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Rome and the First Amendment of the Federal Constitution

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ROME AND THE FIRST AMENDMENT
OF THE FEDERAL CONSTITUTION

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In Partial Fulfillment
of the Requirements for the Degree
Bachelor of Divinity

by
Norbert Walter Meyer
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Approved by:

AW
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Introduction

For a century and a half, the American people have been struggling for religious liberty.

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and economic institutions. But genuine concern for the safety of a more basic liberty - that of freedom of religion and worship, essentially freedom of conscience - is rare. The aim of this paper is to show that religious liberty as we know it, and want it, is no less in danger than our other free institutions. One such danger lies in the principles and practice of Roman Catholicism.

An exhaustive study might enter more fully upon the basic premises of religious liberty or the philosophy that underlies the principles of the Catholic opposition. This paper, however, merely intends to sound an alarm. Roman Catholicism, regardless of the impression it might give, is a genuine threat to the religious freedom guaranteed in the Federal Constitution. We shall not attempt to judge the validity of the American

Introduction

For a century and a half of constitutional liberty, America has found it necessary to oppose a variety of foreign ideologies, whose expansion and wide dissemination would make them dangerous to her liberty. She has just emerged victorious in a struggle with German and Italian fascism and Japanese imperialism. At present the cry goes up against communism. Americans - many of them, if not the majority - regard such foreign doctrines as dangerous primarily to political, social, and economic institutions. But genuine concern for the safety of a more basic liberty - that of freedom of religion and worship, essentially freedom of conscience - is rare. The aim of this paper is to show that religious liberty as America knows it and wants it is in no less danger than her other free institutions. One such danger lies in the principles and practice of Roman Catholicism.

An exhaustive study might enter more fully upon the basic premises of religious liberty or the philosophy that underlies the principles of the Catholic opposition. This paper, however, merely intends to sound an alarm. Roman Catholicism, regardless of the impression it might give, is a genuine threat to the religious freedom guaranteed in the Federal Constitution. We shall not attempt to judge the validity of the American

form of government. That we take for granted. But our purpose is this: to determine the extent of the liberty guaranteed in the law of the land; to point out apparent agreement and obvious discrepancies between liberty and the Vatican; and to cite the practice of Rome as evidence of her intolerance and the Papacy's authoritarian principles.

Lest the title mislead, permit a word of explanation. The First Amendment is symbolic of all the principles of religious liberty in the United States, whether those principles be found in the amendment itself, in succeeding amendments, or in its counterpart in the state constitutions. Rome is Roman Catholicism - the Papacy, the pope, his dogma, his teachers, his subjects.

The frequent mention and discussion of the relationship between Church and State is not extraneous but essential to the exposition of the topic. Freedom of conscience, freedom of worship, or the larger concept of religious liberty - all are founded on a particular relationship between the two spheres of Church and State. Rome's understanding of these two spheres is basic to her attitude toward religious liberty.

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has certain obligations toward his fellowman, if he is
wielded. True liberty does not conflict with that of
another. Societies recognize in their law and customs that
one man's liberty ends where another's begins. Nor is liberty
unrelated to the concepts of public order and morality.¹ These
are the limits of the freedom of liberty
we desire. If he falls to

**ROME AND THE FIRST AMENDMENT
OF THE AMERICAN CONSTITUTION**

I. The Religious Liberty of the United States

The average American citizen today takes religious liberty for granted. He seldom thinks about it; he rarely talks about it. But he rises to its defense when it is challenged. Few people who possess liberty are able to define the concept in detail. However, liberty is quite commonly defined as the right to think and to act according to the dictates of one's conscience. While this definition does state certain essentials, it omits obvious limitations.

Liberty, or freedom, is more than the absence of force or prohibitions. Positively stated, liberty is also the opportunity to do, to act, toward good ends. It implies the choice of aims and ends recognized as good. Essential to liberty, and included in the layman's definition above, is reason and conscience. This applies to the group as well as to the individual. "Liberty to do what is evil or futile or stupid is the necessary converse of true liberty, for without choice there is no freedom and no moral personality."¹ A free

1. M. Searle Bates, Religious Liberty: An Inquiry, p. 295.

man has certain obligations toward his fellowman, if he is truly free. True liberty does not conflict with that of another. Societies recognize in their law and customs that one man's liberty ends where another's begins. Nor is liberty exercised at the expense of public order and morality.² These are the limitations which the simple definition of liberty has forgotten. The man who enjoys liberty, if he fails to state these limitations in defining liberty, confines them to mental reservation.

The element of conscience is fundamental in the concept of liberty. "Conscience, indeed, is the focal point for liberty in any sense of the term. A fortiori, conscience is the focal point for religious liberty, and liberty of conscience is so truly basic to religious liberty that the term has often been employed as equivalent to religious liberty."³ Conscience is an inner judge that voices assent or disapproval upon a certain course of thought or action. The conscience has divine authorship in every human being. Because it is something within man, it is subject to no human authority. In the realm of human relationships conscience is free. Jacques Maritain, a Roman Catholic philosopher, writes:

The first of these rights [the rights of man] is that of the human person to make its way toward its eternal destiny along the path which its conscience has recognized as the path indicated by God. With respect to God and the truth, one has not the right

2. Ibid.

3. Ibid., pp. 296 f.

to choose according to his own whim any path whatsoever, he must choose the true path, in so far as it is in his power to know it. But with respect to the State, to the temporal community and to the temporal power he is free to choose his religious path at his own risk, his freedom of conscience is a natural, inviolable right.⁴

William Penn declared that freedom of conscience is the basic requirement for religious belief.⁵

Freedom of conscience, particularly in the choice of religious tenets, does not remain within man. An expression of this liberty must necessarily declare itself to others. "Religious liberty is more than an individual matter, for the living conscience works in society."⁶ In the realm of human relationships - the home, the church body, the community, the State - arises the problem of religious liberty. For in those human relationships we find conflicts between expressions of conscience and between opposite wills. The State, as guardian of temporal peace and public order, has the difficult task of keeping order and harmony among numerous citizens, among whom there may be a great divergence of consciences. Liberty of conscience, in a religious sense, finds its expression in the institution known as the Church. The variety of expression is evident in the many sects and denominations. Because men are citizens of the State and at the same time members of the Church, or churches, the question of authority

4. Ibid., p. 297, quoting Jacques Maritain, The Rights of Man and Natural Law.

5. Ibid.

6. Ibid., p. 299.

and its extent over that individual is often a cause for friction between the Church and the State. The Scriptures tell us that the State is guardian of the body, and that the Church is guardian of the soul. The two are not conflicting spheres. The problems of religious liberty indicate, however, that the practical implications are not cut so clearly. In spite of this distinction made between Church and State, it is often very obscure whether or not the State is trampling on the spiritual rights of its citizens. It is often difficult to determine the extent to which one individual may give expression to his conscience without trespassing upon that of another.

With these circumstances in mind, what then is the ideal in religious liberty? Can complete religious liberty - freedom of conscience and its public expression in freedom of worship - that is, liberty for all concerned, be defined? As a definition that takes into consideration the proper relationship between Church and State and is general enough in its application, the following legal expression of religious liberty seems to be adequate:

Freedom of religion is the recognition, the establishment and the safeguarding of the rights of the individual to the end that in all matters pertaining to religion he may act freely in giving expression to his religious attitudes and convictions; that in associating himself with others, holding like beliefs, he shall neither be enjoined nor molested, and those so associated shall enjoy as their natural right the propagation of their religious opinions and beliefs, unhindered by any civil authority.⁷

7. Ibid., pp. 299 f., quoting Rufus W. Weaver (ed.), The Road to the Freedom of Religion.

We do not limit freedom nor extend the sphere of the State if we add the following modification to the definition above: "If this religious path goes so very far afield that it leads to acts repugnant to natural law and the security of the State, the latter has the right to interdict and apply sanctions against these acts. This does not mean it has authority in the realm of conscience."⁸

The citizen of the United States prizes his freedom of conscience and freedom of worship highly. His rights of liberty are embodied in the law of the land, the Federal and the state constitutions. The question is: Does the law of the land grant its citizens a religious liberty consistent with the principles outlined above? The answer lies in the birth and the development of the First Amendment, the necessity of further definition and clarification in succeeding amendments, the state constitutions, and the hundreds of decisions handed down by the highest court of the United States on practical issues involved. The final expression of liberty in respect to court decisions may still lie in the future.⁹

Colonial America by no means mothered religious liberty,

8. Ibid., p. 297, quoting Jacques Maritain, The Rights of Man and Natural Law.

9. The Supreme Court of the United States recently split five to four in favor of the New Jersey bus-transportation statute, which permits the use of public funds for transportation of children to Catholic schools. The decision indicates a wide divergency of opinion regarding the interpretation of the First Amendment on practical issues. For a complete discussion of this case see Concordia Theological Monthly, XVIII, May, 1947, pp. 374 - 379.

as is often claimed. Most of the settlers who came to America that they might be free in their own worship accorded no such liberty to those who held conflicting beliefs. William Warren Sweet writes concerning the Puritans:

[They] conceived it to be their task to rebuild God's true Church in the New World, where it might serve as an example to the mother Church in the Old. To do this, they were willing and even glad to meet seemingly unsurmountable difficulties. Nor would they tolerate any form of opposition, whether religious or political, in carrying out their holy endeavor.¹⁰

At the most, other religions were tolerated. But it has been wisely stated that "toleration is the lowest form of human cooperation." Religious denominations guarded their tenets jealously by excluding the religious minorities or by restricting and limiting their civil rights. Rhode Island, however, might be termed the cradle of religious liberty in the United States, for Roger Williams founded that colony on the grounds of full religious liberty. Through the years the restrictions among the colonies were modified. Yet at the time of the Constitutional Convention the laws of most of the colonies made civil status and rank dependent upon certain articles of belief. In 1787 Rhode Island and Virginia were the only colonies that granted full religious liberty. In New Hampshire, Connecticut, New Jersey, the two Carolinas, and Georgia civic status depended on adherence to the Protestant faith. In Delaware and Maryland the qualification was

10. William Warren Sweet, Religion in Colonial America, p. 85.

belief in the Christian religion. Belief in the inspiration of Scriptures was required in Pennsylvania, Delaware, and the Carolinas. These are only a part of the prerequisites for holding the rights of citizenship in most of the original thirteen states.

When the thirteen colonies came to the decision to become the United States, the circumstance of religious pluralism posed a delicate problem. The colonies were accustomed to some form of religious establishment. How could there be social harmony in a nation where there was such a great variation in denominational allegiances? The problem existed only under the assumption that religious unity was essential to social unity. Under such a theory it was up to the State, for the sake of its own existence and the temporal good, to preserve religious unity among its citizens. Anyone failing to abide by the officially established religion was disloyal to the State.¹¹

Such a theory was thoroughly impractical under the conditions which existed in the thirteen colonies. Murray says "it is a tribute to American political genius that this theory was finally buried, unwept, in American soil."¹² The nation's founding fathers saw the fallacy in such a theory through ample historical experiences. The strife had always been greatest where the State forced an external unity of religion

11. John Courtney Murray, "Separation of Church and State", America, LXXVI (December 7, 1946), p. 261.

12. Ibid., p. 262.

to promote a social or political unity. Where the State tyrannized the consciences of men, religious differences made people social enemies rather than brethren.

What was an adequate solution to the problem? The writers of the Constitution of the United States did not assemble its articles haphazardly. They studied the experiences of the past to avoid its errors. They took into consideration the advice and the opinions of the individual colonies. They were determined to build a harmonious union, a government such as had never existed, a country of free people. The difficulty lay in establishing unity among members of the social and political community comprised of individuals who were also members of a discordant religious community. It had been the practice of most of the separate colonies to demand a particular religious allegiance from its members, especially those holding public office. This specific problem was met in the actual articles of the Constitution in the provision: "VI. 3. No religious test shall ever be required as a qualification to any office or public trust under the United States." This was the only word of the Constitution on the subject of religion.

Was this an adequate guarantee of religious liberty? The states did not think so. When the Constitution came up for discussion and ratification before the conventions of the separate colonies, the religious test provision caused much discussion. The general consensus of opinion was that the

Constitution had not gone far enough in its expression of liberty. In Massachusetts only did anyone express a fear that the Constitution had gone too far.¹³ Those who felt that the statement on religious tests was inadequate, demanded a further expression of liberty, more specifically, a provision which would prohibit the government from granting any particular denomination a predominant position. "Perpetual strife and jealousy on the subject of ecclesiastical ascendancy was anticipated shaking the newly founded Union to its foundations, if the national government was left free to create a national religious establishment."¹⁴ This idea of absolute independence of religion from the State was new, but that the sentiment for complete freedom existed is evident from the addition of the Bill of Rights, the first ten amendments, to the Constitution. The advocates of complete religious liberty were the devout believers and the freethinkers, whose tenets of natural religion or agnosticism were likewise in jeopardy. All of these felt that the Constitution should be more specific in the protection of particular rights. The rights of conscience were guaranteed in the First Amendment of the United States Constitution. It reads: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." All that is said about religion in the Constitution is contained in this First

13. Sanford H. Cobb, The Rise of Religious Liberty in America, p. 508.

14. Carl Zollmann, American Church Law, p. 7.

Amendment and the statement on religious tests. Yet they do express religious liberty. "They cover the entire ground, and pronounce the national government for the largest liberty of conscience and worship, and restrain the national magistracy from all interference in matters of religious concernment!"¹⁵

It is true, the First Amendment is negative in character. It does not state in so many words that religious liberty is granted. Patrick Henry believed that the law of the land ought to be still more explicit on this point. In the Virginia Convention he declared, "That sacred and lovely thing, religion, ought not to rest on the ingenuity of logical deduction."¹⁶ Madison, a champion of religious liberty, had said that the protection of liberty must be left to "logical deduction" since it was not an express provision of the new Constitution. His view was generally accepted among the colonies.¹⁷ The last century and a half have demonstrated the adequacy of the First Amendment, despite its negative statement. The First Amendment merely prohibited any interference by the government in matters of religious faith. But religious liberty as a "logical deduction" has been the time-honored right of every citizen of the United States.

Religious liberty is embodied in the principle of sepa-

15. Cobb, op. cit., p. 509.

16. R. Kemp Morton, God in the Constitution, p. 88.

17. Ibid., p. 91.

ration of Church and State. Whether that principle was the aim and purpose that prompted the authors of the Constitution to include the First Amendment might be doubtful. Some have declared that the First Amendment does not necessarily mean that the government looks favorably upon religion, but that it is a sound political principle, seeking the temporal welfare of the State. The Constitution is admittedly silent concerning religious matters. Morton says that "the Constitution of the United States is a legal and political document, not a dissertation on theology."¹⁸ Although the Constitution has a political end in mind, it does imply the sound Scriptural principle of "Render unto Caesar the things which are Caesar's, and unto God the things which are God's." John Courtney Murray, a Jesuit writer, offers a profound and carefully worded definition of the First Amendment and its limitations:

The First Amendment does not define a concept of the Church but a concept of the State. Fundamentally, the First Amendment asserts that political sovereignty is limited by the rights of conscience inherent in man. It has simply an ethical and a political content. Its ethical content is the doctrine that religious conscience is immune from governmental coercion. And its political content is the assertion that the rights of conscience will be most securely protected and the political ends of the American State most effectively furthered by guaranteeing the equality of all religious consciences (and, by implication, of all religious bodies) before the law. It cannot be too much emphasized that the religious liberty proclaimed by the First Amendment is not a piece of religious mysticism, but a

18. Ibid., p. 101.

practical political principle, ethically grounded on the obligations of the State to the consciences of its citizens and to its own end - social harmony, prosperity and peace.¹⁹

Murray has set forth a very accurate picture of the provisions of the First Amendment. It is an interesting point that Murray, who is a Jesuit, nods assent to the principles of liberty which he describes. This supports our later claim that Roman Catholic statements often camouflage or garble the underlying motives for making the statement. For Murray's aim in these paragraphs is not to champion the cause of liberty, but to solicit sympathy for Catholicism as a falsely accused and persecuted martyr. Yet his analysis suits our purposes. He presents a further discussion on the principle of separation of Church and State and the extent to which it is proclaimed in the First Amendment:

The First Amendment does more than recognize, as its factual basis, the religious pluralism existent in American society; as its essential ethical basis, it recognizes the dualism inherent in man himself. Every individual is a civic person, a member of organized society, subject to the authority of its government, ordained to its earthly end. And every individual is likewise a religious person, a creature of God, subject to the authority of conscience, and ordained to an end transcending time. This dualism is inherent in the very nature of man. And every man has the right to have his nature respected for what it is. As citizens of a state, therefore, all men, whatever their religion, have the right to be equal in their civic liberties and in the freedom of their access to all the benefits of organized society. As religious men, all citizens have equal right, as against the state, to

19. Murray, op. cit., p. 261.

follow in every rational way the will of God as it is known to them through conscience.

The First Amendment recognizes this dual set of rights, as flowing from man's dual capacity. Consequently, it forbids government so to legislate as to establish distinctions in citizenship on grounds of religious beliefs; a man's religion cannot be made a civic asset or liability. Similarly, government is forbidden so to legislate as to coerce religious conformity as the condition of civic equality; a man's civic status cannot be made to depend on his religion. The civic person and the religious person are to be "separate" in law as they are distinct in nature.

This distinction between the citizen and the believer is the basic ethical content of the First Amendment; at bottom, it is the principle of the First Amendment.²⁰

The First Amendment did not, as some hold, subordinate Christianity to paganism and atheism. It does not give free and unlimited reign to heathenism. Religious pluralism produced the First Amendment, the only thing the founders could do if they desired a republican form of government. The object of the provision was "not to countenance, much less to advance, Mohammedanism or Judaism or infidelity by prostrating Christianity, but to exclude all rivalry among denominations and to prevent any national ecclesiastical establishment which would give to any hierarchy the exclusive patronage of the national government."²¹ The founders felt that the proposed government could not speak on matters of religion, that religion was a matter for every individual citizen. The idea was unique in history, and when put into practice even more so. Each religion was left to exist upon its own merits

20. Ibid., p. 262.

21. Zollmann, op. cit., p. 8.

without any support from the State. Therefore the provision of separation of Church and State was embodied in the law of the land.²² The United States Supreme Court has voiced itself regarding the First Amendment and its purpose:

The First Amendment to the Constitution...was intended to allow everyone under the jurisdiction of the United States to entertain such notions respecting his relations to his Maker and the duties they impose as may be approved by his judgment and conscience, and to exhibit his sentiments in such form of worship as he may think proper, not injurious to the equal rights of others, and to prohibit legislation for the support of any religious tenets, or the modes of worship of any sect.²³

This definition of the purpose of the First Amendment was in keeping with the opinion of the advocates of religious freedom as stated by another champion of liberty, Thomas Jefferson:

Believing with you that religion is a matter which lies solely between man and his God; that he owes account to none other for his faith or his worship; that the legislative powers of the government reach actions only, and not opinions - I contemplate with sovereign reverence that act of the whole American people which declares that their legislature should "make no law respecting an establishment of religion or prohibiting the free exercise thereof," thus building a wall of separation between church and state.²⁴

Murray expresses this separation of Church and State in another fashion. He prefers to call the United States a "lay

22. Alvin W. Johnson, The Legal Status of Church-State Relationships in the United States, p. 274.

23. Ibid., p. 275, quoting from court case and decision of Davis v. Beason, 133 U.S. 333 (1890).

24. Ibid., p. 276, quoting case of Reynolds v. United States, 98 U.S. 145 (1878).

state" rather than declare that our government is founded on the principle of "separation of Church and State," a formula which he calls "bad in itself and misleading in its connotations."²⁵ Yet he provides a very clear picture of the State's proper sphere and the limitations of its power over the consciences of its citizens. He writes:

It [the "lay state"] may not pretend to be a theologian, or a prophet of the way to eternal salvation. In Madison's phrase, it is "not a competent judge of religious truths," and it has no power to force their acceptance. As a layman in matters of religion, the American state respects the religious authority inherent in the consciences of its citizens. The authorities conflict; but the state stands outside their conflict. It cannot silence any particular religious utterance, because it is the utterance of one of its citizens; on the other hand, it cannot espouse any religious utterance, because it is the utterance of only one of its citizens.

Nevertheless, it does not profess itself to be atheist or even agnostic. As a matter of fact, it professes neither knowledge nor ignorance in religious matters; it simply maintains reverence for knowledge or ignorance as these are present in its citizens. It does not deny or doubt that there is a religious authority; it simply denies that it is itself a religious authority. And for this reason it respects whatever religious authority is accepted by any of those whose temporal good it serves. Its single aim is to serve them all impartially, regardless of their religion. In this peculiarly American sense, the United States is a "lay" or "secular" state, and therefore "separate" from the Church...²⁶

The religious liberty of the First Amendment is complete. It makes all religions equal before the law. It permits every citizen to worship God according to the dictates of his

25. Murray, op. cit., p. 265.

26. Ibid., pp. 262 f.

conscience. It is the liberty of conscience as simply defined by the most ordinary citizen. It is more than toleration of religion and the free conscience. "Toleration is a concession, which may be withdrawn...In our country we ask no toleration for religion and its free exercise, but we claim it as an inalienable right."²⁷ Let one final tribute to the political wisdom of the founding fathers suffice at this point in our discussion:

This was America's greatest and most distinctive gift to the science of government. Acts of toleration had before been passed, but never before had any government put all religions on a footing of perfect equality.

To the minds of some, religious liberty means liberty to Christian denominations only, and to other religions simply toleration; but the word "toleration" has no place in our political vocabulary, for it carries the implication that we, by our grace, may extend to others the privilege of worshiping God as they may please, while as a matter of fact men do not worship God according to the dictates of conscience by virtue of any man-given right.²⁸

Someone might very well raise the objection now that the religious liberty of the First Amendment limits the powers of the Federal government, but that it does not apply to the governments of the various states. The objection is a valid one. The Federal Constitution restricts Congress, but not the state legislatures. Whatever religious liberty belongs to the citizens of the respective states is also granted

27. Johnson, *op. cit.*, p. 278, quoting Philip Schaff, *Church and State in the United States*, p. 14.

28. *Ibid.*, p. 279, quoting from a speech of Governor Pollard of Virginia, published in *Liberty*, Vol. 28, No. 1, 1933, p. 3.

in the state constitutions. Yet the states also have their restrictions and limitations of power. Since the days of the Civil War, any state desiring admission to the Union, was required to submit to a federal "compact." Most states would obviously follow suit and include provisions for religious liberty within their laws, even as the Federal law had done. But there existed a fear that a very strong body, such as the Mormons in the West, might destroy religious liberty in the new states. Therefore, the new states were required to include in their constitutions provisions for religious tolerance, freedom of conscience and worship. Such provisions cannot be altered without the consent of the Federal legislature. This compact guarantees religious liberty in most of the Far Western States.²⁹

A further limitation upon the powers of the states came with the Fourteenth Amendment. In the Fifth Amendment the United States was forbidden to encroach upon the personal rights "of life, liberty or property without due process of law." The Fourteenth Amendment extended the scope of this prohibition to include also the various states.

In the years which followed the establishment of the new government, the states gradually fell in line with the principles of the Federal government. Some had retained their established religions, but in the decades to follow state

29. Zollmann, op. cit., pp. 9 f.

religions were disestablished. Many of the state constitutions became more explicit than the Constitution of the United States in their expression of liberty. They differed from one another in manner and form of expression, but all states eventually granted liberty and its exercise. Twenty-six states provide that every man has the right to worship God according to the dictates of his own conscience. Eleven say that "the free enjoyment of religious sentiments and forms of worship shall ever be held sacred." Five provide for official protection of religious freedom. Some prohibit the interference of human authority with the rights of conscience, and others declare that a man's religion shall not be a hazard to his temporal welfare.³⁰

All the states are in agreement on the following points:

1. No legislature can pass a law establishing religion, or a Church. To effect such purpose a change in the constitution would be required.
2. No person can be compelled by law to attend any form of religious service; or, -
3. To contribute to support of any such service or Church.
4. No restraint can be put by law on the free exercise of religion; or, -
5. On the free expression and promulgation of religious belief. Provided always, that this freedom "shall not be construed as to excuse acts of licentiousness, or to justify practices inconsistent with the peace and safety of the State."³¹

It need only be mentioned in passing that the position of the State and its relation to the Church, with its variety

30. Cobb, op. cit., p. 518.

31. Ibid., p. 520.

of denominations and sects, creates many practical issues. In the law of the land "the aim is liberty for all, not a liberty of dominant privilege for one religious system, though the practical conciliation of conflicting consciences, opinions, and liberties is not simple."³² We want to stress, however, that the general principles of liberty are contained in the Federal and the state constitutions. Every particular case may require a particular interpretation of those general principles. In settling the practical issues one follows the rule that the rights of one end where the rights of another begin. That is what is implied in liberty. The purpose and the goal to keep such liberty is evident in our Federal Constitution and the laws of the states. Then also, "the record of court decisions tends to indicate progress toward greater security of freedom of religious conscience."³³ As stated before, the most complete expression of liberty or a more accurate definition may still lie in the interpretations of the future.

However, the basic principles of religious liberty as defined in the laws of the land may be summarized as follows:

1. No religion or church can be established by law.
2. Freedom of conscience in matters of religious belief and worship.
3. There can be no legal preference or discrimination among the different forms of religion.
4. No one can be compelled to attend religious worship or to contribute money for the support of any religious institution.
5. No public funds may be appropriated by the state for the support of any religious organization.

32. Bates, op. cit., p. 538.

33. Johnson, op. cit., p. 280.

6. No religious test can be established for holding public office; or for voting, or for service as juror or witness in court proceedings; or for any other state policies and functions.
7. No one's civil rights can be abridged on account of his religion.
8. All forms of religion are given equal protection under the law.
9. That religious liberty is guaranteed to every one which does not contravene the peace, good order, and morals of society.
10. There is complete separation between the institutions of church and state between civil and ecclesiastical functions.

With a few qualifying exceptions in some of the States these principles are basic constitutional guarantees in American law.³⁴

It would be absurd to pretend that America and her citizens, her practice and her judgments, have always abided by these principles of religious liberty. If cases do occur, where men have failed to live up to the ideals of this cherished heritage, the fault lies with the people and not with the principles. Occasionally "individuals have been excluded from public office, from citizenship, from employment, of from attendance in colleges and universities."³⁵ These are rare exceptions rather than the rule.

Religious liberty is indeed the prerogative of every citizen of the United States. As a summary statement testifying to the validity of our conclusion that full religious liberty is granted the citizen of the United States in the laws of the land, we add the following:

34. Bates, op. cit., pp. 538 f.
 35. Johnson, op. cit., p. 284.

Our constitution is the living gospel of the liberties of the people. It is not a compilation of restrictions and restraints upon them, but the guarantee of those essential liberties without which no man's home or living, peace or livelihood, happiness or freedom, would be safe from ambitious rulers, envious neighbors, or a grasping state. A close compact of church and state had been regarded by other governments as the chief support of public morality, order, peace, and prosperity; but as the first example in history, the United States has stood forth as government deliberately depriving itself of all legislative control over religion and refusing to sectarianize any jurisdiction in state prerogatives - an untrammelled independence in both the spiritual and civil realm.³⁶

There are no patent dangers to this right. It would be well for this citizen, however, as he enjoys and as he cherishes this liberty of conscience, to beware of potential foes. If he takes this liberty too much for granted, he indeed places it in jeopardy. "Eternal vigilance is the price of liberty."

Does religious liberty have its foes? Certain political ideologies, we know, definitely oppose religious freedom. This is very evident in the experiences of religious faith in Germany and in Russia during the past decade. As a whole, the general public recognizes the hostility of these regimes to religion. But to suggest that the religious liberty of America is being sabotaged from within might be considered undue alarmism. Serious consideration of the matter will reveal, however, that these dangers are no mere figments of the imagination. The specific danger we have in mind is from Roman Catholicism.

36. Ibid., p. 274.

II. Catholicism and Religious Liberty

"For religious liberty is like the air we breathe, breathed and unthought of by many until some hostile element asserts itself."¹

The liberty which the citizen of the United States enjoys at present stands firm. His right of religious liberty, he feels, is as secure as the strength of his country. He sees no patent dangers to this right. It would be well for this citizen, however, as he enjoys and as he cherishes this liberty of conscience, to beware of potential foes. If he takes this liberty too much for granted, he indeed places it in jeopardy. "Eternal vigilance is the price of liberty."

Does religious liberty have its foes? Certain political ideologies, we know, definitely oppose religious freedom. This is very evident in the experiences of religious faith in Germany and in Russia during the past decade. As a whole, the general public recognizes the hostility of these regimes to religion. But to suggest that the religious liberty of America is being sabotaged from within might be considered undue alarmism. Serious consideration of the matter will reveal, however, that these dangers are no mere figments of the imagination. The specific danger we have in mind is from Roman Catholicism.

1. Ibid., p. 284.

The charge is, of course, a serious one. But we can judge persons, or groups of persons, only by what they profess and by what they do. So with Catholicism. At present the majority of people in the United States professing some faith are Protestants. Taking the great doctrinal chasm that separates Catholicism and Protestantism into consideration, it hardly seems likely that Protestantism would ever permit Catholicism to overtake it in numbers. And if Catholicism should do just that - census reports show their number growing - wherein does the particular danger lie? The mere replacement of a Protestant majority with a Catholic majority should not necessarily cause alarm. But the danger runs deeper than a political supremacy. We fear the implications of a Catholic majority.

Three years ago, Harold E. Fey, associate editor of the periodical Christian Century, after making an extensive study of Roman Catholic policy in its literature and its activities, issued this warning: "With our national life moving toward a new cultural integration, the hierarchy is directing the great power of the ecclesiastical body which it heads toward winning the total body of American culture to Catholicism."² How to do this? "It is the purpose of the church [the Catholic Church] to win America to 'obedience to Rome', effecting whatever changes in our culture and our Constitution may be necessary

2. Harold E. Fey, "Can Catholicism Win America?", The Christian Century, (issues of November 29, 1944, to January 17, 1945, reprinted in booklet form), p. 4.

to make this a Catholic state."³ In its fullest meaning "winning the total body of American culture to Catholicism" implies or demands encroachment upon the liberties guaranteed to every American citizen in the Bill of Rights. Religious liberty, basic for all other freedoms, is included. If Rome puts these principles to practice, full freedom of conscience and its expression in freedom of worship cease when the state becomes predominantly Catholic. In the following pages we shall trace Rome's bid for dominance and shall observe that intolerance is a concomitant of Catholic supremacy.

Rome's designs on man's total life is not an unwarranted charge. No denominational prejudice prompts the claim that Rome denies religious liberty. Look to the "Eternal City" and let her speak for herself, but look carefully. Catholic patriots could deluge their opponents with a flood of Catholic-authored literature upholding and defending the liberties of the individual. Such literature does exist. The Roman Catholic system permits a wide latitude of opinion and interpretation of its policies. Then, too, the ambiguity of Catholic statements often renders an objective examination of Rome difficult. But the fact remains that some Catholic writers have apparently defended religious liberty and others have denied the principle. Accepting that view as normative which is most preponderant in print does not solve the problem. One must rather go to the official sources of Catholicism to

3. Ibid., p. 22. *Encyclical Dei of Leo XIII (1891).*

determine Rome's stand. The Vatican and what is sanctioned by the Vatican provide the answers.

Although someone might object that papal encyclicals and opinions are the ideas of only one person, let it be stressed here that such papal utterances are binding upon the members of the Roman Catholic Church. Roman Catholics must look to Rome for guidance. Hear Leo XIII in 1885, since which time his decree has neither been rescinded nor supplanted: "In the matters of thinking, it is necessary for them [Catholic believers] to embrace and firmly hold all that the Roman Pontiffs have transmitted to them, or shall yet transmit, and to make public profession of them as often as circumstances make necessary."⁴

Roman Catholic statements expressing papal attitude toward religious liberty, toward the American principle of separation of Church and State, and toward freedom of conscience are not only dissimilar, but very often are quite contradictory. Such statements cannot be harmonized except by distorted logic. This paper proposes to show that those statements which are contrary to our democratic ideals of liberty are the official Catholic teaching. The Roman Catholics realize that their position is subject to attacks of criticism and condemnation. They can realize this fact because they know they stand on dangerous ground. They know that their position regarding the rights of man and the Church-State

4. Encyclical Immortale Dei of Leo XIII (1885).

relationship are incongruous with the principles of freedom in the United States. For example, Murray, the Catholic author, is able to select the very points on which Catholicism can be attacked. He suggests that opponents of Catholicism base their attacks on the false premise that the First Amendment lays down a rule of faith, that the Constitution supports Protestant principles.⁵ The premise is indeed false, but the charge that Catholics support the First Amendment only in practice for expedience's sake and not in principle is made on the basis of authoritative statements by Catholics.

A non-Catholic may claim that "the Church of Rome possesses a doctrine or makes claims that are, in objective truth, inconsistent with the religious liberty established by the Constitution of the United States."⁶ The charge is a serious one, but it is supported by dogma of Catholicism. One must keep in mind what the Roman Catholic Church is. "Roman Catholicism is two things. It is a form of faith and worship; and it is a form of government. It is a system of beliefs...and it is a corporate control over the minds, consciences and moral conduct of its adherents - of all the world, if its hopes could be realized - by a very small self-perpetuating group, in the last analysis by one man."⁷

5. Murray, op. cit., p. 261.

6. Charles C. Marshall, The Roman Catholic Church in the Modern State, p. 45.

7. Winfred Ernest Garrison, Catholicism and the American Mind, p. 16.

If one admits the premises of Catholicism, he must agree that Catholicism is quite logical. The chief premise of Rome is its claim to spiritual and temporal authority by divine institution. Leo XIII states the claim this way:

...some things have been revealed by God; that the only-begotten Son of God was made flesh, to bear witness to the truth; that a perfect society was founded by Him - the Church namely, of which He is the head, and with which He has promised to abide till the end of the world. To this society He entrusted all the truths which He had taught, in order that it might keep and guard them and with lawful authority explain them; and at the same time He commanded all nations to hear the voice of the Church, as if it were His own, threatening those who would not hear it with everlasting perdition.

In faith and in teaching of morality, God Himself made the Church a partaker of His divine authority, and through His heavenly gift she cannot be deceived. She is therefore the greatest and most reliable teacher of mankind, and in her dwells an inviolable right to teach them.⁸

The supremacy claimed above, by the terms of the Constitution Pastor Aeternus of 1870, is declared to be represented in the Pope. In matters of faith and morals all members of the Church owe the duty of obedience. Failure to abide by this duty is punished with damnation. It is a sovereignty de fide. "No duties of obedience to the State or to the individual conscience are excepted. They are absorbed with all the other duties and with all rights to free-

8. Encyclical letter Libertas Praestantissimum of Leo XIII, June 20, 1888.

It might be noted here that "Church" as spoken of by Catholic authorities generally refers to the hierarchy of the Roman Catholic Church.

dom of thought and action in the duty of obedience to the Pope by the sweeping terms of the Constitution."⁹ Mention of this realm of faith and morals will be made later.

Unlike rulers of the modern governments, who have powers delegated to them by their subjects, the Pope claims for himself a unique power. His is an authority, Catholicism asserts, directly from God. The Pope is believed to be the very Vicar of Christ upon the earth. As God's representative he can make known the will of God to men. "As such, he is necessarily the medium under God of all moral truth and of the validity of all political power."¹⁰ Based on such premises, the conclusion that the principles of the First Amendment cannot be in agreement with the tenets of Roman Catholicism is inevitable. "In a conflict of opinion in matters belonging to morals the members of the Church cannot, without a violation of their religious allegiance, enter into the free synthesis of living wills that is essential to the safety and welfare of the modern State. The will and power of one, the Pope, may obstruct."¹¹

It would seem very strange, indeed, that from among the religions of the world or from among the American denominations Catholicism should be singled out as inconsistent in teaching and practice with the democratic principles of the

9. Marshall, op. cit., p. 20.

10. Ibid., p. 15.

11. Ibid., p. 40.

Constitution unless there were reasonable grounds for these charges. It is evident from Rome's constant defense of her stand that she is thoroughly aware of her precarious position. Therefore, one might come upon some very noble Catholic declaration of patriotism, or an indignant reply to accusations of a double allegiance. Note these: "By the terms of the Federal Constitution as by the teachings of the Catholic Church, no room is given in America for discord between Catholicism and Americanism, between my Catholic faith and my civic and political allegiance."¹² And:

Between my religious faith and my civil and political faith, between my creed and my country, it has been said, there is discord and contradiction, so that I must smother something of the one when I bid the other burst forth into ardent burning, that I must subtract something from my allegiance to the one when I bend my full energy to service to the other. Those who so speak misunderstand either my creed or my country; they belie either the one or the other.¹³

Some Catholic authors leave the impression that the fears one voices are not unfounded, nor do they deny the threat of Catholicism to American freedom. They merely discourage the assumption that danger from Catholicism and its intolerance lies in the immediate future. "While all this [Catholic supremacy and loss of religious liberty] is very true in logic and in theory, the event of its practical realization in any

12. Ryan and Boland, Catholic Principles of Politics, p. 346, quoting John Ireland, "Catholicism and Americanism", an address delivered at Milwaukee, Wisconsin, Aug. 11, 1913.

13. Ibid., p. 343.

State or country is so remote in time and in probability that no practical man will let it disturb his equanimity or affect his attitude toward those who differ from him in religious faith."¹⁴ Note that Catholicism severely censures anyone who harbors a dread of Roman dominance or nourishes the idea that Rome has designs on the freedom of religion through a Catholic majority in the United States. Yet they do not deny the possibility of such conquest and intolerance. "...the danger of religious intolerance is so improbable and so far in the future that it should not occupy their [the citizens'] time or attention."¹⁵ It seems like a very obvious attempt to make the average American citizen let down his guard and settle down in a lax and unwary complacency.

At the charge of intolerance Rome often points to the Catholic colony of Maryland for her reply. It is strange, but true, that the first American colony to hold the principle of religious toleration was established by Lord Baltimore, a Roman Catholic. The case is an isolated one, which has its particular qualifying circumstances. Baltimore realized that it would be impossible to settle his colony with the necessary citizenry unless he would grant such toleration. It is also said that Baltimore was a man of kind and benevolent nature, which may add weight to the statement that "the founding of Maryland was not due in any way whatsoever to the Roman Catholic

14. Ibid., p. 320.

15. Ibid.

Church, but was solely the result of the plan and intention of one Roman Catholic nobleman...he founded Maryland upon the principle of religious toleration in spite of his religion rather than because of it." 16

Another attempt to avoid the issue is Rome's assertion that she has made great contributions to the progress of civilization and the welfare of mankind. Leo XIII stated:

The Catholic Church, that imperishable handiwork of our all-merciful God, has for her immediate and natural purpose saving souls and securing our happiness in Heaven. Yet in regard to things temporal she is the source of benefits as manifold and great as if the chief end of her existence were to ensure the prospering of our earthly life. And in truth, wherever the Church has set her foot, she has straightway changed the face of things, and has attempered the moral tone of the people with a new civilization, and with virtues before unknown. All nations which have yielded to her sway have become eminent for their culture, their sense of justice, and the glory of their high deeds. 17

And another declaration of Leo: "So powerful...is the influence of the Church, that experience abundantly testifies how savage customs are no longer possible in any land where she has once set her foot; but that gentleness speedily takes the place of cruelty, and the light of truth quickly dispels the darkness of barbarism." 18 Unless one shuts

16. William Warren Sweet, The Story of Religions in America, pp. 113-117.

17. Encyclical Immortale Dei.

18. Encyclical Libertas Praestantissimum.

an eye to truth, these statements just do not harmonize with historical fact. Was the Inquisition gentle, an expulsion of cruelty and barbarism ? Did the "light of truth" nurture a "sense of justice" in the St. Bartholomew Massacre ? If this does not satisfy, observe the eminence of culture in Roman Catholic countries today. What has Catholicism done for the souls of the masses in Latin America ? "Religious illiteracy among the 'peon' and rural classes of South America is widespread. Among these neglected peoples Christianity has been rendered almost unrecognizable by the admixture of superstitions and pagan practices." ¹⁹ The cross of Christ as worshipped by natives is often just another idol. A Latin-American writer is quoted as saying that "twenty years use of the cinema has made the comedian [Charles Chaplin] better known to the South Americans than four centuries of Roman Catholicism have been able to do for Christ." ²⁰ Rome's contribution to the social culture of Latin America is just as doubtful. For three centuries the Roman Catholic Church has been in complete control, but it did nothing toward the universal education of the populace. Illiteracy is still one of Latin America's major problems. ²¹

19. George P. Howard, Religious Liberty in Latin America ?, p. 30.

20. Ibid., p. 31.

21. Wade Crawford Barclay, Greater Good Neighbor Policy, pp. 143 f.

In the light of these facts and numerous others that might be mentioned, one cannot but look askance at the principles, the motives, and the aims of Catholicism. Lest anyone answer that the statements and the cases cited are only isolated instances, it would be well to study the subject intensively from the vantage of pertinent official papal documents. This discussion will confine itself to statements on liberty and the relationship between Church and State as they occur in the medieval Bull, Unam Sanctam; the Syllabus of errors; the encyclical of the modern pope Leo XIII, Immortale Dei; the present day interpretations of Leo's encyclical by the late Monsignor John A. Ryan; and several miscellaneous items from papal writings and Catholic authors.

In 1302, at the time of the Golden Age of the Papacy, the political situation of the times prompted Boniface VIII to define papal claims in the Bull Unam Sanctam. In this bull Boniface asserted that the Roman Pontiff has both spiritual and temporal power. The words are plain:

Both are in the power of the Church, the spiritual sword and the material. But the latter is to be used for the Church, the former by her; the former by the priest, the latter by kings and captains but at the will and by the permission of the priest. The one sword, then, should be under the other, and temporal authority subject to spiritual...Furthermore we declare, state, define and pronounce that it is altogether

necessary to salvation for every human creature to be subject to the Roman pontiff. 22

Note that Boniface allows the exercise of the power of the material sword - understood to be a prerogative of the State - only upon the permission of the Church. This asserts that the civil government, then, is under the power and jurisdiction of the Church. The Catholic Church is meant. This bull of Boniface VIII remains an official document of the Roman Catholic Church. This doctrine of the twofold power of the Church has never been repudiated or rescinded by Catholicism. The modern Catholic avoids the issue by separating this claim of direct power from the realm of "defined dogma." From Clement V on, it is stated, the bull is interpreted as claiming only an indirect power over the State. ²³ What that indirect power implies is difficult to say.

One might expect a rather complete statement of Boniface's "two swords" doctrine in as important a Catholic expression of dogma as the Canons and Decrees of the Council of Trent. Only a little is said, however, and that by implication: "[Princes and rulers] should be an example in the matter of piety, religion and protection of the churches, in imitation of their predecessors, those most excellent and religious princes, who not only defended the Church against injuries

22. Henry Bettenson (ed.) Documents of the Christian Church, pp. 160 f.

23. Ryan and Boland, op. cit., p. 330.

by others, but by their authority and munificence promote her interests in a special manner."²⁴ It would not be reading anything into the text to make of this a clear statement approving the medieval practice of having religion backed by the power of the sword. "Promoting interests of the Catholic Church in a special manner" can very well mean the stifling of non-Catholic liberties by legislation or outright persecution, as some Catholic states were wont to do. It is certain from the last words of this excerpt from the decisions of Trent that intermingling of the State and Church spheres is heartily approved when it serves the Church's interests.

The centuries have not seen a change at Rome in regard to its opinions concerning human rights of conscience and worship. Gregory XVI, in the nineteenth century encyclical Mirari vos declared that freedom of conscience as a human right is an absurd and "erroneous opinion or a form of madness."²⁵ Confounding the spheres of Church and State was reaffirmed in the encyclical of Pius IX, Quanta cura. The letter was issued in 1864, condemning so-called "errors" of the age, which endangered Catholicism and civil society. The hierarchy was urged to check these "errors" and to teach that the Catholic faith is the basis for the existence of

24. Canons and Decrees of the Council of Trent, Herder edition, p. 252.

25. Bates, op. cit., p. 446.

kingdoms, that defending the Church- again, the Catholic Church is meant - is the first obligation of the State, and that civil government benefits and is blessed when it favors and protects the free exercise of Catholicism.²⁶

Pius IX had listed the "errors" in various papal documents. Eighty such "errors of the age" were combined in the so-called Syllabus and in that form appended to the encyclical Quanta cura. The Syllabus is negative, but by its negation of certain propositions implies that the opposite is true. The document denounces the civilization of modern times and the principles of freedom. The two principles basic in American democratic thought and system are expressly condemned. The Syllabus also implies the doctrine of papal infallibility, the right of Rome alone to official recognition, the illegitimate nature of all heterodox bodies, the right of Rome to exercise the power of the sword, and Catholic dominance of culture.²⁷

The papacy terms it an error (Number 15) that "every man may embrace and profess that religion which commends itself to his reason."²⁸ Twenty "errors" (Numbers 19-38) concerning the rights of the Church are listed. Among these: the Church cannot exercise authority without the permission of the State; popes and councils have gone beyond their powers

26. Philip Schaff, Creeds of Christendom, p. 128.

27. Ibid., p. 129.

28. Ibid., p. 130.

and have erred in faith and morals; and the Church cannot employ force and compulsion, direct or indirect temporal power; and a temporal power authorized by civil government exists beyond the power of the Episcopate.²⁹

Among the "errors" of Modern Liberalism is the assertion that religious liberty is a human right. According to the Syllabus the pope may suppress other religions where he can muster the necessary power.³⁰ The idea of independence of the Church from the authority of the State is not peculiar to Rome, but is sound democracy. But Catholics and non-Catholics hold this principle under different conditions. Non-Catholics say that the civil government has no right to interfere in Church business when all religions are considered equal before the law and where the realms of Church and State are distinct in theory and practice. The Roman Church, on the other hand, claims that the State may not interfere even when the State grants its support to Catholicism. Self-support might well claim the right to self-control. But by the nature of such an arrangement as the State-supported Church, the civil government may participate and share in managing Church affairs.³¹

The severity with which Rome denounces basic democratic

29. Ibid., p. 131.

30. Ibid., p. 133.

31. Ibid., p. 133 f.

principles in the Syllabus prompts Schaff to say:

Popery accepts and utilizes indifferently all forms of government and all political parties, and assails and undermines them all if they are no more serviceable to its hierarchical interests. American Romanists must be disloyal either to the fundamental institutions of their country, or to those parts of the Syllabus which condemn these institutions.³²

Among men's natural rights, in which respect men are equal, Ryan lists the rights to liberty and to religious worship. While these rights of men are equal in number, they may vary in extension, or content. They vary in degree according to the powers the individual possesses.³³ Knowing the conclusions at which Ryan arrives, one can detect here the construction of a syllogism resulting in the doctrine of Catholic supremacy, the infallibility of the pope, and Rome's other authoritarian principles. If these suspicions are not justified, charge the error to the confusion of Jesuitical logic.

But to continue, the State is a divinely ordained society, established for the welfare of the individuals placed under the power of the government. It is also correctly

32. Ibid., p. 134. (A very complete treatment of this discussion from the Roman Catholic point of view is included in the encyclical Immortale Dei of Leo XIII. Dated 1885 Leo's letter, together with his other writings, is still authoritative for the present day. The social and political principles set forth by Leo are more exhaustively treated and interpreted for this generation by John Ryan. Both men are accepted as Catholic authority).

33. Ryan and Boland, op. cit., p. 14.

stated that God has established the two spheres of Church and State, "the one being set over divine and the other over human things."³⁴ The State, set over human things, has an obligation toward its subjects. Whether the State is composed of a few or has received delegated powers from the majority, it must respect the rights of the individual. The State does not exist for itself, but for the welfare of men.³⁵ That is the test of a good government; the prerequisite for the existence of a "good" State. Does it promote the general welfare? When a State ignores the rights of the individual and is detrimental to the general welfare, it should be supplanted by another through lawful means.³⁶

The scope of the term "general welfare," also quite often called the "common good," is very broad according to Catholic definition. Among the beneficial objects included in that term, it is said, are all the external goods of body and soul - the spiritual, intellectual, moral, physical, and economic.³⁷ Mark this well; the external goods of the soul, namely the spiritual goods, are part of that general welfare which is the end of the State. If that is so, and Catholicism does teach it, then it follows logically that "it is the right and duty of the State to protect and further the religious

34. Ibid., p. 102.

35. Ibid., p. 103.

36. Ibid., p. 310.

37. Ibid., p. 103.

interests of the citizens...none of them [the objects of the common good] can be adequately attained without the assistance of the State..."³⁸ How does that agree with the previous statement that the State "is set over human things" in contradistinction to being "set over divine things"? Very obviously, it doesn't.

This question of common good also involves the relationship of the citizen to the State. What are the citizen's obligations? "The first duty of the citizen is obedience to the law...a second duty is that of respect for public authority, and this means both officials and their enactments."³⁹ That agrees fully with the Scriptural principle.⁴⁰ The power of the State was divinely established for the preservation of temporal peace in society. Occasionally the individual is confronted with the dilemma of a conscience that conflicts with this obligation toward the State. What, then, is Catholic procedure? "The loyal citizen is always disposed to give his government and his political institutions 'the benefit of the doubt,' and to withhold obedience or support only when the doubt is converted into moral certainty that the laws or the government are in the wrong."⁴¹ But what is the ultimate judge that converts doubt to certainty? It is the voice of the Pope, who in 1870 was officially declared infallible

38. *Ibid.*, pp. 103 f.

39. *Ibid.*, p. 197.

40. *Romans* 13.

41. Ryan and Boland, *op. cit.*, p. 198.

in matters of faith and morals. But "faith and morals" is as elusive as the "common good." It is very difficult to draw the line between the spiritual and temporal in certain matters, for sometimes they plainly fall under the jurisdiction of both. Divorce, to use a common example, is both a social and a moral problem. Who, then, is the final authority on divorce, the sociologist or the clergyman? "There is at least the possibility of embarrassment if one of the two claims to be infallible."⁴² By the decree of papal infallibility the pope can make up the minds of millions of Catholics on matters which he thinks pertain to faith and morals.⁴³ "Catholics who, by way of proving their good citizenship, say that they would refuse to obey a command of the pope if it invaded the area which the state should control, are speaking very bravely but very carelessly."⁴⁴

The situation we are interested in is the position of Rome on a fundamental law of the land - the principle of religious liberty. The Roman Catholic Church professes to abide by the principle of religious liberty where that is accepted as a fundamental part of the law in a constitution. Such an obligation to show tolerance is binding on the conscience. But consider these points: 1) This constitution is

42. Garrison, op. cit., p. 56.

43. Ibid., p. 57.

44. Ibid.

not eternally unchangeable, but its provisions may be altered; 2) Rome teaches contrary to the principles of such constitutions and consequently demands alteration, if not in fact, then in theory; 3) the unquestioned authority of the Pope makes it possible for him to secure favorable legislation by dominating the wills of his subjects and compelling them as a group to influence the amending of such constitution. The provision of the Constitution of the United States which puts all religions on an equal par and robs the Papacy of its sovereignty is regarded by Catholicism as utterly false.⁴⁵ In the United States "neither the Pope nor any bishop will be accorded any authority except a spiritual one."⁴⁶ In the light of this statement and the papal insistence on authority in Unam Sanctam, the Syllabus, and the encyclical letters of Leo XIII already cited, the chasm between Americanism and strict Romanism widens.

Freedom of conscience in the Catholic system does not exist. It is true that man has no right to accept or deny religions in respect to his relations with his God. That is true from the Word of God. But over against the State a human being has no obligation to accept any particular faith or believe any designated doctrine. The State is unconcerned

45. Marshall, op. cit., p. 44.

46. Zollmann, op. cit., p. 112.

about the status of a man's conscience and his religious beliefs. It is a matter outside the distinct sphere of the State. Yet Leo XIII declares: "A well-spent life is the only passport to Heaven, whither all are bound, and on this account the State is acting against the laws and dictates of nature whenever it permits the license of opinion and of action to lead minds astray from the truth and souls away from the practices of virtue."⁴⁷ How deceitfully inconsistent, then, is a statement like the following: "We believe that intelligent Americans will understand how foreign to our ideas of freedom and how dangerous to freedom itself, are those designs which would not only invade the rights of conscience but would make the breeding of hatred a conscientious duty."⁴⁸

The Catholic theory of State-supported Catholicism is more than a possible inference from the authoritative statements cited thus far. Some may have, up to this point, regarded our conclusions as prejudiced suppositions. Permit the inclusion of a longer item to make our case plain. Leo XIII writes:

As a consequence, the State, 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

47. Ryan and Boland, op. cit., p. 298, quoting from Immortale Dei.

48. Ibid., p. 245, quoting the Pastoral Letter to the American Hierarchy, February 1920.

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, it is a sin in the State not to have a 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 are bound absolutely to worship God in that way which He has shown to be His will. 49

The official reference work on Catholicism states: "The State is even under obligation to promote the spiritual interests of the Church."⁵⁰ The Papacy denounces the situation where the State makes no public profession of religion, does not attempt to ascertain which religion is true, does not favor a particular faith, and looks upon all religions as equal for the preservation of public order.⁵¹

Time and again Catholicism leads reason astray by its curious incoherency of thought. The proper spheres of Church and State are so often and completely expressed that papal

49. Ibid., p. 329.

50. Ryan and Boland, op. cit., p. 295.

51. Ibid., p. 324.

interference is impossible without corrupting or distorting the line of reasoning. Pope Leo stated that Church and State are mutually independent, that each is supreme in its own province, that in temporal affairs the State is supreme, and that the Church has no authority or desire to interfere.⁵² The crux of the matter is hinted in Ryan's words:

The Church has no authority, direct, indirect, or of any other sort of description, over the acts of the State, so long as these are not in conflict with religion or morality.... Even in regard to political matters that have a distinct moral aspect, the authorities of the Church never issue instructions, or even advice, unless the question is of very grave importance and its moral or religious implications are evident to all. ⁵³

But "whether a particular act of the State is contrary to the moral law, is a question which obviously must be decided by some other authority or tribunal than the State itself, since the State has no competence in the field of morals." ⁵⁴ Conclusion: "...the actions of the State should be conformed to the laws of Christian revelation, of which the guardian and interpreter is the Catholic Church."⁵⁵ Some of the issues on which the Catholic Church has offered interpretations are the fundamental questions of liberty of conscience and freedom of worship. Actual interference by the Church in the affairs of the State is condoned by Leo: "To exclude the Church, founded by God Himself, from the business

52. Ibid., p. 324.

53. Ibid., p. 329.

54. Ibid., p. 325.

55. Ibid., p. 323.

of life, from the power of making laws, from the training of youth, from domestic society, is a grave and fatal error."⁵⁶

According to Catholicism, the relationship between Church and State is reciprocal. As the Church participates in the affairs of the State, the State in turn contributes to the well-being of the Church. The State favors the Church when it "makes a public profession of religion." State can exercise no bare neutrality toward religion, says Catholicism, but must be either favorable or hostile to it. A public profession of religion, it is said, is practiced in the United States, regardless of the proposition that our previous discussion demonstrated, that the government of the United States considers all faiths equal before the law by the provisions of the Constitution. Included in such public profession are the observance of Thanksgiving Day, the chaplaincies of the legislative bodies, the chaplaincies of the Army and Navy, the exemption of Church property from taxation, and other practices. These examples cited do not, however, approximate the privilege granted the Church in a State church organization. Yet the extent of the privilege accorded religion in the United States is termed "public profession of religion."⁵⁷

Because the Roman Catholic Church thrives under the system of separation as defined in the Constitution, is this degree

56. Ibid., p. 298

57. Ibid., pp. 311 - 313.

of so-called "public profession of religion" in our country sufficient to sate the papal appetite for dominance and authority? The ever increasing influence of Rome in America prompts one to believe that the United States presents the ideal circumstances for the health of Catholicism. But even this situation is not what Rome desires. Pope Leo XIII, although commending the United States on their "public profession of religion," nevertheless asserted:

...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 the liberty, she enjoyed the favor of the laws and the patronage of public authority.⁵⁸

The case against Rome becomes more convincing as Rome becomes more explicit in her denial of fundamental Americanism. If Catholicism merely wants the State to recognize religion as opposed to rank atheism and agnosticism (which in certain forms endangers the public welfare), if she wants the State to defend and protect the rights of religious worship and to facilitate its exercise, if she asks that the State promote civil righteousness and morality, then there

58. Ibid., p. 315.

would be little reason for the charge of un-Americanism.

But Catholicism strikes at the very heart and core of liberty - freedom of conscience.

But Pope Leo goes further. He declares that the State must not only "have care for religion", but recognize the true religion. This means the form of religion professed by the Catholic Church. It is a thoroughly logical position. If the State is under moral compulsion to profess and promote religion, it is obviously obliged to profess and promote only the religion that is true; for no individual, no group of individuals, no society, no State is justified in supporting error or in according to error the same recognition as to truth.⁵⁹

This statement still affords the slightest hope for tolerance of religions other than the Roman Catholic faith. But even that hope disappears in Rome's factual denunciation of tolerance. Ryan says: "...the State ought to protect them [its citizens] by all legitimate means against the advocacy of false religious notions."⁶⁰ False religious notions means every other faith than the Roman Catholic. The arguments of Rome are unassailable if one accepts the premises on which they base their claims. Catholicism must be accepted as truth while all other religions are false. If Catholicism can prevent the dissemination of false religion, it must attempt to do so, because error certainly does not have the same rights as truth. There can be no tolerance of error. If one demands toleration, he does so on the assumption that all religions are true or that one cannot ascertain which is the true

59. Ibid., p. 313.

60. Ibid., p. 337.

religion.⁶¹ But this argument omits a most important consideration. The distinction of error and truth in spiritual matters is entirely outside of the scope of the State's jurisdiction. Toleration, then, is possible also on this third assumption, an assumption founded on sound Scriptural as well as rational bases, that the welfare of the soul and the exercise of man's conscience is not contingent upon any prerogative of the State. When the State dabbles in religion, it steps out of its proper sphere.

Fortunately, Rome is not always sufficiently powerful to put her principles into practice. In the United States, for example, where she is in the minority, she accepts the situation as it stands. And although the circumstances of religious pluralism, equality of religion, freedom of worship, and separation of Church and State militate against Catholic principles just reviewed, Catholicism justifies her apparent approval of the American way. Her own words substantiate one of the chief conclusions of this paper, that Rome's practice follows the principles of expediency.

The reasons which justify this complete religious liberty fall under two heads: First, rational expediency, inasmuch as the attempt to proscribe or hamper the peaceful activities of established religious groups would be productive of more harm than good; second, the positive provisions of religious liberty found in the constitutions of most modern states.⁶²

61. Ibid., pp. 317 f.

62. Ibid., p. 320.

The Catholic-imposed obligations of the State toward religion can be put into practice only in the Catholic State, where the community is entirely, or predominantly Catholic. This item appeared in Time and it illustrates this point:

When he was campaigning for the presidency, Juan Domingo Perón had had a lot of help from the Roman Catholic clergy. Some 500 priests stumped the hinterland; Santiago Luis Cardinal Copello issued a Perón-slanted pastoral letter. Last week, Perón paid off.

Over the voices of the Radical Opposition, the Peronista majority in the Chamber of Deputies voted to legalize compulsory Catholic religious instruction in Argentina's primary and secondary public schools. Compulsory religious instruction had been specifically barred by law in 1886. It was instituted by presidential decree in 1943.⁶³

We are cajoled into believing that the possibility of the United States ever becoming a Catholic State is so remote that the thought need not trouble us. But Catholicism gives us no reason to dispel our concern for the liberty we cherish should that remote possibility be realized. What would happen in the Catholic State? Roman Catholicism would be the official religion in the community; the Church would participate in and give its blessings to public functions; the laws of the Church would be binding upon all; the Catholic Church would receive the special protection of the civil government; State schools would offer religious instruction in Catholic doctrine; the Church would receive the financial support of the State; special privileges would be granted

63. Time, (March 24, 1947), p. 36.

only to the Catholic Church; other denominations, if such existed, would practically be relegated to "underground" status; other faiths could not propagandize for their beliefs, being forbidden to exercise Christ's command of "Go ye and teach all nations"; heterodox worship must confine itself to its own group; religious liberty would cease to exist.⁶⁴

Catholicism knows that it need not fear that Protestantism or non-Catholics will turn these principles against Rome where she is in the minority. The other American faiths could not and would not deny liberty to others because these are not their principles. Catholicism, of all American creeds, is the only two-headed Janus that asks for religious liberty for itself, but denies that liberty to another. That is the spirit that pervades the Catholic principle: "Democracy is a mischievous dream wherever the Catholic Church does not predominate to inspire the people with reverence and to accustom them to obedience to authority."⁶⁵ In view of what Catholic authority admittedly teaches, any defense of Catholicism bears a double meaning or is hypocritically constructed.⁶⁶

64. Ibid., pp. 316 ff.

65. W.E. Garrison, "Democratic Rights in the Roman Catholic Tradition", Church History, XV (September, 1946), quoting Orestes Brown, Quarterly Review, 1845.

66. See appendix.

Conclusion

"When we are in a minority, we ask for religious liberty in the name of your principles. When we are in a majority, we refuse it in the name of ours."¹ The French Catholic, Louis Veulliot, aptly summarizes Roman Catholic principle and practice in these few pertinent words. The practical implications of this statement are as insidious as the words seem to indicate.

The Federal Constitution with its amendments grants to every American citizen the right to worship God according to the dictates of his conscience. This means that he can give expression to his conscience without interference from his fellowman, whether that be the individual or the group of individuals in the civil government, as long as this expression of conscience in worship does not infringe upon the rights of another. The citizen also has the right to try to win others to his faith as long as he does nothing to injure the public welfare. But Rome forbids these rights to the individual, denies such religious liberty, and forcibly suppresses it where she has the power.

There is a solemn warning in the statements and facts

1. Barclay, op. cit., p. 94.

uncovered in the pages that go before. Rome calls for an intimate relationship between Church and State, meaning that the State should cater to the whims of Catholicism and her leaders, the popes. But when the State dabbles in religion, professing or promoting a particular creed, it indeed goes beyond its ordained scope. Boniface VIII taught in 1302 what Rome teaches today. The spiritual and the secular swords, both under the infallible rule of Rome, officially condemn freedom of conscience and worship. Where Catholicism has the power of the secular sword, she forcefully carries out her principle of intolerance and bigotry. That is Rome's course. Her principle and practice brand her a rank opportunist - freedom for Rome where she is in the minority, intolerance of others where she rules. An attitude of indifference among non-Catholic citizens is Rome's best weapon in her offensive toward the goal of Catholic supremacy. What Catholic supremacy implies increases the import of the axiom - "Eternal vigilance is the price of liberty." The "double-talk" that proceeds from the Pope and the Vatican at Rome warrants much vigilance.

Appendix

The following are excerpts from "Catholicism and Americanism", an address delivered by the Rev. John Ireland at Milwaukee, Wisconsin, August 11, 1913. The portions below are included in Ryan and Boland, Catholic Principles of Politics:

Page 343 - No room is there for discord or contradiction. Church and State cover separate and distinct zones of thought and action: The Church busies itself with the spiritual, the State with the temporal. The Church and the State are built for different (p. 344) purposes, the Church for Heaven, the State for earth. The line of demarcation between the two jurisdictions was traced by the unerring finger of Him who is the Master of both. The law of God is - "Render unto Caesar the things that are Caesar's; and to God the things that are God's."

Page 344 - What is to be feared from the Catholic Church? To priest, to bishop, or to Pope, who - I am willing to consider the hypothesis - should attempt to rule in matters civil and political, to influence citizens beyond the range of their own orbit of jurisdiction - that of the things of God, the answer is quickly made: "Back to your own sphere of rights and duties - back to the things of God!" Or, in like manner, should the State, or its officials, in law or in act, step beyond the frontier of temporal jurisdiction and dare lay hands upon the things spiritual and divine the answer is: "Beware, touch not the things which God has reserved to His duly appointed representatives in the spiritual order."

A recent proclamation from an anti-Catholic association in America reads: "We hold that no citizen is a true patriot who owes superior temporal allegiance to any power above that of his obedience to the principles of the Constitution of the United States." The shaft is directed against a supposed tenet of the Catholic Church; it pierces the vacant air; it is a missive of pitiable ignorance.

Page 348 - Would we alter, if we could, the Constitution in regard to its treatment of religion, the principles of Americanism in regard to religious freedom? I answer with an emphatic No. Common sense is ours. Common justice is

ours; a regard to our own welfare and safety is also ours. The broad fact is that the American people are divided in matters of religious belief. To the American people, to the whole people, does the country belong. What else, then, could the framers of the (p. 349) Constitution have done, what else since their time could the legislators have done, in equity towards all, in equity to the country as one nation, to its people as one people, but solemnly decree, as they did, as they continue to do, equal rights to all - rights to all, privileges to none? Necessarily religious freedom is the basic life of America, the cement running through all walls and battlements, the safeguard of its peace and prosperity. Violate religious freedom against Catholics; our swords are at once unsheathed. Violate it in favor of Catholics, against non-Catholics: No less readily do they leap from the scabbard.

Page 357 - Is America to be Catholic in religion? Fain would I have it so. I am not, however, so ignorant of history and of present conditions as to imagine that the goal is within near reach. But Catholicism in America, all consideration given to ebb and flow, is growing apace.

Need America fear the spread of the religious creed of Catholicism? In reality the question is none other than this: Need America fear the spread of the Gospel of Christ? If the Catholic Church wins in the battle with unbelief, or with the present varied forms of Christianity, it will only be because it demonstrated in itself the perpetuity of the Kingdom of Christ, to which solely it makes its appeal. Its doctrines, its life and action, must be those of Christ, else, as it should do, it vanishes from the scene. Arguments in opposition to its claims as the religion of Christ, it calmly awaits. Of arguments it does not complain. It only asks that passion be absent from the contest, that calumny (p. 353) and misrepresentation be not made use of - promising on its part that whatever on this score the tactics of offence other than those of truth and charity - the methods of the Lord Himself. The work of expansion, as done by the Catholic Church, will be the work of peace and love. No social discord can come from it - no break in the harmony that should sweeten the ties binding together fellow-citizens and neighbors in the common service of a common country.

To the civil and political institutions of America no harm can come from the spread of Catholicism. Yea - to those institutions Catholicism brings elements most vital to their life and growth - those of a positive, authoritative religion.

BIBLIOGRAPHY

- ADAM, KARL, The Spirit of Catholicism, (translated by Dom Justin McCann), New York, The Macmillan Company, 1937.
- BARCLAY, WADE CRAWFORD, Greater Good Neighbor Policy, New York, Willett, Clark & Company, 1945.
- BARRETT, E. BOYD, Rome Stoops to Conquer, New York, Julian Messner, Inc., c. 1935.
- BATES, M. SEARLE, Religious Liberty: An Inquiry, New York, International Missionary Council, 1945.
- COBB, SANFORD H., The Rise of Religious Liberty in America, New York, The Macmillan Company, 1902.
- COUNCIL OF TRENT, Canons and Decrees, (translated by H.J. Schroeder), St. Louis, Herder Book Co., 1941.
- FEY, HAROLD E., "Can Catholicism Win America?", The Christian Century, (issues of November 28, 1944 to January 17, 1945, reprinted in booklet form).
- GARRISON, WINFRED ERNEST, Catholicism and the American Mind, Chicago, Willett, Clark, & Colby, 1928.
- _____, "Democratic Rights in the Roman Catholic Tradition", Church History, XV (September, 1946) pp. 195 - 219.
- GOHDES, C.B., Does the Modern Papacy Require a New Evaluation?, Burlington (Iowa), Lutheran Literary Board, 1940.
- GRAEBNER, THEODORE, The Pope and Temporal Power, Milwaukee, Northwestern Publishing House, 1929.
- GREENE, EVARTS B., Religion and the State: The Making and Testing of an American Tradition, New York, New York University Press, c. 1941.
- HOWARD, GEORGE P., Religious Liberty in Latin America?, Philadelphia, The Westminster Press, c. 1944.

- HUGHES, PHILIP, The Popes' New Order, New York, The Macmillan Company, 1944.
- HUNT, GAILLARD, "Notes on Religious Liberty", Catholic Builders of the Nation, C.E. Mcquire, ed.), I, Boston, Continental Press, Inc., 1923.
- JOHNSON, ALVIN W., The Legal Status of Church-State Relationships in the United States, Minneapolis, The University of Minnesota Press, 1934.
- MACKSEY, CHARLES, "State and Church", The Catholic Encyclopedia, New York, Robert Appleton Company, 1912, XIV, pp. 250 - 254.
- MARITAIN, JACQUES, Christianity and Democracy, (translated by Doris C. Anson), New York, Charles Scribner's Sons, 1944.
- MARSHALL, CHARLES, The Roman Catholic Church in the Modern State, New York, Dodd, Mead and Company, 1931.
- MAYNARD, THEODORE, The Story of American Catholicism, New York, The Macmillan Company, 1941.
- MOEHLMAN, CONRAD HENRY, The Catholic-Protestant Mind, New York, Harper & Brothers Publishers, 1929.
- MORTON, R. KEMP, God in the Constitution, Nashville, Cokesbury Press, c. 1933.
- MUELLER, A.C., "Supreme Court Decision on Bus Issue", Concordia Theological Monthly, XVIII (May, 1947), pp. 374 - 379.
- MURRAY, JOHN COURTNEY, "Separation of Church and State", America, LXXVI (December 7, 1946), pp. 261 - 263.
- RYAN, JOHN A. & BOLAND, FRANCIS J., Catholic Principles of Politics, New York, The Macmillan Company, 1940.
- SCHAFF, PHILIP, The Creeds of Christendom, New York, Harper and Brothers, Publishers, I, c. 1919.
- SCHROEDER, THEODORE, Al. Smith, the Pope and the Presidency, New York, (published by the author), 1928.
- STURZO, LUIGI, Church and State, (translated by Barbara Barclay Carter), New York, Longmans, Green and Co., 1939.
- SWEET, WILLIAM WARREN, Religion in Colonial America, New York, Charles Scribner's Sons, 1942.

_____, The Story of Religion in America, New York,
Harper & Brothers Publishers, c. 1930.

ZOLLMANN, CARL, American Church Law, St. Paul, West Pub-
lishing Co., 1933.