The writings of John Courtney Murray, S.J., are preoccupied with the problem of reconciling the American experience of religious liberty with Catholic doctrine on relations between Church and state. This essay examines four analytical tools the Jesuit priest applied to problems of Church-state relations: thesis and hypothesis, applying unchanging principles to variable circumstances, the development of doctrine, and historical consciousness. Though he was wary of formulating universal rules, Murray articulated four enduring principles of Church-state relations. These analytical tools and enduring principles may help guide current debates about matters of Church and state.

In 1895, Leo XIII wrote an apostolic letter to the bishops of the United States called Longinqua Oceani. Noting that “America seems destined for greater things,” he said the Church had important contributions to make to that destiny. The Pope appreciated that American law placed no impediments on the flourishing of the Church. But he warned that, nevertheless, “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.” American laws were better than in France or many other places in Europe at the time—but they were not in conformity with the norms articulated by Leo’s 1885 encyclical Immortale Dei. How could the accomplishments of the American regime of religious liberty—which Leo admitted contributed to the Church’s flourishing—be reconciled with the fact that American arrangements still fell short of what Leo thought most desirable? This was the central concern of John Courtney Murray’s career.

This article seeks to examine four analytical tools Murray applied to the problem of Church and state relations over the course of his career. First, he critiqued the nineteenth century distinction between ideal “thesis” and acceptable “hypothesis” drawn by Bishop Félix Dupanloup, showing its inadequacies. Second, he distinguished between unchanging teachings that had to be applied to changing historical circumstances. Third, he asserted that Popes and the Second Vatican Council made developments
of the Church’s doctrine in response to the “signs of the times.” Fourth, Murray differentiated between a classicist approach to these matters that neglected concrete circumstances and what he called historical consciousness. Using these concepts, we will consider what unchanging principles, if any, Murray thought could be disentangled from the history of magisterial teachings on Church and state.

THE CASE OF SPAIN

It may be useful to say something about the Holy See’s concordat with Francisco Franco’s Spain to better understand the historical context of Murray’s work. In Murray’s time, discussion of relations between Church and state was still very much shaped by the legacy of the French Revolution and the Church’s response to it. Could the longstanding tension between the Church and liberal democracy be overcome in America? Or must it be resolved by counter-revolution, which seemed to have succeeded in Spain?

Some highly placed figures in the Roman curia hoped for the latter. Negotiations for a new concordat with Franco’s Spain concluded in the summer of 1953. The concordat opened by proclaiming Catholicism “the sole religion of the Spanish state” (art. 1) and recognizing the Church as a perfect society (art. 2). The state agreed to support the Church financially, not least by paying clerical salaries (art. 19) and exempting the Church from taxes (art. 20). The Church got the Spanish government to renounce its claim to the right to veto the ordination of candidates to the priesthood. But Franco was unwilling to renounce his power to nominate bishops (art. 7), complaining that granting the Pope the right to appoint bishops was like granting him the right to appoint provincial governors. With that exception, the concordat reads like a checklist of the norms stipulated by *Immortale Dei*, the most systematic magisterial statement on Church-state relations at that time.

The question was whether Spain represented an example of a modern state conforming relatively well to a universal norm, as traditionalists would have it; or whether it was a *sui generis* arrangement for a very specific circumstance. As long as it was considered the magisterial norm, capable of being realized in the concrete, those like Murray who were willing to affirm theoretically less than perfect arrangements could be called trimmers, if not outright dissenters.

THESIS AND HYPOTHESIS

In the latter half of nineteenth century, it became common to speak of the relation between the theoretically best relations of Church and state and
the best practically possible relations by recourse to a distinction between thesis and hypothesis. The distinction was popularized by Bishop Félix Dupanloup of Orleans, who adopted it as part of his pamphlet on Pius IX’s Syllabus of Errors. Speaking of the principles of continental liberals condemned in the Syllabus, Dupanloup observed that: “It is necessary to distinguish between absolute and relative propositions, for what might be admissible as conditional (hypothesis), would often be false as positive (thesis).”³

This meant that it was possible for the Church to accept the freedoms offered by liberalism in practice, but if those freedoms were pushed to their logical theoretical conclusions, they had to be rejected. Dupanloup did not say what the Catholic “thesis” might be. He received letters of thanks for his work from hundreds of bishops around the world, including Pope Pius IX and Giacchino Pecci, the future Leo XIII.⁴ But over time, the relationship between the concepts of thesis and hypothesis as articulated by Dupanloup was reversed. The thesis came to be understood as the ideal arrangement of relations between Church and state, while the hypothesis was understood as an imperfect arrangement that had to be tolerated. In this view, the norms articulated in Leo XIII’s encyclical Immortale Dei represented the thesis, but arrangements falling short of those norms could be acceptable as hypotheses. Murray used this distinction in some of his writings. At times, he seemed to have fallen into using these terms because they were so commonplace. Notably, Murray asserted that Leo XIII himself never used these terms, even though they were available to him.⁵

Over time, Murray concluded that they created more confusion than they solved. The problem with the thesis-hypothesis dichotomy was that anything short of the theoretical ideal was considered a faulty and even blameworthy state of affairs. Traditionalists could appeal to the thesis and its apparent realization in Spain to criticize states that failed to recognize the Catholic Church as the religion of the state or practiced religious toleration.⁶ Inevitably, this was the case for most countries.

Murray faulted traditionalists explicitly for “misplaced abstractness,” asserting that “[t]he fallacy enters when the Leonine argument is transposed into an abstract thesis which proposes an abstract ‘ideal instance’ of constitutional law, per se and in principle obligatory on the abstraction called ‘the state.’”⁷ The thesis-hypothesis disjunction was symptomatic of this abstract rationalism. But it was rejected by the council in Gaudium et Spes, which made the “recognition that the contingent relativities of history, and not any logical deductions from abstract principle, must determine the institutional forms of Church-state co-operation.”⁸
UNCHANGING PRINCIPLES, VARIABLE CIRCUMSTANCES, AND “SIGNS OF THE TIMES”

In order to explain variations in what the Church has taught about relations between herself and the state, Murray most frequently appealed to the need to apply unchanging principles to diverse circumstances. The teachings proper to one historical era might not apply to another. Teachings suited to medieval Christendom were not suited to the early modern period, nor again to post-modernity. The very manner in which the Church conceived of her relationship to the world could change in different historical eras. In the medieval and early modern period, theologians thought of the polity as being contained within the larger society constituted by the Church. But in the post-modern period, they conceived of the Church as living within the world, moving alongside society instead of directing it from above. Moreover, relations between Church and state suitable in one country might not be suitable in another country at the same time because of differences in history and culture. Murray constantly warned against making generalizations from specific times and places without reference to historical context. This, he claimed, was what Leo XIII was warning against in *Longinqua Oceani*:

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The error was on the part of those who wished to make the American constitutional situation, in which the Church does not enjoy the favor of the laws and the patronage of the public power, as the premise for a generalization to a universal principle. . . . These men, I say, wished to take the legal experience of the Church in America as the premise upon which to erect a definition of an ideal of legal experience that would be everywhere valid, everywhere permissible, everywhere advantageous.11
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There were two problems with this approach. First, the generalization from the American experience to all times and all places, making it universal. Second, and more perniciously, the raising of legal arrangements that were good in one specific historical context to the level of moral and theological truth. Murray thought traditionalist advocates of the Spanish model were committing the same mistake by turning it into a universal ideal abstracted from historical context. Both were wrong. Murray repeatedly and consistently contended that distinctive American arrangements should be acceptable for America and distinctive Spanish arrangements should be acceptable for Spain. Church-state relations were substantially different in each country, but the differences reflected their respective historical and religious circumstances.14

What was theoretically best must be reconciled with what was practically possible, and the range of the practically possible could vary consid-
erably. Principles must be applied in different historical eras and in different places within the same historical era, as in the case of mid-twentieth century Spain and America. But this approach focused only on changing historical circumstances. Later in his career, Murray would say that the application of principles could vary according to changing human self-understanding. Changes in human self-understanding were themselves historical circumstances with which the magisterium must grapple.

In calling the Second Vatican Council, Pope John XXIII said the Church needed to respond to the “signs of the times.”¹⁵ The introductory section of the Pastoral Constitution on the Church in the Modern World, Gaudium et Spes, was framed by the observation that reading the signs of the times was necessary for the Church to understand the ever-changing modern world (§4). The Declaration on Religious Liberty, Dignitatis Humanae, likewise concluded that the growing desire for religious liberty was one of the signs of the times (§15).¹⁶ Murray invoked this concept to explain the Church’s discernment of how to respond to changing historical circumstances. He said Leo XIII correctly read the signs of his times and responded appropriately to his historical context. But he faulted the pre-Leonine magisterium and Catholic intellectuals for failing to recognize the aspiration to freedom as a sign of the times.¹⁷ Murray thought there were two signs of the times in the post-war era, namely, growing consciousness of human dignity and growing consciousness of the integration of the human family in a global community.¹⁸ These changes in human self-understanding became the bases of doctrinal developments at the Second Vatican Council.

**DEVELOPMENT OF DOCTRINE**

Murray admired St. John Henry Newman’s groundbreaking work on the development of Christian doctrine, which set the agenda for discussions of the subject over the next century.¹⁹ Speaking of the Council of Nicaea’s development of doctrine to explain the nature of Christ, Murray said:

The question is, what is legitimate development, what is organic growth in the understanding of the original deposit of faith, what is warranted extension of the primitive discipline of the Church, and what, on the other hand, is accretion, additive increment, adulteration of the deposit, distortion of true Christian discipline? The question is, what are the valid dynamisms of development and what are the forces of distortion? The question is, what are the criteria by which to judge between healthy and morbid development, between true growth and rank excrescence? The question is, what is archaism and what is futurism? Perhaps, above all, the question is, what are the limits of development and growth—the
limits that must be reached on peril of archaistic stuntedness, and the
limits that must not be transgressed on peril of futuristic decadence?²⁰

Murray never articulated methodological answers to these questions. But he presented development as a kind of mean between archaism and futurism. In Christological debates, archaism was the error that the text of scripture sufficed to tell us everything we need to know about Christ. No supplementary concepts were needed to understand Him. Futurism was the error that Christian doctrine could never be definitive, but was ever evolving, and indeed, might evolve into something contrary to original teachings.²¹ Murray applied these categories to debates over religious liberty at the Second Vatican Council. He explicitly compared the archaism of Eusebius of Caesarea—who opposed the Nicene creed and remained an Arian—to the traditionalism of those who believed Leo XIII’s teaching on Church-state relations and toleration was the final magisterial statement on the subject. In this context, Murray said: “Archaism . . . consists in the rejection, on principle, of the more recent synthesis or systematization, and in the effort to adhere or return to the synthesis or systematization of a prior age, which is judged to be simple and more pure.”²² Moreover, “At the root of the fallacy is the rejection of the notion that Christian understanding of the affirmations of faith can and indeed must grow, at the same time that the sense of the affirmations remains unaltered.”²³

Murray characterized several articulations of social doctrine as developments of doctrine instead of applications of unchanging principle to changing circumstances. He thought Leo XIII developed doctrine in three ways. First, building upon the Gelasian doctrine of the two swords, Leo taught “that there are two distinct societies, two distinct orders of law, as well as two distinct powers.” Second, working out the implication of this teaching, Leo insisted on the freedom of the Church from external interference. Murray held that Leo’s support for the freedom of civil society and the “freedom of the people” marked a third doctrinal development.²⁴

Pius XII developed doctrine by embracing constitutional government defined by the rule of law in response to the threat of totalitarianism.²⁵ Murray argued that his speech “Ci Riesce” to Italian jurists marked further progress in the development of doctrine:

The progress was occasioned and made necessary by the march of mankind’s political history. This has always been the case when it is a matter of the Church’s tradition with regard to the Church-State relationship. With no change in doctrine, but under development of doctrine, the Church must keep herself ‘related’ to the facts of man’s political life—whether they mark the decay of the imperium and the rise of the regnum and civitas; or whether, as is the case today, they mark the
passing of the sovereign nation-state in the ancient modern sense (the
adjectives are juxtaposed deliberately; the sovereignty of the modern
state has become ancient to the point of anachronism), and the struggling
emergence of a juridically organized international community. These
political changes do not indeed change the doctrine of the Church; but
they do ‘open’ the problem—or reopen it, if you like—and in this sense
they open or reopen the way to progress within the tradition.26

What is important about this statement is Murray’s assertion that the
Church’s doctrine can develop in response to a changing political environ-
ment. The fact that the universal Church was operating in a global political
community in the post-war era had implications for how the local Church
must interact with nation states. Pius XII himself noted these circumstanc-
es and said that the Catholic statesman must consider them when making
prudential determinations about religious policy. Later, Murray noted that
this same circumstance required the Second Vatican Council to address the
issue of religious liberty.

In addition to changing political circumstances, Murray argued that
changes in popular consciousness could occasion a development of doc-
trine. This occurred in the teachings of John XXIII and the Second Vatican
Council. John XXIII’s contribution to the development of doctrine was
twofold. First, he connected the growing appreciation of human dignity
with the growing consciousness of belonging to a global community. Sec-
ond, he emphasized the value of freedom more than any of his prede-
cessors.27 These doctrinal developments of Leo XIII, Pius XII, and John
XXIII culminated in the Second Vatican Council’s explicit development
of the doctrine of religious liberty by teaching that recognition for one re-
ligion must not be prejudicial to the equal rights of all citizens.28 After the
council, Murray said that religious freedom was now “a matter of doctrine,
not of historical circumstances.”29

CLASSICISM VS. HISTORICAL CONSCIOUSNESS

For Murray the Second Vatican Council was fundamentally concerned
with the development of doctrine on the basis of historical conscious-
ness, of which Dignitatis Humanae was the prime example.30 He adopted
a contrast formulated by Bernard Lonergan, S.J. between “classicism” and
“historical consciousness,” applying it to changes in doctrine on Church
and state:

Suffice it to say . . . that classicism designates a view of truth which holds
objective truth, precisely because it is objective, to exist ‘already out
there now.’ . . . Therefore, it also exists apart from history, formulated
in propositions that are verbally immutable. If there is to be talk of
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development of doctrine, it can only mean that the truth, remaining itself unchanged in its formulation, may find different applications in the contingent world of historical change. In contrast, historical consciousness, while holding fast to the nature of truth as objective, is concerned with the possession of truth, with man’s affirmations of truth, with the understanding contained in these affirmations, with the conditions—both circumstantial and objective—of understanding and affirmation, and therefore with the historicity of truth and with progress in the grasp and penetration of what is true.31

Historical consciousness is concerned with the way we subjectively understand what is either objectively or circumstantially true. Therefore, doctrine could be developed by way of rearticulation on the basis of changes in the subjective consciousness—in this case, historical consciousness—of those to whom it is addressed. Murray said the Church’s ability to appropriate the emerging historical consciousness of the late nineteenth and early twentieth centuries was derailed by the modernist movement, delaying it until Vatican II. Lack of historical consciousness led some to think that what was only circumstantially true in doctrine concerning Church and state was objectively true. The Council’s task, therefore, was to address both new historical circumstances and the consciousness of postmodern man with a newly developed doctrine.32

Murray’s invocation of historical consciousness has been treated as a matter for celebration, often without critical analysis. What if changes in consciousness cause people to reject doctrine that is founded in divine revelation? Murray never addressed this possibility. He died before the concept of historical consciousness was abused to justify the kind of futurism he condemned. It became a rhetorical bludgeon to use against traditional doctrine that became unpopular, leading some to go so far as to deny the possibility of intrinsic evil.33

CONCLUSION

Murray used several analytical tools to understand Catholic doctrine on Church and state. He was happy to discard the concepts of thesis and hypothesis. He found the distinction between unchanging principles and changing circumstances more useful. But Murray believed it was important not to confuse applications to changing circumstances with genuine developments of doctrine. Historical consciousness concerns the subject’s understanding of the conditions of knowing truth and is distinct from contingent circumstances or the development of doctrine. Murray was enamored of this concept but did not live to develop it.
Did Murray believe that there were any timeless principles of Catholic political theology? Again and again, he emphasized that it is difficult to distinguish enduring principles from the contingent circumstances in which they are formulated. Sometimes the rhetorical requirements of controversy served to skew formulations of principle in such a way that they must be rebalanced later. He said this was true of the writings of St. Robert Bellarmine and Leo XIII. It was the same with the specifics of Church-state relations. Medieval Christendom, Catholic absolutism, and the Catholic nation state may have been providentially ordained, but they were still ultimately contingent arrangements. Nevertheless, it is possible to glean examples from Murray’s writings of unchangeable teachings.

First, the relationship between Church and state has a permanent “structure,” oscillating between dualism and monism. Dualism recognizes the independence of the Church on account of the primacy of the spiritual. Monism is the tendency of temporal rulers—whether medieval emperors, royal absolutists, or modern totalitarians—to subordinate the spiritual to the political.

Second, Murray asserted that the Church’s sovereignty over spiritual matters means it “may legitimately reach into the temporal life of Christian society, there authoritatively to touch the spiritual issues arising in society. In this sense, Catholic doctrine is ‘fixed’; the whole political theology of the Church revolves around this essential, permanent, unchanging right and endowment of the Church. It is an endowment transcendent to circumstances, independent of historical contexts.” The specification of the Church’s right to address spiritual matters in the temporal realm, however, is dependent on the circumstances of the time. For example, papal power to depose temporal rulers was contingent upon the circumstances of the Middle Ages, namely, due to the relative immaturity of political institutions. This was affirmed explicitly by Gaudium et Spes, which said “that certain rights of the Church can be merely historic—therefore contingently legitimate but not exigencies of doctrine,” although it did not specify which rights.

Third, like Orestes Brownson, Murray argued that the political authority is incompetent to judge truth in matters of religion. But it is not strictly incompetent in all religious matters. Since the early modern period, temporal rulers have exercised cura religionis, “care of religion” for their people as part of their care for the common good. This was a pretext for absolute rulers to interfere in the life of the Church. Today, Murray said this responsibility is exercised by promoting religious freedom for all members of society.
Fourth, Murray said that Leo XIII’s three contributions to the development of doctrine—the existence of the two societies, the freedom of the Church, and the freedom of the people in civil society—“contain the absolute and final truth, in that mode of generality which alone can make the statement of the truth absolute and final, independent of historical contingencies, valid for the year 53 as for the year 1953.”

Murray’s methods and enduring principles were never set out systematically. But he was at least clear about his task:

The theological task is to trace the stages in the growth of the tradition as it makes its way through history. . . . The task is to discern the elements of the tradition that are embedded in some historically conditioned synthesis that, as a synthesis, has become archaistic. The further task is to discern the ‘growing end’ of the tradition; it is normally indicated by the new question that is taking shape under the impact of the historical movement of events and ideas. There remains the problem of synthesis—of a synthesis that will be at once new and also traditional.

Murray’s methods supported a narrative culminating in the reconciliation of Anglo-American liberty with the developed doctrine of the Church. It is doubtful that he believed the regime of religious liberty would last forever, but it seemed to him the best practically possible policy for the foreseeable future. The conceptual tools he developed may help guide contemporary reflection on these issues.

Notes

1. Leo XIII, Longinqua Oceani (January 6, 1895), §6.
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11. Murray, “Leo XIII and Pius XII,” 86–87; see page 121, note 25, for repudiation of the attribution of this view to himself.

12. Ibid., 88.

13. Ibid., 101; 132n34.


16. See also *Presbyterorum Ordinis*, §9 on clergy and laity interpreting the signs of the times together; *Apostolicae Curae*, §14 on the increasing sense of solidarity among peoples; *Unitatis Redintegratio*, §4 on ecumenism.


21. Ibid., 47–49.

22. Ibid., 181.

23. Ibid., 48.


26. “Leo XIII and Pius XII,” 102–103. Murray referred to this as the “growing end” of tradition. As new challenges arose, theologians and the magisterium had to develop responses by drawing from tradition. See *We Hold These Truths*, 102–103; “The Problem of Religious Freedom,” 188–89.


29. Ibid., 596.


37. Ibid., 529–30.


