

Fr. Roemer is particularly efficient in presenting matters in which he has made previous specialized studies, e.g., in the question of European assistance for our struggling early French and German missions in the U.S.A. (pp. 167 ff.); in handling the delicate controversy between the Jesuits and Capuchins in Louisiana (pp. 48 f.); in elucidating the unhappy Trusteeism conflicts in which one of his own countrymen, Fr. Anthony Sedella, was unfortunately implicated (p. 134); and in managing the canoe—as it were—in which Joliet and Marquette sailed down the Mississippi, despite at times, the rather violent literary tempest that shook the pens of a Francis Borgia Steck, and a Joseph C. Short (p. 40). The author is to be commended for not unduly overemphasizing the "Quebec Act" as one of the main causes of the Revolutionary War, but keeping it within the sober bounds of a contributory occasion.

In a compendium such as Fr. Roemer's work one cannot expect the last word in matters pertaining to American Church history to have been written; the author himself did not intend his book as such (see p.v.). But he has provoked further investigations and healthy research. He has given to the Catholic American seminarian and to the intelligentsia of our country a well balanced analysis of American Church history, and is to be highly commended for his noble efforts and sacrifice of time. The B. Herder Book Co. of St. Louis have again measured up to the high standards of their scholastic publications in giving to the reading public an easily legible text and a pleasing format.

RAPHAEL M. HUBER, O.F.M.Conv.

*No Abiding City* (Westminster, Md.: The Newman Press, 1948. Pp. 74. \$1.50) represents the Lenten conference which the late Fr. Bede Jarrett, O.P., delivered in 1932 at Our Lady of Victories. The Newman Press has shown good judgment in giving an American edition of a work of so solid a man as Bede Jarrett. He is one who could write solid scholarly investigations and solid spiritual books and brochures. *No Abiding City* centers about the theme that we have not here a lasting habitation, but that our true home is heaven. It is only in the light of this that the things of earth are seen in their true perspective. Because we have not here an abiding city, Bede Jarrett is constantly pointing out the courage with which we should be animated in facing the realities of life. Likewise he points out the necessity of a true spirit of independence in regard to the earth and the things of earth in view of the fact that they are things given us by God to use temporarily in preparing for the fruition of things eternal. The whole message is one of confidence and optimism.

## CATHOLIC DOCTRINE AND "THE RELIGION OF THE STATE"

What is the veritable Catholic "thesis" on Church-state relationships? More precisely, what, in reality, is the authentic, perennially valid and unalterable Catholic doctrine concerning the relations between Catholic Church and Catholic state, the relations which should *per se* obtain by reason of the nature of Church and state in a Catholic society, so that any deviation from these relations, while tolerable perhaps as a concession prompted by expediency, could not merit approval on principle? This question, then, confines itself to theory, to principles, and in turn it is to this question so put (or aspects of it) that the following pages confine themselves. That is to say, it is altogether beyond the scope of this brief paper to discuss what concessions may be made in practice, what departures from the principles, the theory, the norm, would be legitimate and in order in various concrete circumstances.

The answer to be given to the foregoing question is currently a matter of lively debate among Catholic theologians. On the one hand, claiming to be the authentic Catholic "thesis," there is what its opponents term the "old thesis," "the nineteenth-century thesis," though in substance it is still the teaching generally presented in manuals of theology and of *Jus Publicum Ecclesiasticum*, even those of most recent vintage.<sup>1</sup> On the other hand, there are the views of several Catholic scholars, here and abroad, who, after a searching re-examination of the "old thesis," have contended that it needs radical revision, substantial modifications. Pre-eminent

<sup>1</sup> Cf. the new edition of J. M. Hervé, *Manuale Theologiae Dogmaticae*, (Paris: Berche et Pagis, 1949), I, 520-35; P. Parente, *Theologia Fundamentalis* (Turin: Marietti, 1946), pp. 172-77; R. Garrigou-Lagrange, O.P., *De Revelatione*, ed. 4 (Rome: Libreria Editrice Religiosa F. Ferrari, 1945), II, 411-25; A. Vellico, O.F.M., *De Ecclesia Christi* (Rome: Editiones Comm. A. Arnoldo, 1940), pp. 605-39; L. Lercher, S.J., *Institutiones Theologiae Dogmaticae*, ed. 3, *cor.* F. Schlagsenbauer, S.J. (Innsbruck: F. Rauch, 1939), I, 244-45, 251; N. Jung, *Le Droit public de l'Eglise* (Paris: Procure Générale du Clergé, 1948), pp. 109-37; A. Ottaviani, *Institutiones Iuris Publici Ecclesiastici*, ed. 3 (Typis Polyglottis Vaticanis, 1948), II, 46-252; L. Bender, O.P., *Jus Publicum Ecclesiasticum* (Bassum: P. Brand, 1948), pp. 169-200; F. Marchesi, S.J., *Summula Iuris Publici Ecclesiastici* (Naples: M. D'Auria, 1948), pp. 114-130.

among the champions of these more liberal views is John Courtney Murray, S.J., who has brought to bear against the "old thesis" impressive erudition, remarkable dexterity, and an uncommon command of language.<sup>2</sup> Withal, it must be asked: Has Fr. Murray, to date, successfully vanquished the "old thesis" in any of its essentials? If one who claims no special competence in the matter be allowed to venture an opinion, I would say that he has not. For whatever they are worth, some reasons for this opinion are respectfully submitted in the following pages, as simply and briefly as a complicated controversy permits.

## I

A key issue in the whole debate is the standing, within the framework of Catholic doctrine, of the constitutional concept of "the religion of the state."<sup>3</sup> For the concept itself, we may turn to Fr. Murray:

As it has historically appeared in the nation-states of post-Reformation Europe, this concept asserts that the state itself, the organized political community does more than recognize the juridical personality of the Church as a visible religious society in her own right, with autonomous powers and definite rights over her members; by itself this recognition would not make the Church the religion of the state. The concept also asserts that the state as such makes public profession of Catholicism as its own one and only religion; and by consequence it asserts that no citizen may make public profession of any other religion. In further consequence, the coercive power of the state is brought to bear to inhibit the public profession or propaganda of other religions.<sup>4</sup>

What is under discussion is the state when it is the body-politic of a Catholic people. And the problem before us comes to this: Is the official and exclusive recognition and profession of Catholicism by the state, with whatever logical and juridical consequences

<sup>2</sup> Fr. Murray's major contributions to the subject are: "Governmental Repression of Heresy," *Proceedings of the Catholic Theological Society of America*, Third Annual Meeting (Chicago, June 28-30, 1949), pp. 26-98; "St. Robert Bellarmine on the Indirect Power," *Theological Studies*, IX (1948), 491-535; "Contemporary Orientations of Catholic Thought on Church and State in the Light of History," *Theological Studies*, X (1949), 177-234; "Current Theology on Religious Freedom," *Theological Studies*, X (1949), 409-32.

<sup>3</sup> Cf. Murray, *Theological Studies*, X (1949), 183 f., 227-234, 422-432.

<sup>4</sup> *Ibid.*, 424.

—as regards other religions—may follow from such a constitutional situation of "religion of the state," permanently and unalterably part of the genuine Catholic "thesis," obligatory from the nature of Church and state in a Catholic society? "Is it . . . theologically necessary, permanently valid, unalterably ideal realization of Catholic principles on Church-state relationships?"<sup>5</sup>

Fr. Murray's answer is in the negative. He takes the position that a constitutional situation of "the religion of the state" is at most obligatory only if and insofar as it is a means necessary to ensure the freedom of the Church.<sup>6</sup> With this as his major premise, Fr. Murray then argues, in effect: Now, the future may hold undreamed-of modes of government wherein the freedom of the Church would be guaranteed without need of recourse to a constitutional situation of "the religion of the state"—indeed, such a mode is already with us, in modern democracy, of the better sort.<sup>7</sup> Ergo, "the religion of the state," since it is but a particular and contingent manner of realizing the Church's freedom, does not enjoy a necessary and permanent status in Catholic doctrine.

With this conclusion in hand, Fr. Murray considers that Catholic principles leave room for a body-politic of a Catholic people which would be, not a "Catholic state," but a "lay state,"<sup>8</sup> somewhat on the following order, I gather: one wherein, to be sure, the state would reckon with the reality of the Church,<sup>9</sup> would recognize the unique juridical personality of the Church and the existence, in an order higher than that of the state, of an external spiritual authority that has an independent sovereignty over all its subjects in all that concerns their spiritual and moral life, even as citizens and rulers,<sup>11</sup> wherein there would be right moral and

<sup>5</sup> *Ibid.*, 229; cf. 430.

<sup>6</sup> *Ibid.*, 183, 229 f., 233, 422 f., 425 f., 430.

<sup>7</sup> *Ibid.*, pp. 425 f.

<sup>8</sup> *Ibid.*, 189 f., 223-26, 233 f.

<sup>9</sup> Lay: not laicist, laicizing, secularist. Cf. Murray, "Governmental Repression of Heresy," pp. 30, 63; *idem*, *Theological Studies*, X (1949), 188-90, 200, 225 f., 232.

<sup>10</sup> Cf. "Governmental Repression of Heresy," p. 80, and, for an extended discussion of how this reckoning would work out, see the whole section, pp. 70-85.

<sup>11</sup> *Ibid.*, pp. 89-90; cf. *Theological Studies*, X (1949), 424.

juridical relationships between the Church and the state,<sup>12</sup> and to that extent no separation of Church and state,<sup>13</sup> wherein, however, Catholicism would not be "the religion of the state," would not be publicly professed by the state as its own one and only religion, and in consequence without inhibition by the state of public profession or propaganda of other religions.<sup>14</sup> Such a relationship of Church and state, Fr. Murray holds, is called for by a modern democracy, whose historical emergence is said to correspond to a fundamental intention of nature<sup>15</sup> (and therefore of God), and which would collapse, it is to be feared, if public profession or propaganda of false religions be inhibited.<sup>16</sup>

Before accepting all this, one would like, among other things, to be sure about the validity of Fr. Murray's initial premise: there is room for considerable doubt that the theological necessity or non-necessity of "the religion of the state" depends solely on the latter's necessity or non-necessity for the freedom of the Church. To be fair, Fr. Murray has not simply assumed the truth of this premise. On the contrary, he has made valiant efforts to dispose of various conceivable objections against his major premise, i.e., arguments wishing to vindicate the theological necessity of "the religion of the state" whether the Church's freedom be at stake or not. That these efforts have been successful in every case, I am not sure. Happily, however, there is no need to go into all that as long as a simpler course is available—of asking whether Fr. Murray has considered *all* the arguments.

Thus, on the question of the theological necessity or non-necessity of "the religion of the state" one would like to see some explicit discussion of the possible implications of a "major obligation which natural law imposes on the State—that is, on organized society with its agencies of government . . . the obligation to acknowledge God as its author, to worship Him as He wills to be worshipped, and to subject its official life and action to His law."

<sup>12</sup> Cf. Murray, "Freedom of Religion: I. The Ethical Problem," *Theological Studies*, VI (1945), 268; *idem*, *Theological Studies*, X (1949), 423.

<sup>13</sup> Cf. *Theological Studies*, VI (1945), 268, and "Governmental Repression of Heresy," pp. 89 f.

<sup>14</sup> Cf. *Theological Studies*, X (1949), 234, 424, and "Governmental Repression of Heresy," p. 84.

<sup>15</sup> Cf. *Theological Studies*, X (1949), 181-83, 231, 233 f.

<sup>16</sup> *Ibid.*, 182 f.

which "absolute obligation includes also the hypothetical obligation of accepting a higher belief, law, and mode of worship, if God reveals them as His will."

As to this obligation itself, whatever its implications may be, Fr. Murray undoubtedly concedes it, since the words just quoted derive from an earlier article of his<sup>17</sup> and do but sum up what is classic and certain doctrine among Catholic philosophers<sup>18</sup> and theologians,<sup>19</sup> doctrine confirmed by the Popes, as will be seen later.

What the philosophers and theologians have to say, relevant to the matter in hand, can be given only in resumé. That man has the duty not only of individual but also of social worship, is ele-

<sup>17</sup> "Freedom of Religion: I. The Ethical Problem," *Theological Studies*, VI (1945), 266, with note 9b.

<sup>18</sup> Cf. V. Cathrein, S.J., *Philosophia Moralis*, ed. 17, cur. J. Schuster, S.J. (Freiburg i. Br.: Herder, 1935), pp. 432-434, 438 f.; J. Donat, S.J., *Ethica Specialis*, ed. 5 (Innsbruck: F. Rauch), pp. 236 f., 256 f.; E. Cahill, S.J., *Framework of the Christian State* (Dublin: Gill and Son, 1932), pp. 406 f., 601, 607; Ryan-Boland, *Catholic Principles of Politics* (New York: Macmillan, 1940), p. 311; H. Rommen, *The State in Catholic Thought* (St. Louis: Herder, 1945), pp. 366 f.

<sup>19</sup> Cf. treatises on Moral Theology, *In Publicum Ecclesiasticum*, and Fundamental Theology. In the latter discipline, the teaching is a standard thesis of the tract *De Vera Religione*, and reappears in the tract *De Ecclesia* as an argument against separation of Church and state; cf. Lercher, *op. cit.*, 8 f., 244; Hervé, *op. cit.*, 30, 523, 526 f.; Garrigou-Lagrange, *op. cit.*, 411 f.; S. Tromp, S.J., *De Revelatione Christiana*, ed. 4 (Rome: Gregorian University, 1937), p. 37; J. Herrmann, C.S.S.R., *Institutiones Theologiae Dogmaticae*, ed. 7, cur. Stehler-Raus (Lyonis-Paris: E. Vitte, 1937), I, 83, 492; A. Dorsch, S.J., *Institutiones Theologiae Fundamentals*, ed. 3 (Innsbruck: F. Rauch, 1930), I, 271-272; L. Billot, S.J., *De Ecclesia Christi*, ed. 3 (Rome: Gregorian University, 1929), II, 84-86; M. d'Herbigny, S.J., *Theologia de Ecclesia*, ed. 3 (Paris: G. Beauchesne, 1927), I, 140; G. Labrousse, S.J., *De Vera Religione* (Louvain: C. Peeters, 1897), pp. 45-48; G. Wilmers, S.J., *De Religione Revelata* (Regensburg: Pustet, 1897), pp. 26 f.; T. Zigliara, O.P., *Propaedeutica ad S. Theologiam*, ed. 4 (Rome: Typographia Polyglotta, 1897), pp. 203 f.; C. Mazzella, S.J., *De Religione et Ecclesia* (Rome: Typographia Polyglotta, 1880), pp. 21, 25 f., 456 f. Cf. also the (Primum) *Schema Constitutionis Dogmaticae de Ecclesia* drawn up at the Vatican Council: *cap. xiii (Collectio Lacensis*, VII, 573b), and the theologians' *adnotationes* thereto (*ibid.*, 622d, 623d-624a).

mentary Catholic doctrine.<sup>20</sup> In treating of this obligation of social worship, authors go on to affirm that even the state, *quæ* state, not simply "society" but the politically organized community, civil society as such, is bound to profess religion, the true religion: to worship God in the way He wills to be worshipped; and is so bound by the natural law. It is understood, of course, that to fulfill them, only through the medium of physical persons, the individual members who compose it. Concretely, then, the state professes, exercises religion, worships God, through official acts of those placed in authority. To satisfy its religious obligations, the state must worship God not only indirectly, virtually, administratively, but also directly and formally.<sup>21</sup> That is to say, not only, for example, by abstaining from whatever is contrary to divine law, not only by positive furtherance of public religion, not only by legislation, *ex motivo religionis*, against perjury, public blasphemy, writings inimical to public religion and morality, etc., but also by official participation in acts of worship properly so-called—of adoration, thanksgiving, supplication, and the like. The basic argument for all this, employed to prove the state's obligation of direct and formal divine worship in addition to that of worshipping indirectly, virtually, administratively,<sup>22</sup> since it is more fully stated in papal utterances below, may thus be given in barest essence.

The state is a creature of God, for He is the author of man's social nature, of all authority in the state, of all the benefits the state enjoys; therefore, the state must acknowledge its dependence on God, by appropriate acts of worship. If the state be, indeed, "of the natural law," one can hardly dispute this argument. Further, one perceives that, if it holds for any state, the argument holds for all—for all forms, those known and those undreamed-of, for juridical democracy and for any other new realizations in the reality of the "state" which historical evolution has brought or may yet bring about.

<sup>20</sup> Cf. Pius XII, *Ency. Mediator Dei, AAS* XXXIX (1947), pp. 525 f.; English transl., *Mediator Dei: On the Sacred Liturgy* (New York: Paulist Press), pp. 17 f., 35.

<sup>21</sup> Cf. Dorsch, *op. cit.*, I, 271 f.; Lahousse, *op. cit.*, pp. 45-48; Donat, *op. cit.*, p. 236.

<sup>22</sup> Cf. Dorsch, *op. cit.*, I, 272.

To continue the resumé—the state is no less a creature of God, and therefore no less bound to worship Him, for all that the actual order of things is a supernatural order, that a supernatural religion, the Catholic, has been revealed as obligatory for all men, that a supernatural religious society, the Catholic Church, has been divinely instituted for the worship of God. Given these facts, the state, in conformity with its obligation under natural law to profess the true religion, to worship God as He decrees ("the hypothetical obligation of accepting a higher belief, law, and mode of worship, if God reveals them as His will"), has then the duty of accepting Catholicism, its creed, code, cult. The objective duty exists for all; and where the objective duty is sufficiently known, the duty is subjective as well. This latter obtains in the case of a Catholic society. For in such case the state is not in the position of having to discover the true religion. It does not have to seek for that which has been found and is known in advance by the Catholic people of which the state is the body-politic. It has rather but to acknowledge what the Catholic populace acknowledges, the divine institution of the Catholic Church.<sup>23</sup> That the state finds the Church in this wise, indirectly, through the medium of the Catholic citizenry, does not mean that the state has no direct duties towards the Church. For, in the supernatural order no less than in the natural, the state remains a creature of God, and, as such, and as a perfect society really distinct from the Church, has its own duty of divine homage, of worshipping God as He wills to be worshipped, a duty which the state cannot fulfill apart from the Church.

Such would seem to be the mind of the representative authors we have been consulting. What are the implications of all this as to the question of the theological necessity of "the religion of the state"? It is difficult to understand why the foregoing considerations should not call for the conclusion that, in a Catholic society, it is incumbent upon the state to be a "Catholic state," to declare and to treat Catholicism as "the religion of the state." The formal, official, and exclusive recognition and profession of Catholicism by the state in a Catholic society as its own one and only religion, in short, the establishment of Catholicism as "the religion of the state,"

<sup>23</sup> Cf. L. Choupin, S.J., *Valeur des décisions doctrinales et disciplinaires du Saint-Siège*, ed. 3 (Paris: G. Beauchesne, 1928), p. 272; Garrigou-Lagrange, *op. cit.*, II, 420, *resp. ad obj.* 1. Cf. also Rommen, *op. cit.*, p. 367.

seems necessarily contained in the very notion of the state's duty to accept and profess the true religion, therefore Catholicism, with its creed, code, and cult. How else could the state, *qua* state, in truth accept and profess Catholicism, together with its tenet that it alone is the true religion?

If such a conclusion be conceded, one must then face up to the problem of what ought to be the state's attitude toward, and dealings with, the heterodox: the problem of what "logical and juridical consequences," as regards sects, should flow from the situation of Catholicism as "the religion of the state." Before a further word is said on this subject, let it be noted at once that no Catholic holds or may hold that the state would be called upon to impose the Catholic faith on dissident citizens. Reverence for the individual conscience forbids this, and the very nature of religion and of the act of faith. If these be not voluntary, they are nought.<sup>24</sup> Further, it is agreed to by all that the members of sects must be permitted the private external exercise of their religion. Neither of these points, then, enters into the question, when one comes to debate the problem of the "logical and juridical consequences" of Catholicism as "the religion of the state." What is, however, very much in question, is this: Would the Catholic state be under moral obligation (*per se*)—as was stated at the very outset, our whole discussion has been moving at the level of principles) to restrict sects in such matters as the public profession and exercise of their false religion, in their propaganda, the spread of their heretical doctrines?

It is no secret that the defenders of the "old thesis" answer in the affirmative. They consider such action by the state inherent in

<sup>24</sup> Leo XIII, *Ency. Immortale Dei*: "The Church is wont to take earnest heed that no one shall be forced to embrace the Catholic faith against his will, for, as St. Augustine wisely reminds us, 'Man cannot believe otherwise than of his own free will.'" The passage is found in the *Codices inri. sancti fontis* (hereinafter designated by CICF), cura Emi Petri Card. Gasparri editi (Romae: Typis Polyglottis Vaticanis, 1926-39), III, 245 f.; and in DB, 1875; Engl. transl., *The Great Encyclical Letters of Pope Leo XIII* (New York: Benziger Brothers, 1903), p. 127.—Cf. also the Code of Canon Law, can. 752, 1; can. 1351. Also, Pius XII, *Ency. Mystici Corporis Christi*, June 29, 1943, in *AAS* XXXV (1943), 243; Engl. transl., *The Mystical Body of Christ* (New York: The America Press), nn. 122 f. See also Pius XII, *Allocution to the Roman Rota*, Oct. 6, 1946; *AAS* XXXVIII (1946), 393 f.; Engl. transl. in T. Bouscaren, S.J., *Canon Law Digest, Supplement 1948* (Milwaukee: Bruce, 1949), pp. 255-257.

the logic of the state's duty to accept and profess Catholicism, a necessary consequence of the situation of Catholicism as "the religion of the state."<sup>25</sup> And that it was the mind of Pius XI that "the religion of the state" entailed some manner of sectarian restriction, is candidly acknowledged by Fr. Murray.<sup>26</sup> To counter certain utterances of Mussolini and the import of the Lateran Pacts (Treaty and Concordat), the Pope, in his letter of May 30, 1929, to Cardinal Gasparri, published in the *Osservatore Romano* on June 5, 1929—two days before the formal ratification of the Lateran Pacts—forcefully insisted that it be "clearly and loyally understood that the Catholic religion, and it alone, according to the Statute and the Treaties, is the religion of the state with the logical and juridical consequences of such a situation of constitutional law, especially with reference to propaganda"; and the Pope went on to add that full liberty of discussion is inadmissible, since some forms of discussion can easily trick unenlightened minds and become a cloak for harmful propaganda.<sup>27</sup>

What Fr. Murray himself actually holds in his particular matter is not altogether clear. When he has occasion to refer to such "consequences," he is inclined to add some qualifications, as when he writes, "logical and juridical consequences' that have *historically* followed from that concept ['religion of the state']";<sup>28</sup> or when he puts it that these consequences have been "considered 'logical.'"<sup>29</sup> On the other hand, I have not noted any assertion of Fr. Murray that such consequences are not, in truth, "logical." In the light of the utterances of Pius XI, given above, and of other Popes, to be quoted presently, such reticence is understandable. Fr. Murray has been able to avoid facing up to the problem by disputing the basic supposition of the problem, the theological necessity of "the religion of the state":

Finally, the question is not whether, in a "constitutional situation" wherein is enshrined the concept of "religion of the state," there fol-

<sup>25</sup> See, for example, Ottaviani, *op. cit.*, II, 51-57.

<sup>26</sup> *Theological Studies*, X (1949), 227.

<sup>27</sup> Cf. *AAS* XXI (1929), 301; J. Lo Grasso, S.J., *Ecclesia et Status* (Rome: Gregorian University, 1939), nn. 831 f.; *America*, June 15, 1929, pp. 219-220.

<sup>28</sup> *Theological Studies*, X (1949), 229; italics mine.

<sup>29</sup> *Ibid.*, 183; italics mine.

countless benefits with which society abounds. As we are each of us admonished by the very voice of nature to worship God in piety and holiness, as the Giver unto us of life and of all that is good therein, so also and for the same reason, nations and States (*populi et civitates*) are bound to worship Him; and therefore it is clear that those who would absolve society (*civilem communitatem*) from all religious duty act not only unjustly but also with ignorance and folly.<sup>32</sup>

More instructive still is the Encyclical *Inmortale Dei*, issued Nov. 1, 1885:

As a consequence, the State (*civitas*), constituted as it is, is clearly bound to act up to the manifold and weighty duties linking it to God, by the public profession of religion. Nature and reason, which command every individual devoutly to worship God in holiness, because we belong to Him and must return to Him since from Him we came, bind also the civil community by a like law. For men living together in society are under the power of God no less than individuals are, and society, not less than individuals, owes gratitude to God, who gave it being and maintains it, and whose ever-bounteous goodness enriches it with countless blessings. Since, then, no one is allowed to be remiss in the service due to God, and since the chief duty of all men is to cling to religion in both its teaching and practice—not such religion as they may have a preference for, but the religion which God enjoins, and which certain and most clear marks show to be the only one true religion—it is a public crime to act as though there were no God. So, too, is it a sin in the State not to have care for religion, as a something beyond its scope, or as of no practical benefit; or out of many forms of religion to adopt that one which chimes in with the fancy; for we [better: "they"—*civitates* . . . *debent*] are bound absolutely to worship God in that way which He has shown to be His will. All who rule, therefore, should hold in honor the holy name of God, and one of their chief duties must be to favor religion, to protect it. . . .<sup>33</sup>

Later in the same Encyclical, Leo XIII cites as reprehensible the views:

The State (*civitas*) does not consider itself bound by any kind of duty towards God. Moreover, it believes that it is not obliged to make public profession of any religion; or to inquire which of the very many religions is the only one true; or to prefer one religion to all the rest; or to show to any form of religion special favor; but, on the con-

<sup>32</sup> CICF, III, 229; *The Great Encyclical Letters of Pope Leo XIII*, pp. 97 f.

<sup>33</sup> CICF, III, 236 f.; *The Great Encyclical Letters* . . . pp. 110 f.

low certain "logical and juridical consequences" with regard to the suppression of other forms of belief and worship.

For the theologian, the basic question concerns that constitutional situation itself—is it or is it not theologically necessary, permanently valid, unalterably ideal realization of Catholic principles on Church-state relationships? . . . Surely the answer must be no.<sup>30</sup>

But what if the answer must be yes? To ask this question has been one of the reasons for this paper.

II

It is time now that the Popes be heard on the matters under discussion in this paper. I single out a few of the relevant utterances, notably of Leo XIII. That this Pontiff more than once approved the concept of "the religion of the state" is conceded by Fr. Murray, who contends, however (if I understand him correctly, and may sum up his views in my own words), that Leo XIII did not thereby wish to teach the theological necessity of "the religion of the state"—his approval of the latter was given only because and insofar as "the religion of the state" was then necessary to ensure the well-being of the Church, and of the state as well, against the onslaughts of Continental Liberalism.<sup>31</sup> I am prepared to grant that Leo XIII may have approved "the religion of the state" for contingent reasons; but I am not prepared to grant that he approved it for such reasons *alone*. To my mind, in his vindication of "the religion of the state" the Pope adduced at least one doctrinal reason, of permanent validity, for "the religion of the state," and thereby taught the theological necessity of the latter. The reason? The state, *qua* state, must worship God, because it is a creature of God.

In the Encyclical *Humanae genis*, Apr. 20, 1884, the Pontiff declared:

To have in public matters no care for religion, and in the arrangement and administration of civil affairs to have no more regard for God than if He did not exist, is a rashness unknown to the very pagans. . . . Human society, indeed, for which by nature we are formed, has been constituted by God the Author of nature; and from Him, as from their principle and source, flow in all their strength and permanence the

<sup>30</sup> *Ibid.*, 229.

<sup>31</sup> *Ibid.*, 231-33.

trary, is bound to grant equal rights to every creed, so that public order may not be disturbed by any particular form of religious belief.<sup>34</sup> Perhaps most significant of all is the passage in the same Pontiff's *Encyclical Libertas*, June 20, 1888:

This kind of liberty (liberty of cult), if considered in relation to the State, clearly implies that there is no reason why the State should offer any homage to God, or should desire any public recognition of Him; that no one form of worship is to be preferred to another, but that all stand on an equal footing, no account being taken of the religion of the people, even if they profess the Catholic faith. But, to justify this, it must needs be taken as true that the State has no duties towards God, or that such duties, if they exist, can be abandoned with impunity, both of which assertions are manifestly false. For it cannot be doubted but that, by the will of God, men are united in civil society; whether its component parts be considered; or its form, which implies authority; or the object of its existence; or the abundance of the vast services which it renders to man. God it is who has made man for society, and has placed him in the company of others like himself, so that what was wanting to his nature, and beyond his attainment if left to his own resources, he might obtain by association with others. Wherefore civil society (*civilis societas, quia societas est*) must acknowledge God as its Founder and Parent, and must obey and reverence His power and authority. Justice therefore forbids, and reason itself forbids, the State to be godless; or to adopt a line of action which would end in godlessness—namely, to treat the various religions (as they call them) alike, and to bestow upon them promiscuously equal rights and privileges. Since, then, the profession of one religion is necessary in the State, that religion must be professed which alone is true, and which can be recognized without difficulty, especially in Catholic States, because the marks of truth are, as it were, engraven upon it. . . .<sup>35</sup>

There is room for but one more relevant pronouncement of the Popes. Pius X wrote in his *Encyclical Vehementer nos*, Feb. 11, 1906:

That the State should be separated from the Church is an absolutely false and most pernicious thesis. For first, since it is based on the principle that religion should be of no concern to the State, it does a grave injury to God. He who is the founder and conservator of human society no less than He is of individual men, for which reason He should be worshipped not only privately but also publicly.<sup>36</sup>

<sup>34</sup> CICF, III, 242; *The Great Encyclical Letters . . .*, p. 121.

<sup>35</sup> CICF, III, 304; *The Great Encyclical Letters . . .*, pp. 150 f.

<sup>36</sup> CICF, III, 662.

As I see it, these various papal pronouncements bear upon the state, *qua* state; not simply on "society," considered as the pre-political "matter" to which the state imparts a political "form." The state, to which man's God-given social nature impels him, is a creature of God, and as such is bound by the natural law to worship God, and in the way He wills. If this be conceded, it should not be necessary to pursue any further the significance of such papal utterances for the various points discussed in the previous section of this paper.

### III

Intimately connected with the debate about "religion of the state" and about the matter of "consequences" flowing therefrom, is the question whether the government of a state can be said to have the right and duty of suppressing heresy. By suppressing or repressing heresy is not meant the "extermination" of heretics, or the application of force or pressure to make the heterodox give up their convictions. The question has rather to do with the inhibiting of heretical propaganda, legal restrictions placed upon the public circulation of heretical doctrines. It is Fr. Murray's oft-expressed contention that, *in thesi*, a government has no right or duty thus to repress heresy.<sup>37</sup> Correlatively, the Church would not have the right, *in thesi*, to call upon the government to do so. This position of his is another of the substantial modifications which Fr. Murray believes should be made in the "old thesis." And here, again, I am not sure that he has proved his case. In a paper already grown too long, it is not possible to discuss whether Fr. Murray has successfully explained away various papal pronouncements of an earlier day, which are advanced as arguments against his position. It seems enough to follow the simpler course already adopted in the previous sections—of asking whether Fr. Murray has considered all the adverse arguments.

Namely, it seems to me that one must ponder the implications, in the present matter, of Canon 1381, section 3, in the Code of Canon Law.<sup>38</sup> The latter, of course, is an authoritative expression

<sup>37</sup> See, for example, Fr. Murray's "Governmental Repression of Heresy," *e. g.*, p. 27.

<sup>38</sup> C.I.C., can. 1381:

1. Religiosa inventus institutio in scholis quibuslibet auctoritati et inspectioni Ecclesiae subicitur.

of the mind of the contemporary Church on what she considers to be her rights. Now, the Canon in question asserts that the religious instruction of (Catholic) youth in all schools whatsoever (public, therefore, as well as Catholic), is subject to the authority of and supervision by the Church (section 1); that the local Ordinaries have the right and duty of vigilance over all schools in their territory, lest anything be taught or done in these schools contrary to faith or morals (section 2); that the same Ordinaries have the right to approve the teachers and text-books of religion, and to demand, in the interests of religion and morality, that teachers and text-books be removed (section 3).

As I see it, Canon 1381, section 3, amounts to the assertion by the Church of her right to call upon the civil authorities, who control the public schools, to inhibit the spread of heresy. Moreover, the Church has called upon various states to acknowledge this her right, as could readily be shown from various modern Concordats. Now, since the Church may neither demand nor claim the right to demand, that civil authority do something illicit, it should follow that civil authority, the government of a state, has, even *in thest*, the right, and, when called upon to exercise it, the duty of "repressing heresy."

That said, I conclude this attempt to indicate some of the reasons why I have found it difficult to subscribe to Fr. Murray's views. I have, of course, too great respect for the complexities of the problem, "What is the veritable 'Catholic thesis'?" and too great a respect for Fr. Murray's superior grasp of those complexities, to suppose that the difficulties I have suggested are altogether incapable of solution. But, meanwhile, they remain very real difficulties for me, and they move me to say that a recent description of the "old thesis" as "somewhat obsolescent"<sup>30</sup> is somewhat premature.

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2. Ordinarius locorum ius et officium est vigilandi ne in quibusvis scholis sit territorii quidquam contra fidem vel bonos mores tradatur aut fiat.

3. Eisdem similiter ius est approbandi religionis magistrorum et libros; itemque, religionis morumque causa, exigendi ut tum magistrorum tum libri removeantur.

<sup>30</sup> Cf. the review of Hervé, *op. cit.*, by Sheedy, C.S.C., in *Spectator*.

## THE MARIAN CHARACTER OF THE REDEMPTION

(1) *Mary's consent to the Incarnation by itself would assure a Marian note to the Redemption.*

"God sent the angel Gabriel to a city of Galilee called Nazareth, where a virgin dwelt, betrothed to a man of David's lineage; his name was Joseph, and the virgin's name was Mary. Into her presence the angel came and said . . . Mary, do not be afraid, thou hast found favour in the sight of God. And behold, thou shalt conceive in thy womb, and shalt bear a son, and shalt call him Jesus. He shall be great, and men will know him for the Son of the most High. . . . The Holy Spirit will come upon thee, and the power of the most High will overshadow thee. Thus this holy offspring of thine shall be known for the Son of God. . . . And Mary said, Behold the handmaid of the Lord; let it be unto me according to thy word."<sup>1</sup>

Was Mary unaware of the contents and of the scope of this celestial message? Could we dare pretend this without wronging God? Can we assert the same without dishonoring His Mother? Would not the Incarnation cease to be a mystery of wisdom and of love if it had had to be accomplished by offending man's liberty and by diminishing his responsibility?

Unquestionably, the young Virgin did not as yet know, for the moment, all the events which must encompass the existence of her Son; but she knows exactly the consequences of her acceptance. She had read, in the Holy Scriptures, the divine promises, in particular the prophecies of Daniel (6:13-14) and those of Isaiah (53:1-12) concerning the Servant of God, His sufferings, His ignominious death. Often had she meditated upon the afflictions and torments of the future Redeemer, foreseen by the Prophet of the Passion. "But he was wounded for our iniquities; he was bruised for our sins. The chastisement of our peace was upon him: and by his bruises we are healed."<sup>2</sup>

In the eyes of Mary, to conceive and bear the Messiah did not mean to engender a future victor who would cover himself with glory; on the contrary, it meant to become the mother of one despised, scoffed at, enveloped in opprobrium, and crowned with

<sup>1</sup> Luke 1:26-38.

<sup>2</sup> Isaiah 53:5.