray later wrote, "in fact, I prepared her statements for the Congress-

13. Murray to John Tracy Ellis, Ridgefield, CT, 20 July 1953; Archives of the Catholic University of America (ACUA), Ellis Papers.

14. Murray to Vincent A. McCormick, Woodstock, 24 April 1951 (copy); WCA, Box 2, File 151.

15. It is possible that Murray already knew that his views were under examination in Rome and that Connell was among those who had prompted the interest. When in 1952 Connell had understood Murray's article of public reply to him to disparage Connell's intelligence, Murray's letter of apology included at the end an oblique criticism: "You will doubtless agree that it is more painful to a theologian to have his orthodoxy impugned than his intelligence. I can always try to meet public objections to my opinions. But it is particularly painful when suspicions of unorthodoxy are raised privately, by word of mouth in high places. Up to the present, no one, either in America or in Europe, has brought forward warrant for such suspicions;" Murray to Connell, New Haven, 25 January 1952; RABP, Connell Papers, "Church-State Writings, John Courtney Murray."

16. "The Crisis in Church-State Relationships in the USA," Library of Congress, Clare Booth Luce Papers, Box 703, Folder 14.

sional, rather Senate, Committee before which she had to appear. On the 'double diplomatic corps,' on how a Catholic frames his support of separation of church and state, etc."¹⁷ It would appear that Murray provided Mrs. Luce with this text as part of the background on a question of great sensitivity at the time both in the United States and in Rome.

REPERCUSSIONS

Meanwhile, as Murray had been informed, the memorandum had been referred to "experts" both in the United States and in Rome. On 4 May 1951, Montini sent a copy of it to Cardinal Stritch with an accompanying request:

The attached memorandum submitted by the Reverend John Courtney Murray S.J., discusses a question of particular importance. It would be appreciated if Your Eminence would examine it and would kindly indicate any observations which you may judge opportune in this regard.¹⁸

Stritch did not reply immediately to this request and in fact had to be prodded a year later by the information that other responses to the Secretariat of State's request had already been received. Stritch's comments, sent on 15 May 1952, argued that Murray was exaggerating the novelty and the danger of the situation, disagreed with his call for a development of Church teaching beyond that of Leo XIII, but agreed with Murray on the danger of secularism and that any new papal document, instead of restating the Leonine teaching should show "that democratic institutions are not in any way uncongenial to the Church."¹⁹

How many other American experts were asked to comment on Murray's memorandum is not known. One of them,

17. Murray to Vincent A. McCormick, Woodstock, 23 November 1953 (copy); WCA, Murray Papers. A copy of the transcript of Luce's statement on church and state during her appearance before the Senate Committee on Foreign Relations, 17 February 1953, can be found in her papers in the Library of Congress, Amb. File, B642, 2.

18. Montini to Stritch, Vatican City, 4 May 1951; Archives of the Archdiocese of Chicago (AACHicago), Stritch Papers, Box 4, File 10.

19. Msgr. Joseph F. McGeough to Stritch, Vatican City, 5 May 1952; Stritch to McGeough, Chicago, 15 May 1952 (copy); AACHicago, Stritch Papers, Box 4, File 10. Stritch's reply is entitled "Observations on the Memorandum 'The Crisis in Church-State Relationships in the U.S.A.'"

however, was Francis J. Connell among whose papers is a five-page transcript, undated and without indication of addressee, entitled "Comments on 'The Crisis in Church-State Relationships in the U.S.A.'"²⁰ From internal evidence it would appear that this text was intended for a Vatican official and that it was written in the late spring or summer of 1951. There is no clear evidence that Connell knew that Murray was the author of the text on which he was commenting, although the reference he makes to remarks of Murray published in the *New York Times* and to the spread of ideas similar to Murray's leads one to suspect that he did. In any case, Connell's reply denied that a new crisis existed in Catholic-Protestant relations, questioned whether the adaptation called for in the memorandum could be reconciled with revealed truth, and recommended instead a reaffirmation of the traditional Catholic doctrine on church and state.

Much more serious was the fact that Murray's memorandum for Montini was also referred to the Holy Office for evaluation. When it began examining it is not now known, but it is likely that it was already known to the Vatican congregation when on 5 March 1953, its pro-secretary, Alfredo Cardinal Ottaviani, gave a speech on church and state in which he referred to the public controversy on the matter in the United States and referred, without naming him, to Murray's views as "the liberalizing thesis."²¹ At the same time the Holy Office was engaged in a systematic review of recent Catholic publications on church and state and there is evidence among the papers of Fr. Rosaire Gagnebet, O.P., the

20. RABP, Connell Papers, "Church-State."

21. There are at least three versions of Ottaviani's speech. A typed copy of it as delivered can be found in the ACUA, NCWC/USCC. A significantly revised version was published as a pamphlet, *Doveri dello Stato cattolico verso la religione* (Rome: Ateneo Lateranense, 1953), the basis for the English translation that appeared in *The Newark Advocate* in 1953 and for another translation published as a pamphlet, *Duties of the Catholic State in Regard to Religion* (Tipperary: "The Tipperary Star," 1954; republished Kansas City, MO: Angelus Press, 1993). Finally, there is a version, apparently shortened and altered at Ottaviani's direction, in "Church and State: Some Present Problems in the Light of the Teaching of Pope Pius XII," *American Ecclesiastical Review* 128 (May 1953): 321-34. There is reason to think that the revisions of the spoken text responded to Vatican criticism of the vigorous and unnuanced character of Ottaviani's remarks.

man entrusted with a preliminary investigation, that he was familiar with Murray's memorandum.²²

Reassured by Fr. Leiber that Ottaviani's speech had neither official nor semi-official authority,²³ Murray continued to maintain his views, encouraged in particular by Pius XII's speech to Italian jurists on 6 December 1953, in which he believed the Pope had tactfully repudiated Ottaviani's rigid stance and opened the door to the sort of development for which he had himself been calling.²⁴ Murray made this case in a speech at Catholic University, 25 March 1954, in which he also indulged in some humorous and disparaging remarks about Ottaviani himself.²⁵ Informed of this by at least three friendly professors at Catholic University,²⁶ Ottaviani initiated a process against Murray which on 7 July 1954, resulted in a formal judgment of the Holy Office that Murray's most recent published essay contained errors which he was obliged to correct.²⁷ The Holy Office also identified in Murray's writings a set of four "erroneous doctrinal propositions," which not only were duly sent to Murray through the Jesuit Father General but were also given to Connell and Fenton by Cicognani along with instructions that they could not make them public but that they should report on Murray's fulfillment of the Congregation's instructions. No copy of these errors is found in Murray's own papers, but the diary of Fenton and the papers of Connell both contain the indicted propositions:

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

22. The relevant materials are found in the Gagnebet papers at the Istituto per le Scienze Religiose, Bologna, Italy.

23. Leiber to Murray, Rome, 12 June 1953; WCA, Murray Papers.

24. See *Acta Apostolicae Sedis* 45 (1953): 794-802; English translation in *American Ecclesiastical Review*, 130 (February 1954): 129-38.

25. Murray spoke from handwritten notes, which he later typed out, he said, "exactly as I find them on my handwritten autograph." Both the notes and the typescript can be found in the Murray Papers, WCA, but, in fact, the transcription is not entirely exact.

26. Letters were sent to Ottaviani by Connell, Fenton, and, it seems, Fr. Maurice Sheehy, all professors at Catholic University.

27. The indicted essay was "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). pp. 11-32.

(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...debet eum in colendo numine morem usurpare modumque quo coli se Deus ipse demonstravit velle" [states must follow that way of worshipping the divinity which God himself has shown that he desires] (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.²⁸

None of these four propositions is found *verbatim* in the article of Murray criticized at the 7 July Holy Office session; but two of them closely resemble statements in Murray's memorandum for Montini. Compare the second statement above (b) to the statement on p. 12 (p. 701 below) of Murray's text as given below: "They [*i.e.*, American Catholics] regard full constitutional and religious liberty as a valid democratic political ideal," and the third statement above (c) to the statement on p. 10 (p. 699 below) about "the democratically organized State," namely 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." A private document prepared by Murray for the Vatican Secretariat of State, then, had become part of the dossier used by the Holy Office to condemn Murray's views and to bring pressure on his Jesuit superiors to have him cease publishing on the matter.

The Holy Office continued to pursue its effort for some time. By 1958 preparations were well underway of a document that, after setting out the classic doctrine on church and state, would forbid Catholics to teach twenty-one propositions.²⁹ The fourteenth of these seems to have been drawn from Murray's memorandum for Montini:

The public religious duties of the State, such as the acknowledgment of the true God, defense of the rights of the truth, the observance of divine laws, the right relationship between the temporal and the spiritual, etc. may not be fulfilled by the leaders of a democracy without the consent of

28. Fenton, 1954 Roman Diary (in my possession); RABP, Connell Papers, "Church-State Letters."

29. There is a copy of this document in the Gagnebet Papers, Istituto per le Scienze Religiose, Bologna.

the people. In a democracy the way in which harmony is established between Church and State and in which 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.

Compare this to Murray's argument in his memorandum (p. 9; see p. 698 below):

For obvious reasons, in a lay democratic State of the American character, this *concordia* of laws can not be effected from the top down, by negotiations between the supreme rulers of the two societies. It must be achieved from the bottom up, by the layman acting under the guidance of his Christian conscience, and of the dictates of political prudence which must always preside over the formation of human law.

It appears that this condemnatory document was not formally approved before the death of Pius XII in October 1958, for the idea of such a text continued to be pursued in the early years of the pontificate of John XXIII. In fact, when the preparatory Theological Commission was preparing a draft of a dogmatic constitution on the Church for consideration by the Second Vatican Council, the first version of its chapter on church and state reproduced *verbatim* the expository part of the Holy Office's draft text, omitting, however, the condemnation of erroneous propositions. Severely criticized by the Central Preparatory Commission even before the Council opened, this text was rejected by the Council, which, with the considerable assistance of John Courtney Murray, who was appointed a conciliar expert in 1963, instead issued in 1965 its Declaration on Religious Freedom (*Dignitatis humanae*), in which it presented that "vital adaptation of Catholic doctrine on church and state to the twentieth century political context" that Murray had proposed fifteen years earlier.

EDITORIAL NOTE: It appears that neither of the two typed versions of Murray's memorandum is the original sent to Montini. The copy found in the papers of Clare Booth Luce is sixteen single-spaced pages, the one found in Cardinal Stritch's papers is only fourteen single-spaced pages; the difference is probably attributable to different type-sizes and to different page-sizes. There are a few minor typographical errors in the Stritch copy, corrected here without comment; but otherwise the texts are identical except for one point at which the Luce copy omits eight words on one line that are found in the Stritch copy, a proof, it seems, that the copy he gave to Mrs. Luce had been retyped after Murray sent the original to Rome. I have inserted in brackets the pagination of the Stritch copy and I have provided translations of foreign words and phrases.

The Crisis in Church-State Relationships in the U.S.A.

John Courtney Murray, S.J.
29 October 1950

In this memorandum four points will be briefly made.

First, a grave danger confronts the Church in the United States, because the Church is the object of a newly intense fear, distrust, and hostility. At the same time a new apostolic opportunity is being offered to the Church, because the Church is now the object of a new interest, curiosity, and sympathy.

Second, one great obstacle hinders the Church in coping effectively with the danger confronting her. And the same obstacle also blocks her from making full use of the opportunity offered to her. This obstacle consists in the present state of development of the Church's doctrine on Church-State relationships. This doctrine has not yet been vitally adapted to modern political realities and to the legitimate democratic aspirations, especially as they have developed in the United States.

Third, there exists the urgent problem of effecting this vital adaptation. The situation is critical: if this vital adaptation is not immediately undertaken the result will be a progressive alienation of the American mind from the Catholic Church, with consequent damage to the apostolic activity of the Church.

Fourth, while the problem is indeed complicated and delicate, certain effective steps can be taken immediately. The conclusion of this memorandum will respectfully suggest these steps.

The Danger

The religious situation in the United States is very different today from what it was ten years ago. "The enemy" is no longer Protestantism, either orthodox or liberal. The enemy is a newly articulate, organized, and doctrinal secularism or naturalism. The majority of Americans, both among the masses and also among the leaders, are indeed unbelievers, in the sense that they no longer acknowledge allegiance to any of the traditional Christian

churches. However, among these men a new quasi-religious belief has taken substantial form; it is a belief in "democracy." Democracy has become in a very true sense a widely popular "religion" in America.

This new secularist faith is not cynical, as was the French laicism of the last century. It is idealistic and it takes great account of what are called "spiritual values." It seems to meet certain fundamental aspirations of the American people. Its promises are many. It promises to fulfill the great American dream embodied in the Constitution of the [2] United States, which is "to secure the blessings of liberty to ourselves and our posterity." It promises to establish a social and economic order of justice and peace in which the dignity and rights of man will be respected and in which "the people" will be empowered to create for themselves the conditions of a full human life through a system of free institutions. It promises to be a "higher unity" that will resolve the conflict of divergent religious beliefs in American society. Consequently, this seductive naturalist faith has the power to attract the interest and adherence of important groups, and of influential men who must be considered "men of good will." And it continues to win multitudinous converts, especially in the field of education.

The intelligent Protestant also recognizes this naturalism as "the enemy," and he feels that he should make friends with the Catholic in a common struggle against it. However, he is definitely not willing to be friends with a Church that seems to him to be the political enemy of "the American way of life," with which Protestantism has historically identified itself.

The Obstacle

Here is the central point: In the United States there is a widespread belief that the Catholic Church does not fully and sincerely affirm the human and political values of a democratically organized political society; that American Catholic support of the principles of the U.S. Constitution is basically incompatible with certain tenets of Catholic faith; in a word, that Americanism and Catholicism are fundamentally in conflict.

Many Americans sincerely believe that the Catholic Church is prepared to support democracy only provisionally, and on the

grounds of expediency, until what time she acquires sufficient power within society to do away with the forms and institutions of democratic government, and introduce some form of dictatorship subject to authoritarian, ecclesiastical control.

In particular, it is widely thought that the Catholic doctrine on Church-State relationships is in certain dynamic respects at variance with American constitutional principles of government. Concretely, the Catholic political ideal is considered to be inherently destructive of the institutions of freedom of religion, freedom of speech, freedom of the press, and freedom of association. These freedoms have historically been of the very essence of the American political system. Insofar as the Church seems to doubt or deny the validity and value of this political system, she is inevitably regarded with fear, distrust, and hostility.

This fear, distrust, and hostility of the Catholic Church is a central and critical fact of the contemporary religious and political scene in the United States. [3]

This hostile attitude towards the Church is being actively fostered by the secularist or naturalist. His attack is not directly launched against the theology of the Church. Indeed, he makes a point of distinguishing between the faith of the Church and the political implications of that faith, and deliberately confines his attack to the latter. He insistently points out that these political implications are in conflict with cherished and historic American ideas and institutions.

The most recent and ambitious attack was made by Mr. Paul Blanshard in his book, *American Freedom and Catholic Power*. This book has gone through eleven editions—more than 150,000 copies—in a little more than a year. Its indictment of the Church is the most impressive that has been produced in American Catholic history. And the impact of the book is a testimony at once to a great popular interest in the Church and to a great popular fear and distrust of her.

To repeat, the secularist thesis that the Church is the enemy of democracy is accepted by the great majority of Protestants. Moreover, the wide propagation of the thesis through all the media of communication, including education, has created considerable uneasiness in Catholic circles, especially among the laity. Here, the reaction sometimes takes the form of excessive and sentimental protestations of "Americanism"; sometimes, the form of a

certain Catholic "integrism," a certain aggressive willingness to be "the enemy", with its consequent exclusion from a full participation in the national life. (This accounts often for the unwillingness of sensitive and devout Catholics to enter the arena of practical politics.)

The present fear, distrust, and hostility towards the Catholic Church constitutes, in six important respects, a serious obstacle to the apostolate in the United States.

First, a psychological barrier has been created that prevents Catholic access to the secular mind in America, which cherishes a sacred conviction as to the value of American political institutions.

Second, a barrier is created to positive and fruitful relationships with Protestant religious groups. For example, the public press increasingly quotes Catholics and Protestants speaking to each other in terms of mutual denunciation. (As between Catholics and Protestants, the danger in the United States is not an excess of eirenism but rather an excess of polemism.) However, Protestantism in the United States is presently able to assume a false prestige as the "bulwark of democracy" against the supposed "menace of the Catholic Church."

Third, an obstacle exists to individual conversions. Many thoughtful people, attracted to the Church by the richness and strength of her faith, feel repelled by her political theology.

Fourth, an obstacle is created to that effective Catholic participation in the world-wide intellectual movement of our times which was recommended by His Holiness, Pius XII, in his recent discourse to the Amsterdam Congress [4] of Pax Romana. In America, the distrust of the Church tends to carry over into a distrust of the intellectual integrity and even capacity of the individual Catholic.

Fifth, an obstacle is created to the conquest of the central adversary of the present moment, the secularism or naturalism mentioned above. The Church is not credited with having the intellectual resources to match the secular idealism of the naturalist movement.

Finally, and most important of all, the way is blocked to an equitable solution of the most serious question confronting the Church in the United States—the school question. Here, the adversaries of all kinds of State aid to Catholic schools offer as their main objection that such aid, granted even in small amount, would

be the first step along a path that would lead to Catholic domination of the United States with consequent destruction of democratic institutions.

The Opportunity

It is disastrous in this present moment that the Church's apostolate should encounter these needless obstacles. The paradoxical fact is that, alongside the fear and distrust and hostility towards the Church, there likewise exists a newly important interest in her. She is the object of much curiosity and sympathy. Hence, a "great door" is being opened to her, at the very time she is confronted by "many adversaries."

For instance, the problem of religion in American public education has become increasingly critical, and it urgently demands a solution. Hence, a potential sympathy for Catholic schools has been created; but this sympathy fails to materialize in public support because of fear of "Catholic power." Similarly, while there is much sympathy for the Church by reason of the persecutions launched against her beyond the Iron Curtain, it is negated by the belief that the Church herself is potentially a "persecuting power." Again, the contemporary challenge to religious liberalism has been largely successful, and movements are afoot towards a newly theological type of religion. The "free church" concept has been largely discredited, and religious men are realizing more and more the sacramental nature of the Church of Christ. And again, fear of the Church as a visible institution prevents men from fully examining her claims. Furthermore, people are realizing that Communism as a doctrine as well as an economic movement presents a serious challenge to the American way of life. They begin to see that this challenge cannot be met merely by opposing to Communism a concept of purely formal democracy. There must be opposed to it a total doctrine of the nature of man; for only out of this doctrine can there be evolved a genuinely substantial theory of democracy, more intellectually satisfying than the purely pragmatic concept prevalent in the United States during less challenging times. In seeking this theory students are being led to examine the political ideas of the Middle Ages, to whose development the Church powerfully contributed. But once more,

this interest in the political achievements of the Catholic past is balanced by fear of "Catholic plans" for the political future. [5]

At this point, it is important clearly to have in mind that this present indictment of the Church cannot be dismissed as simply the product of "American bigotry" or of an innate hostility to the Church on the part of Protestants and secularists. The indictment troubles and concerns many Americans of good will, who are otherwise prepared to be friendly to the Church, to be sympathetic with her religious beliefs, even to embrace them. These men have been convinced by the world experience of totalitarianism in the last two decades that the best hope for a stable, free, and orderly society is to be found in the democratic ideal. They are among the men referred to by Pius XII in his 1944 Christmas message who regard the democratic form of government as being, under present circumstances, a dictate of natural law. But they still sincerely doubt whether the Catholic Church can adapt herself vitally, on principle, and not merely on grounds of expediency, to what is valid in American democratic development. These doubts and difficulties must be met squarely and on intellectual grounds.

The Need of Adaptation

It is certain that the American difficulty cannot be adequately met as long as Catholic doctrine in Church-State relationships remains in its present stage of development.

This stage of development was reached in the course of the 19th-century conflict between the Catholic Church and Continental liberalism. The concrete adversary was the Jacobin democracy that issued from the French revolution. It was formally anti-clerical, anti-Catholic, and even anti-religious. And against it the Church was fighting for the cause of order against a false "freedom" that sought to undermine order.

This polemic state of the question naturally had consequences with regard to emphases in the Church's teaching. For instance, the Church's formal condemnation of the rationalist theories that lay behind the "democratic freedoms" in the Jacobin concept of democracy consequently cast doubt on the validity of these freedoms themselves as political institutions. This was the more inevitable inasmuch as these "freedoms" were being used as so

many engines of war upon the freedom of the Church and the religious unity of the traditional Catholic countries. Engaged as she was in combatting the false revolutionary theories of popular sovereignty in Europe, the Church could not be concerned with exploring the merits of a system of popular rule, if it were to be based on a right philosophy of man and of political society.

Today, however, the state of the question has changed. The Church is now fighting for freedom against a false "order" that would destroy freedom. Her present enemy is the totalitarian order, especially in its communist form. Totalitarianism, the central fact of 20th century political experience, has put the value of the democratic development in a new light. Today the cause of the freedom of the Church herself is allied to the cause of political freedom. [6]

Consequently, the Church today has taken and can continue to take a far more positive and affirmative attitude towards the development of democratic political society than was possible in the 19th century. This is clear from Pius XII's 1944 Christmas radio-message—a document that could not have been written in the days of Leo XIII. In the 20th century, therefore, the ancient problem of Church and State is raised in a new form.

Adaptation to the American System

The problem is particularly crucial in the United States. The American Church has had a history different from her history in Europe, and she has lived through, and profited by, a political experiment different from any undertaken in the old world.

The American political experiment owed little to the principles which motivated the Jacobin democracy that was the European enemy of the Church. The American inspiration was not entirely pure; what political realizations ever can claim pure inspiration? Nevertheless, the essential American ideal derived from the Anglo-Saxon political tradition, whose roots go back to medieval political ideas and institutions, and even farther back to the politics of Pagan antiquity.

Scholars today agree that significant differences distinguish Anglo-Saxon democracy from Jacobin democracy, just as they agree that there is an important distinction to be made between

the "Liberalism" of the 18th and 19th centuries and "the liberal tradition" which is the central political tradition of the Christian West. Continental Liberalism was a deformed version of the liberal tradition.

The American system, properly interpreted, embodies three basic political principles, which have roots in the liberal tradition.

It is the suggestion of this memorandum that these three American principles can be harmonized with the three corresponding essential principles of the Church's traditional doctrine with regard to her relations to the State. The affirmation of this harmony would not result in canonizing, as some sort of "ideal," a particular system of Church-State relationships. Rather, the result would be the assertion that the Church's traditional doctrine can be vitally adapted to the legitimate political exigencies of a democratically organized state.

American Political Principles

The three American principles may thus be briefly stated.

1. The State is lay in character, function and end.
2. The State has the duty of cooperation with the Church; but this duty is limited, in the manner of its discharge, by the political fact that the State is a lay State. [7]
3. The lay State is subject to the sovereignty of God, and it recognizes that its acts and legislation ought to be in harmony with the law of God; but the political form of the State requires that this harmony be effected by the people. Through the medium of democratic institutions the people themselves bring the demands of their religious conscience to bear upon the acts and legislation of government.

A full development of these principles would necessarily be very lengthy. What follows are merely comments.

1. It was on the American continent that there was founded, by an act of the people, the first State that was lay, without being (like the third French Republic) laicizing.

The American State was not considered to be a person. It was considered to be simply a power, or more precisely, an action—the living action that is public order. This action was conceived to be limited to what concerns the temporal and terrestrial order of

man's social life. The State was indeed to have a moral function. It was to establish and vindicate an order of justice and of human and civil rights and freedoms. It was to promote genuine human welfare. It was to assist the people in creating for themselves, through multiple social institutions, the conditions of order and freedom, within which the people might pursue their human ends and their eternal destiny.

However, since the power and action of the American State were of the lay order, it was not to have any charge over the religious orthodoxy or the ecclesiastical unity of its people. It was not indifferent to religion, but it was declared incompetent in the order of religious belief and practice, since this order is not lay but ecclesiastical. Its action and function were confined to the order of its own being and purposes—the order of civil society as such.

2. In the American sense the lay State is held to be "separate" from the Church. But it must be borne in mind that the formula of "separation of Church and State" has not had in the United States the same meaning and intent that was inherent, for instance, in the French Law of Separation of 1905. In the United States, the State was originally established as a lay power; it was never "separated" from the Church, because it had never been united to the Church, as in Europe. It did not presume to define the Church. It gave only a political definition of itself, and this definition was ratified by the people through a formal act of constitutional consent.

The people who created this lay State did not deny that part of its duty would be a duty of cooperation with the Church. They did, however, believe that there should be limits to the forms that this cooperation should take. And they believed that these limits were legitimately set by the nature of the State as a lay action.

Concretely, the American State was to cooperate with the Church in one major way, that is, by guaranteeing the freedom of the Church through an overall guarantee of the freedom of religion in society. [8]

The American ideal was not "*libera Chiesa in Stato libero*" [a free Church in a free State] in the sense of the Italian anticlericals. Nor has the phrase "the free exercise of religion" the same meaning in the American constitution that it had in Republican France,

where it was an agency for the destruction of the historic liberties of the Church. In the American constitution it was, and is, an institution which has operated to protect the Church in her freedom, and enabled her to exercise her own powers, to fulfill her own function, and to be what she is.

For the rest, the State was to cooperate with the Church through the performance of its own proper task. This was to establish an order of justice, social peace, and human welfare, and to create and protect the conditions of freedom in society. This is indeed an indirect form of cooperation; but in our complex modern society its value cannot be exaggerated.

3. In asserting itself to be lay, the American State implicitly acknowledges that its processes are subject to a "higher law" not of its own making—the law of God. And as the servant of the people, the State recognizes the people's right to have harmony prevail between the human laws which organize their temporal life and this divine law which governs their consciences. However, in a democratically organized State wherein "We, the People" are sovereign, this harmony between the two laws is necessarily to be effected by the conscious political activity of the people themselves.

Here the assumption is the medieval one—that the sense of justice is resident in the people. And therefore, the responsibility for judging, directing, and correcting that living action, that public order which is the State and its government, is committed to the people. The people are empowered to discharge this responsibility through the democratic institutions of self-rule. In ruling themselves they stand under God, and are subject to His sovereignty. But the law of God can reach the processes of organized society only through popular participation in these processes.

The lay State, therefore, is open to moral and spiritual direction, but that direction is imparted to it from below—that is, from the broadest base—from all its citizens.

The way to harmony between divine law and civil law lies open, but it leads only through the constitutional path of the freedom of the people.

These three basic elements, affirmed in the American constitutional system as valid principles of modern political life, are also principles that the Church herself can affirm as valid. And having made this affirmation she can bring her own traditional doctrine on Church and State into vital relation with them. [9]

Catholic Principles

The Church's doctrine on her relation to the State is controlled by three essential principles. The first principle flows from the nature of the Church; the second, from the nature of [the last eight words were omitted from the copy in the Luce papers] man; the third, from the nature of political society.

(1) The first principle is that of "the freedom of the Church." The Church must be free fully to exercise her power to teach, sanctify, and rule, and to this end to "occupy ground" in this world. In more than sixty texts, Leo XIII used the phrase "libertas ecclesiastica" [freedom of the Church], or its equivalent, to express this fundamental demand that the Church, regarded as the spiritual power ruling an independent, divinely constituted society, makes on the State.

In the United States the Church has not had to make the complaint so often heard in Europe, that her freedom was violated by the American constitutional system. The fact that her freedom has been guaranteed only in a general guarantee of "the free exercise of religion" has not operated to diminish her freedom. This is a significant fact of American Church history.

(2) The second principle is that of the necessary harmony between "the two laws" whereby the life of man is governed—the divine law, both natural and positive, and the human law made by the political power. The word "concordia" [harmony] was the favorite word used by Leo XIII to express the essence of good relations between the Church as an order of law, and the State as likewise an order of law. He made clear that this *concordia* is a demand that flows from the nature of man and not from the nature of the Church. The human person is "civis idem et christianus" [at once a citizen and a Christian]. As a member of two societies the human person has the inherent right to demand that the two laws whereby he is governed should be in harmony with each other; if they are in conflict, the conflict is felt within him, and results in the destruction of his inner integrity. This *concordia* has never actually been realized in the United States; but the way to its realization lies open.

The American constitutional system asserts what the Catholic position likewise asserts, that as the human person is the final cause of this *concordia*, so he ought also to be its efficient cause,

through his participation in the processes by which law is made and the acts of government directed.

For obvious reasons, in a lay democratic State of the American character, this *concordia* of laws can not be effected from the top down, by negotiations between the supreme rulers of the two societies. It must be achieved from the bottom up, by the layman acting under the guidance of his Christian conscience, and of the dictates of political prudence which must always preside over the formation of human law.

In this respect American political theory fits with the theology of the layman newly developed since the days of Pius XI. In this theology the layman bears the responsibility of seeing to it that the institutions and the laws of society are brought into harmony with the demands of Christian faith. [10]

(3) The third principle is that of the necessary cooperation between Church and State, each in its own order, towards the total good of man. The principle itself is always valid; but the forms of this cooperation have varied. They are not determined by the nature of the Church, or by the nature of man. Rather, they are determined by the special character of particular political societies as these exist in varying and changing historical contexts. The forms of political society, like the forms of private property, are subject to historical evolution, especially in what concerns the institutions of government. The modern lay democratic state can be regarded as a legitimate term of that progressive development of the distinction and relative independence of "the two societies" which is visible in political and ecclesiastical history.

The Government in the democratic state is not the "episcopus externus" [external bishop] of the early Christian empire. Nor is it the "Catholic Majesty" of the post-Reformation national State. It has not inherited all the functions historically assumed by those earlier institutions of rule.

Again, the people in a democratic society wherein universal popular education has been highly developed are not subject to the tutelage which "the Christian Prince" exercised over his subjects in feudal or monarchic societies. As the citizen's consciousness or his personal autonomy in the face of government grows, the areas in which governmental coercion may be applied correspondingly ought to shrink. In a democratic state the Catholic principle that the act of faith is free receives full emphasis.

Consequently, the democratically organized State, considering itself to be a lay action of limited scope may, and in obedience to the will of its people ought to, resign the special function exercised by "the Christian Prince" in historical frameworks different from today's—the function being "defender of the faith" and protector of the unity of the Church. This State may, and must—and does—consider that it goes beyond its proper competence when it undertakes to suppress dissident religious opinions by the force of law. 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. In enacting this constitutional provision, the lay democratic State, and its people, do not impose any limitations on the claims of the Church. They simply impose limitations on the authority of secular government.

The conclusion from the foregoing is that the affirmation of American political principles entails no denial or diminution of traditional Catholic principles regarding the relationship between Church and State.

On the contrary, only the manner of applying these principles need be different, in order that Catholic doctrine may be vitally adapted to this modern form of the democratic State. [11]

Some Practical Suggestions

(1) Catholic thought on Church-State relationships ought to show a greater awareness of the American scene—its political realities and the special history and situation of the Church in America. The Church in America is a massive part of world Catholicism. And at the present moment it is called upon to share in fullest fashion the opportunities and responsibilities that have been recently thrust in increasing measure on the United States.

All the material power, political wisdom, and spiritual strength of the United States are presently enlisted in defense of human freedom against the Communist threat. Americans in general believe that in this struggle great resources are to be drawn from the political concepts exhibited in the American Constitution, with its supporting principles. Hence, the extreme importance in the present world crisis of intelligent and firm Catholic affirmation of these concepts and these principles.

The Catholic Church cannot with full effectiveness oppose Communism as long as it is itself regarded as being in opposition to the American political system that today stands most strongly against the spread of Communism.

(2) European Catholic utterances on Church and State are particularly liable to misinterpretation in the United States. The most striking recent example was the article by R. P. Cavalli, S.J., in the *Civiltà cattolica* for April, 1948. One passage from this article (cf. *ibid.*, pp. 33-34) has become a *locus classicus* [classic source] in the current campaign against the Catholic Church in America. This passage was widely quoted in both the public and Protestant press. After citing it in his book (referred to above), Mr. Blanshard states that if this article were translated and widely distributed the result would be a great wave of anti-Catholic feeling. (Actually the article was translated and distributed by a political agency, the Spanish Embassy in Washington.)

It would be difficult to exaggerate the fear of the Church and the hostility towards her that were aroused by the doctrine on religious freedom stated in this article. A distinguished Protestant theologian has said that this doctrine has "hardened the hearts of non-Catholics" against the Catholic Church. What is worse the article created difficulties in Catholic minds and divisions among Catholics.

The hostility to the Church was not aroused by the assertion that the Catholic Church is the one true Church, but by the suggestion that the Church must and will, wherever possible, make this tenet of her faith the premise for a program of political intolerance and civil inequality. The intelligent American understands that the Church herself cannot regard other religious beliefs as equally as true as her own. But he cannot be made to understand a determination on the part of the Church to use the coercive power of secular government to deny legal existence to beliefs which the Church regards as erroneous. [12]

The reason for the intolerance suggested in the article, namely, that "error has no rights," is unintelligible to the American thinker, who associates rights only with persons, and regards judgment on the truth or error of religious beliefs as beyond the competence of the State. The political implications of the "thesis" stated in the article have profoundly alienated the American mind from the Church. The general impression created was that the Church is inherently a persecuting power and that she is only held back

from active persecution by considerations of expediency or lack of political power. Against this impression, the statement in the article that "the Church will not draw the sword" was certainly not reassuring to the American public.

In this connection, it might be suggested that discussions of the Church-State situation in Spain provoke strong repercussions in the United States. A very widespread impression has been created that only the Spanish religio-political system can in principle command the support of the Church; that any other solution is sheer "hypothesis," a reluctant and opportunistic acceptance of a situation of fact; that the Catholic Church essentially wants, and instinctively seeks alliance with, dictatorial political regimes; that consequently she is permanently uneasy within a democratic State and cannot in principle be at peace with it.

A sharp correction of this unfortunate impression is badly needed. And Catholic spokesmen must be put in the position of being able to appeal to Catholic principles and to official Catholic utterances when they argue for an interpretation of the Catholic doctrine on Church and State suited to conditions other than those which prevail in that historic entity, the "juridically Catholic nation." For the Catholic it is not a question of criticizing the Spanish solution behind which lie a very special national history and a particular political tradition. But it is a question of being able to maintain, on principle, the equal validity of other solutions adapted to other historical situations and political traditions.

In the United States, for instance, it is and (as far as one can humanly see) always will be absurd to think of Catholics being, in P. Cavalli's words, "rassegnati di poter convivere là dove essi soli avrebbero il diritto di vivere" [resigned to have to live with others where they alone ought to have a right to live] American Catholics do not consider themselves "costretti a chiedere essi stessi la piena libertà religiosa per tutti" [forced themselves to request full religious liberty for all] *exclusively* because this full religious liberty is expedient for themselves as a minority. They regard full constitutional and religious liberty as a valid democratic political ideal. In holding this political position they do not consider themselves false to their faith in the Church as the one true Church.

(3) It is extremely necessary for our Holy Father to carry forward the line of thought so fruitfully begun in his 1944 Christmas Radio

message, on the idea of the democratic state, the democratic citizen, and the democratic institutions. This discourse was received with much gratitude by American Catholics, and was studied with great attention by secular thinkers. The world events of the past five years, and the present Church-State crisis in the United States, call for further development of its affirmations and their implications. [13]

In the United States the prestige of our present Holy Father is very great, and his utterances command universal respect. The secular press prints the full texts of his major discourses, and they are widely read. The only regrettable thing is that at times their language and idiom, and even manner of translation, make their understanding difficult for the American intelligence, which is not accustomed to the *stylus curiae* [style of the curia].

Progress in this whole matter of the vital adaptation of Catholic doctrine on Church and State to the 20th century political context cannot otherwise begin than by the clarification, in the light of recent political experience and recent studies of political and sociological theory, of the whole idea of "the State" in Catholic thought.

The ultimate need is for a synthesis of the ethical idea of the State advanced by Leo XIII, the institutional theory of society developed by Pius XI, and the juridical theory of democracy, rooted in the human person as "the origin and end of social order," of which Pius XII has been the theorist.

The full constitution of this synthesis would take much time. But the first step towards it can and ought to be taken immediately, by developing more fully a positive theory of democratic government and institutions.

What is needed in this present moment is a correction of the impression that American political theorists frequently derive from reading Leo XIII, that the Catholic political ideal is really a *Polizeistaat* [police state], in which the Catholic hierarchy is the "policeman," who enforces his will through governmental officials as his instruments of rule.

(4) A larger work of scholarship needs to be undertaken. Both the historical and the theoretical dimensions of the Church-State problem require further exploration. The purpose would be the formulation of a unitary theory of Church-State relationships that would be capable of application to all the modern situations, without the suggestion of opportunism. The regrettable fact is that Catholic scholars, in different nations,

are not in agreement with regard to certain important positions and orientations.

It is impossible here to discuss in detail the lines of this scholarly work; the following suggestions are offered without pretense of completeness.

A. First, the Church-State problem can no longer be fruitfully discussed in terms of the dichotomies, "thesis vs. hypothesis," or "union of Church and State vs. separation of Church and State." These categories are too reminiscent of a particular 19th-century polemic state of the question.

B. The controversy needs to be rescued from such facile solutions as are reached, for instance, by appeal to the statement, "error has no rights." This type of summary logic does not do justice to the full complexity of the problem of the function of State and government in the field of religion. [14]

C. The exact status in Catholic doctrine of the post-Reformation constitutional concept of "the religion of the State" needs to be determined by careful exploration of its history. It is from this concept, and not from the dogma of the Church as the one true Church, that there flows the political practice of intolerance, in some degree, toward non-Catholics.

D. In general, the influence of historical factors (national traditions, political facts and experience, cultural conditions, etc.) in fashioning solutions to the Church-State problem needs to be more exactly determined. Otherwise we cannot know what is principle and what is contingent application of principle, what is permanent demand and what is legitimate temporary expedience, what is required by the universal Church and what is required by the Church in certain nations.

E. It has to be decided whether the present conditions of *diaspora*, under which the Catholic people almost universally now lives, are to be considered mere brute fact, to which the Church only provisionally adapts herself, until what time she can see reconstituted a "closed Christendom" on the model of past eras, imperial and national; or whether these conditions are to be viewed as a fact which compels a return to a study of Catholic principles themselves, to see how they can be brought into vital, and not opportunistic, adaptation to the religious and political realities of the modern world.

(5) It has again to be emphasized that the present problem is critical and urgent. Events move fast today; so do ideas. The mass

media of modern communications have made possible the rapid alteration of climates of opinion by quick assimilation of ideas. Hence, it is possible, as well as prudent, to move quickly towards a solution of the present problem. What is urgently needed is a clear statement of certain simple, fundamental, leading ideas that will meet and satisfy the legitimate demands of the democratic political conscience. This statement would lay the foundations for a Church-State doctrine that will not be an obstacle, but a help, in the Church's apostolate in the contemporary world.

OBSERVATIONS ON THE MEMORANDUM
"THE CRISIS IN CHURCH-STATE RELATIONSHIPS
IN THE U.S.A."
Samuel Cardinal Stritch

After a very careful study of this memorandum and a study of the articles published on the questions discussed in it by its author and the French philosopher, Jacques Maritain, I submit the following observations.

I

The presentation of what the author calls a "grave danger" which confronts the Church in the United States in my judgment is not comprehensive. All through our history, we Catholics in the United States have had to face this same attack upon the Church from non-Catholics. The point of the attack has been the same all through the years: namely, that Catholics cannot be loyal to the Constitution of the United States and at the same time loyal to their Church. The notion of religious freedom in the non-Catholic mind in the English-speaking world derives from the Protestant doctrine upholding the right of the individual to interpret for himself the Sacred Scriptures. Generally the Protestant mind and those who are not Protestants but think in the Protestant mentality hold that the Reformation was a great emancipation of the intellect and the beginning of the day of freedoms. In England, about the middle of the 17th century, there was started a movement among Protestants for religious tolerance

on the part of the State. The English philosopher, Locke (1632-1704) wrote his famous *Letters on Toleration*. He expresses in these letters the Protestant mind of his time when he excludes from his notion of toleration the Roman Catholic Church in England because of its allegiance to a foreign sovereign. It was this notion of religious tolerance which the colonists brought from England to the United States. A single exception was in the establishment of the colony of Maryland by Lord Baltimore, where the Catholic Church was included in the general grant of freedom of religion. However, when very early in the history of Maryland colony, the Protestants gained control, they immediately excluded Catholics from the enjoyment of full religious liberty and enacted penal laws against them. When, after the Revolution, our Federal Constitution, with the Bill of Rights, was framed, it seemed that it reflected the mind of the country and that there would be religious freedom for all religious groups in the United States. Despite the fact that in the discussions in some of the states, particularly in the New England States, before the ratification of the Constitution and the Bill of Rights, objections were raised to including the Catholic Church in the grant of religious freedom, the states did ratify the Constitution and the Bill of Rights. However, the Protestant tradition held on in Protestant minds, and Protestants questioned the loyalty of Catholics to the Constitution, on the grounds that they could not be loyal to the grant of religious freedom and at the same time be true to their Church. Catholics, of course, were a small minority in the United States in the beginning of our country, and they accepted wholeheartedly the grant of religious freedom to all groups. This was a practical arrangement which wise leaders saw was necessary for the good of our country. Time and time again, all through our history, we have had to face this same [2] sort of attack on the part of our non-Catholic fellow citizens. The Protestant mind simply will not admit that there is one true Church established by our Blessed Savior.

With the coming and the spread of secularism from out of our universities, this Protestant notion of religious freedom has been re-asserted. The very growth of the Church has brought about this new attack on it. The growing activity of our government in the field of human welfare has brought new clashes between the rights of the Church and the asserted rights of the State in the field of welfare and education. In our non-Catholic schools of higher learning, many of which are supported from public funds, everything is dominated by an exaggerated notion of academic freedom. In these universities

there is defended the proposition that professors and students must be unfettered in making their explorations for the truth. It is true that the attack on the Church today is widespread. The leaders of this attack assert that Catholics cannot be true to our democracy and at the same time true to their Church. They quote the papal encyclicals and papal pronouncements on Church-State relationships without giving the whole of the doctrine taught by the Popes. Actually their attacks center on the question of Church-State relationships. They will admit that Catholics today are loyal citizens, but they question the adherence of Catholics in the United States to the papal teachings on Church-State relationships. When that difficulty is answered by quotations from the encyclical letters and pronouncements of Pope Leo XIII, they pose this other question: "What if Catholics were a majority in the United States? Would they demand the constitutional abolition of the First Amendment? Would they be in favor of granting religious freedom to other religious groups?"

In my judgment this is a brief, comprehensive presentation of the question which confronts us.

II

A first principle in meeting this attack on the Church must be that we courageously and boldly and unflinchingly state Catholic truth. The author of the memorandum speaks of Catholic doctrine on Church-State relationships in its present state of development. He says that this stage of development was reached in the course of the 19th century conflict between the Catholic Church and continental liberalism. In other words, he seems to say, and in some of his published articles does say, that Pope Leo XIII in his Encyclical Letter, *Immortale Dei*, and in his many pronouncements on this question, simply applied Catholic principles to a particular condition which prevailed in the Europe of his day. The author of the memorandum asks for a further development of Catholic doctrine on Church-State relationships. He seems to indicate that the Popes in making their statements on this question have not had in mind the particular condition which obtains in the United States. I cannot subscribe to this position taken by the author of the memorandum. The wording of Pope Leo XIII's Encyclical, *Immortale Dei*, in my judgment makes very clear the

fact that he is teaching Catholic doctrine. Clearly he teaches the doctrine on the independence of the Church in the field of its own competence as an independent society. He teaches that the State in its field is an independent society. He repudiates the [3] doctrine that the State is not subject to divine law. The Pope asserts that between these two supreme societies there must be cooperation and that in the field of "mixed matters" the State must recognize the rights of the Church. That Pope Leo XIII was fully cognizant of conditions in the United States is evident from the letter which he wrote to the Hierarchy of the United States on January 6, 1895. This Encyclical Letter, *Longinqua Oceani Spatia*, has this passage: "Moreover (a fact which it gives pleasure to acknowledge), thanks are due to the equity of the laws which obtain in America and to the customs of the well-ordered Republic. For the Church amongst you, unopposed by the Constitution and government of your nation, fettered by no hostile legislation, protected against violence by the common laws and the impartiality of the tribunals, is free to live and act without hindrance. Yet, though all this is true, it would be very erroneous to draw the conclusion that in America is to be sought the type of the most desirable status of the Church, or that it would be universally lawful or expedient for State and Church to be, as in America, dissevered and divorced. The fact that Catholicity with you is in good condition, nay is even enjoying a prosperous growth, is by all means to be attributed to the fecundity with which God has endowed His Church, in virtue of which unless men or circumstances interfere, she spontaneously expands and propagates herself; but she would bring forth more abundant fruits if, in addition to liberty, she enjoyed the favor of the laws and patronage of the public authority." Now in the United States, the Church has never been recognized and is not recognized as a supreme society. The practical arrangement which obtains here and is embodied in the First Amendment to our Constitution, granting religious freedom to all religious groups and individuals, is not a full recognition of the mandate of divine law. Moreover, in the field which the canonists call "materia mixta" [mixed matters], the rights of the Church are not always recognized. In the conditions which obtain in our country, where there are many religious groups, the First Amendment is a good practical arrangement. We Catholics accept it, and if it is rightly interpreted, we shall have in this ar-

rangement a great measure of freedom. However, any attempt to make this arrangement an objective application of Catholic doctrine in my judgment is a mistake. Without detracting in any way from the teaching of the Church on Church-State relationships, we can give answers to the questions proposed to us. If Catholics were a majority in the United States, they would have no right and no desire to use political influence for bringing men to the Catholic Church. They would be fully cognizant of the facts of our history and in full loyalty to their Church and in obedience to its teachings, they would be just and fair towards all groups. What more can we say? We cannot give approval to the Protestant notion of religious freedom. We certainly must oppose the exaggerated notion of academic freedom which obtains in many of our institutions of higher learning. [4]

III

It is true that in the American political philosophy, those who hold office have only the authority given them in the Constitution and in our laws. Their position is not comparable to the position of the prince in the older forms of government. Only the people, acting in the manner prescribed in the Constitution, can make a change in our basic law. Since our officials are elected to office by the people, they will reflect the majority in their electorates in their official actions. Therefore, it is true that the apostolate of the Church in the United States must be directed towards bringing more and more into the Church. If the citizens observe divine law, they will see to it that divine law is not violated in their government. I fully agree with the author of the memorandum in his contention that to secure right governmental policies and right governmental action, we must direct our efforts towards inculcating truth in the minds of our fellow citizens. I would not go as far as the author of the memorandum goes in saying that the people of the United States do not think of their government as a juridical person. Actually in the laws of our country the government is recognized as a juridical person. However, the people of the United States do think of themselves as having the power to determine the actions of this juridical person. It would be of very little use for us to insist with our public officials that they con-

form to the doctrine of the Church on Church-State relationships. Our insistence should be rather on exposing the errors which are propagated among our citizens and prayerfully pointing out to them the authentic truth which the Church teaches. Through our history we mainly contended with the Protestant mind. Today our main contention is with secularism. It is true that our sort of secularism is not always inimical to religion. It is an abstraction in public and social life from religion and the placing of religion in the domains of the private lives of individuals. Many are seeing today the futility of secularism in our present crisis. They want something on which they can found their freedoms and their rights. Here we have a large opportunity.

IV

What our Holy Father, Pope Pius XII, said in his 1944 Christmas message on democracy was very helpful. It seems to me that if His Holiness deems it opportune, a further development of what he said in that important message would ease a great many minds. In such a development, stress could be placed on the duties of the citizens in a democracy and their obligation to work for the common good, under natural and divine law. It could be shown that when citizens recognize their responsibility to God and act in the light of the truths of the Gospel of Christ they can safeguard their freedoms and in reality promote the common good. Citizens could be urged to use their privileges as citizens according to the dictates of enlightened consciences. I do not think it would be opportune if such a statement were made by our Holy Father for him to restate the teaching of Pope Leo XIII on Church-State relationships. The great point of the statement could be that the Church is at home in a rightly ordered democracy and ready and anxious in such a political system to shower her benefits, from which there will come a greater and greater measure of common good. In making this suggestion, I have in mind that the Church cannot select for sole approval any of the [5] various forms of government which are of themselves capable of securing the good of citizens. Particularly in these times, considering the world situation, any serious rejection of any of these various forms of government would do much harm. I do think, however, that since

in the world today the countries which are working against the powers who are fighting God and denying to men the enjoyment of their native rights are democracies, a statement of the Holy Father showing that democratic institutions are not in any way uncongenial to the Church would be helpful.

COMMENTS ON "THE CRISIS IN CHURCH-STATE
RELATIONSHIPS IN THE U.S.A."

Very Rev. Francis J. Connell, C.S.S.R., S.T.D.

1. The author seems to have no regard for the supernatural life and vigor of the Catholic Church. He proposes as the most necessary means of protecting the Church from grave harm in the United States something *natural*—the "adaptation" of a traditional Catholic doctrine to a naturalistic concept of the State. The truth is that the most effective means toward preserving the Church from harm and promoting its apostolic activity will be found in a more ardent zeal on the part of bishops and priests and in a more faithful observance of God's law by Catholics. It should not be forgotten that Christ has promised to abide with His Church and to sustain it, so that the gates of hell shall never prevail against it. The author does not take this promise into consideration.

2. It is not correct to say that the religious situation in the United States is very different today from what it was in past (p. 1). For more than a century the Catholic Church has been attacked, time and time again, on the plea that it is opposed to the ideals of American democracy; yet, the Church has prospered. The recent attack by Paul Blanshard is essentially no different from many previous attacks; and it seems very probable that, like them, it will soon be forgotten. Even now the secular press is showing displeasure and disdain toward the most recent book of Blanshard, called *Communism, Democracy, and Catholic Power*. Thus, the news magazine *Time* (May 21, 1951) says of Blanshard: "He is not likely to convince anybody not already convinced." The *Washington Star* (May 20, 1951), in a review of this new book says:

With the familiar reasoning of a certain type of muddled liberalism Blanshard argues that this country should not ally itself with

“reactionary elements” in Europe, such as the Vatican and Franco, even if they are fighting Sovietism. Where we would get confining our friendship to leftwing factions he does not explain. He actually questions whether the Vatican “is a liability or an asset in democracy’s war against Communism.” Can he think that the Red flood could have been dammed in Italy or even in France without the Church?

It should be noted that much of the antagonism toward the Catholic Church in the United States is based, not on the Catholic doctrine of Church and State, but on the claim [2] of the Church to possess the one true religion, which all men are bound to accept. Other reasons for opposition are the stand of the Church on divorce, euthanasia, birth-control, therapeutic abortion, etc. Blanshard attacks the Church on all these grounds, and also with particular vehemence on the fact that ecclesiastical law forbids Catholic children to attend non-religious schools, such as the public schools of our land. Now, even if a doctrine on Church-State relations favorable to non-Catholics were propounded by the Church, there would still be opposition based on these other doctrines--and surely, the Church could never change or renounce these other doctrines.

3. It is difficult to see how the author’s “adaptation” of the traditional Church-State doctrine can be harmonized with revealed truth. It has always been taught by the Catholic Church that civil rulers in their official capacity, as well as private individuals, are subject to the authority of Jesus Christ, and have been commanded by Him to recognize His one true Church. By virtue of this positive command of Christ the King all civil rulers are bound to acknowledge in the Catholic Church the right to preach and to conduct worship throughout the entire world (Can. 1322), the right to establish impediments for the marriage of baptized persons to the exclusion of any rights on the part of the State (Can. 1038), the *privilegium fori* [(Can. 120), etc. Certainly, Pope Leo XIII clearly taught that *per se* [in principle] a government is bound to show special favor to the Catholic Church (e.g. Denz., 1874); and he enunciated this principle for all forms of government, including democracy. It is by virtue of this principle that a Catholic government, in order to protect the faith of the Catholic citizens, is *per se* justified in restricting heretical propaganda.

In this connection it should be noted that the author of this article seems to have confused two very different things—the

physical freedom of the act of faith, and the *moral* freedom of that act (p. 10). A person is, indeed, *physically* free to make an act of faith or not; but no adult is *morally* free in this regard, since all are bound to elicit an act of supernatural faith as a necessary means of salvation.

Catholic bishops and priests in the United States have always explained this doctrine of the relation of Church and State as that which *per se* should exist by the law of [3] Christ. At the same time, they have pointed out that in the United States, because of the conditions existing therein, it is the most practical system for all religious groups to receive equal treatment from the government. Catholics in the United States have never asked any special favor from the government for their Church, and they do not hesitate to say that they would uphold the principle of complete freedom and equal treatment for all religions even if at any future time the Catholics of the United States became more numerous than the non-Catholics. Fair-minded Americans accept this explanation, realizing that it is entirely logical, and admitting that the Catholic Church, instead of being hostile to American ideals, is the staunchest defender of the principle of personal liberty. The loyalty which Catholics have always manifested to America, especially by giving their lives in defence of their country in war, is a convincing proof that the Catholic Church trains her members to be good citizens.

4. Even if, *per impossibile* [to take an impossible case], the Catholic Church proclaimed an "adaptation of the doctrine of Church-State relations to democratic ideals," as the author wishes, it would not make the apostolic activities of the Church any easier or any more effective. The enemies of the Church would boast that they had forced her to change her teaching; Catholics and fair-minded non-Catholics would not understand how there could be a modification in a doctrine that has been consistently taught by the Church for centuries. It is one of the Church's greatest sources of strength in the United States that she is unchangeable in her teaching, despite the changes going on in the world.

5. Instead of the suggestions made by the author as helpful to promote the welfare of the Church in the United States, I respectfully propose the following:

a. Bishops and priests should be urged to a more zealous and extensive apostolate to non-Catholics, in accordance with Canon

1350, 1. If all priests fulfilled their duty conscientiously in this matter, there would be three times as many converts in the United States annually as there are at present. However, in preaching to non-Catholics, priests must be warned to avoid the error of "eirenism" and to expound Catholic doctrine in its entirety, without compromise, in accordance with the principles laid down in the [4] Encyclical *Humani Generis* and in the Instruction of the Holy Office of December 20, 1949, on "ecumenism." Even if some non-Catholics will hate and persecute the Church in consequence of this open and honest exposition of Catholic doctrine, the clergy and the laity of the Church should realize that this is the fulfilment of the prophecy of Christ to His disciples: "If they have persecuted me, they will persecute you also" (John, 15:20).

b. Instead of devoting their efforts to answering the charges made against the Church by persons like Paul Blanshard, Catholics would do better if they disregarded such writings and gave a positive explanation of the Church's teachings. The laity should be told that they will give a good argument for the Church by leading virtuous lives. A special effort should be made to persuade Catholics who hold posts of civil authority to be perfectly honest. It is a deplorable fact that many Catholics in public office in the United States today are a great source of scandal because of their dishonesty. Such persons are doing more harm to the Catholic Church than those who write against Catholicism.

c. Priests who are defending in print the theory of the "lay state" should be admonished to be silent, at least until the Holy See has given a decision. It is surprising both the Catholics and the non-Catholics of the United States to read that some Catholic scholars are upholding views on Church-State relationship that differ radically from the traditional doctrine. For example, in the *New York Times* for Sept. 8, 1949, Fr. John Courtney Murray, S.J., is quoted as saying that some Catholic scholars "are endeavoring to make a vital, not opportunistic adaptation of the Church's teaching, so that it will fit the political realities of democratically organized society.... A certain dissatisfaction has developed among Catholic thinkers regarding the adequacy of the formulation of the Catholic position on Church and State made in the nineteenth century.... The central operative concept of this school of thought is the freedom of the citizen in its relation to the freedom of the Church. One aspect of this concept is that the change

from an authoritarian feudal state to the modern democratic nation has brought about a change in the relation of the Church to the people." Again, in *The Priest* for June, 1950, a writer argues that the civil government has the obligation to grant heretics full freedom of religious worship, as long as no harm is done to any individual, group or society. (No mention is made of any harm that might be done to the rights [5] of God or Christ). He argues thus: "The individual, though in error, has a right, not *per se* [essentially] but *per accidens* [accidentally], but a real right just the same, to what his conscience dictates. If, then, one in good faith is invincibly convinced that he is obliged in conscience to worship in the manner of an heretical sect, has he not the obligation and the right to do so? If so, then, since it is the primary purpose of the State to protect the natural rights of the individual, it is the duty of the State to recognize and to protect that right.... Thus is begotten, if everything so far is correct, the principle of the freedom of religion, not indeed on the basis that all religions are equally true and salutary, but on the strength of the fact that the immediate tribunal of man's responsibility to God is his own conscience and the further fact that man may in good faith err even regarding that which has been infallibly revealed." Again, in *The Sign* for October, 1949, we read: "Democracy is bound (as state religion governments, such as Spain or Sweden are not) to remain aloof from affiliation with any religious denomination, not in a spirit of indifferentism or agnosticism, but with benevolent neutrality."

The underlying idea of all such statements, which are surely influencing many American Catholics, is that the democratic form of government is not subject to the positive laws of Christ, and is not permitted to restrain heretical attempts to lead Catholics astray.

d. Catholics should be urged to obey more faithfully the *Monitum* of the Holy Office, June 5, 1948, and the Instruction of the same Holy Office, December 20, 1949; since there is a tendency on the part of some to favor indifferentism both in word and in practice.

These suggestions have been made in a spirit of profound respect and deference to any directives that may be issued by the Holy See.