

CATHOLICS AND THE PEACE OF WESTPHALIA

The peace of Westphalia, whose third centenary occurs this year, occupies a place of unique importance in the history of European and world diplomacy. The settlement of Vienna (1815), which produced the system of consultation between the great powers known as the Concert of Europe, the League of Nations (1920) and the United Nations' Charter (1945) left essentially unchanged the state system and principles of international law resulting from the peace of Westphalia. So we may say that mankind is still living politically under the spell of the theories which produced it. Prior to Westphalia, the idea of a Christian commonwealth of nations, harmoniously directed in the spiritual and temporal realms by the supreme authority of the Pope and emperor, obtained. Serious attacks on the medieval Christian synthesis were, of course, not wanting throughout most of the Middle Ages, becoming increasingly frequent and powerful in the fourteenth and fifteenth centuries. European nationalism would know nothing of an imperial overlord, and in the sixteenth century the Protestant revolt permanently divided Western Europe religiously. To fill the vacuum caused by the effective disappearance of universally acknowledged heads of the Christian commonwealth, the peace of Westphalia offered to the nationalists the theory of the balance of power and to the Protestants religious toleration.¹ Western Europe was henceforth destined to be a society of Catholic and Protestant nations, no one of which was to be allowed to become powerful enough to dominate the others. Catholic and Protestant States alike abandoned as impracticable the reunion of the West under its erstwhile leaders.

Of course many arguments could be, and have been, urged against the peace even by those who admit its transcendent influence. Although at the time it was gladly accepted by an exhausted Germany, it represented a bitter humiliation for Germany, and consequently German patriots down to

¹ For a recent estimate see the thoughtful article of Leo Gross, "The Peace of Westphalia, 1648-1948," in the *American Journal of International Law*, XLII (1948), 20-41. W. Platzhoff, *Geschichte des Europäischen Staatensystems, 1559-1660*, p. 230, points out that no comprehensive study of the peace has been published; apparently none has been produced since he wrote. "Westphalia" refers to the German province of that name. The peace was embodied in two treaties, those of Osnabrück and Münster, Westphalian cities. Two cities were chosen instead of one, owing to the refusal of Sweden and other powers, from motives of etiquette, to deal directly with France. The two treaties are styled in the original Latin: *Instrumentum pacis Caesareo-Suecicum sive Osnabrugense*, and *Instrumentum pacis Caesareo-Gallicum sive Monasteriense*; cf. E. Reich, *Select Documents Illustrating Mediaeval and Modern History* (London, 1905), pp. 1-18.

and including Hitler have thundered against it as a French machination.² Catholics have also looked with disfavor on the peace. While it was being negotiated, it was denounced by some Catholics as unjust and injurious to religion because it put the salvation of millions in dire peril, as a peace which would only be the cause of worse wars, and as an evil to be avoided at the risk of losing all. More recently it has been condemned as a convention not negotiated but dictated by French cannon, as a decisive landmark in the destruction of true international law, as the secularization of politics and as offensive both to the medieval and to the modern mind.³ It has also been pointed out that the peace inaugurated the era of absolutism when States were so jealous of their territorial sovereignty that the very idea of an international community became an empty phrase, and the will of the more powerful state was law.⁴

It is not the purpose of this note to re-examine the political and international implications of the treaties of Westphalia, but rather to study certain aspects of their negotiation and terms with a view to understanding better the questioning attitude of most Catholics in its regard.

What the peace of Westphalia aimed to do and did is fairly clear. The Thirty Years' War (1618-1648) which it terminated brought on Germany devastation and distress not inferior perhaps to those in which Hitler has involved that unhappy country in our day. "During the war, the population of Germany sank from sixteen millions to but six. Even Bavaria, a more favored state, is said to have fallen from 3,000,000 to 800,000. Thousands of villages had disappeared altogether. In Saxony packs of wolves penetrated into the hamlets, and it was possible to travel through Brandenburg for days without meeting a single peasant."⁵ The value of such statements and statistics is, of course, dubious, but it is certain that Germany suffered intensely and that the German people longed for peace. The clearer heads among them saw that German Catholics and German Protestants would have to learn to get along together, if foreign powers were not to be

² Cf. T. Heinemann, *Frankreich und der Geist des Westfälischen Friedens* (1941). The author studies the attacks of Jacques Bainville on Hitler as the author of German unity—attacks which were echoed by the French minister Campinchi.

³ Cf. the vigorous article of Yves de la Brière, "Les traités de Westphalie et la politique d'équilibre," in *Etudes*, CLIII (1917), 381-94. "Le droit chrétien et le droit moderne s'accordent, pour des motifs contradictoires, à réprouver la conception bâtarde des traités de Westphalie" (pp. 386 f.).

⁴ L. Gross, *art. cit.*, p. 38.

⁵ H. B. Workman, "The Wars of Religion in Europe," in *An Outline of Christianity*, III, (London, no date), 143; cf. *Cambridge Modern History*, V (New York, 1907), 418 ff.

allowed to ruin the country altogether. The nature of the war, however, made the conclusion of peace a most difficult undertaking.

Religious war had broken out in Germany in the first half of the sixteenth century and had been terminated by the Treaty of Passau (1552) and the Religious Peace of Augsburg (1555). Both sides looked upon these transactions as a truce. The Protestants never observed the *reservatum ecclesiasticum* of that peace, which provided that, whenever "an archbishop, bishop of prelate or any other priest of our old religion shall abandon the same, his archbishopric, bishopric, prelate and other benefices together with all their income and revenues which he has so far possessed, shall be abandoned by him." St. Peter Canisius on the Catholic side states that the Holy See looked upon the peace of Augsburg as an agreement entered into to avoid greater evils.⁶

In the early decades of the seventeenth century both the Protestant and Catholic factions in Germany were closely-knit units, and each resented what it fancied to be the injustice of the other. The Emperor Matthias (1612-1619) precipitated the conflict by withdrawing the concessions which his brother Rudolph II (1576-1612) had granted to the Protestants in Bohemia. In the early stages of the war the Imperial and Catholic cause was so successful under the military leadership of Tilly and Wallenstein that Ferdinand II (1619-1637) issued in 1629 an Edict of Restitution which obliged the Protestants to return "all archbishoprics, bishoprics, prelaties, monasteries, hospitals and endowments which the Catholics had possessed at the time of the treaty of Passau and of which they have been illegally deprived." It was also formally stated that the peace of Augsburg did not apply to Calvinists but only to Lutherans. Politically, this was a most unfortunate move, so much so indeed that some have thought that the wily Richelieu had a hand in it. Certainly nothing could have helped his policies more or have enabled him more readily to turn the German War from a religious into a political struggle to the greater glory of France and its gifted first minister and to the greatest detriment of the German Empire. Impractical and provocative in the extreme, the Edict seemed to leave out of consideration that seventy-seven years had passed since the Treaty of Passau. Many of the secularizations involving change of religion had taken place a lifetime before. How could the events of many years be disregarded as if

⁶ O. Braunsberger, *Petri Canisii Epistolae et Acta*, V, 231: "Quae media ab adversariis obtrusa idcirco, a Catholicis acceptata videntur, ut durae et inevitabili necessitati temporum, et Sectariorum perversitati ad tempus cedatur, utque maiora mala evitentur, cum gravissimus metus qui in viros constantes cadere poterat, ipsis videretur consiliis melioribus locum non reliquisse."

they had not taken place? A terrible blow to Protestantism, the Edict gave its followers a cohesion they did not possess before.⁷

From the days of Luther and Francis I of France, German Protestants had not hesitated to ally themselves with Catholic France against their Emperor. France, almost encircled by the Hapsburg dominions, eagerly grasped at these alliances.⁸ In addition, she abetted Holland in rebellion against Spain, while she urged the Transylvanians to attack the Empire from the southeast. She made tempting offers to Catholic Bavaria, stirred up the smoldering fires of nationalism in Bohemia, Catalonia, and Portugal; and when the Catholic emperor in 1631 seemed about to reunite Germany by restoring the Catholic religion in vast areas of it, France under the guidance of Cardinal Richelieu gave strong financial support to the Swedish invasion of Germany. Owing to the military genius of Gustavus Adolphus, the Swedish king, German Protestantism was saved, German unity was prevented, and the country was doomed to nearly two more decades of strife.

In 1641 the Emperor Ferdinand III, following the advice of his theological counsellors, granted an amnesty designed to serve as a basis for the future peace. In 1642 Richelieu died and all the countries engaged in the war, except Spain and Sweden, desired peace. Spain, with an eye to the uncertain situation in France resulting from the disappearance of Père Joseph and Richelieu, still looked on war as a desperate means of recouping its national fortunes. Sweden, where war had become the principal and most lucrative business of the State, was also not averse to carrying on. But ultimately it was not Spain and Sweden but religious tangles which held up the treaties.

Much more than in other centuries perhaps, religious considerations then occupied the thoughts of men. The medieval idea that the Christian State should protect the Christian Church had taken on new vigor. The principle, "cuius regio, eius et religio," had to be enforced rigorously. Both Catholic and Protestant princes were accustomed to regard business of state which impinged in any way on the ecclesiastical sphere as an affair of conscience. Before action, the demands of the divine and canon laws were carefully examined.⁹ Any concession to a hostile faith was, of course, an affair of conscience of the first order. Hence the power of the confessors of ruling

⁷ B. Duhr, *Geschichte der Jesuiten in den Ländern deutscher Zunge*, II, Part I, 464; Duhr explains the part of Lamormaini in the Edict.

⁸ The Habsburg family controlled the Empire, Spain, the Spanish Netherlands, most of Italy, and other territories on the borders of France.

⁹ L. Steinberger, *Die Jesuiten und die Friedensfrage in der Zeit vom Prager Frieden bis Nürnberger Friedensexecutionshauptrezess 1635-1650* (Freiburg im Breisgau, 1906).

Catholic sovereigns and of clerical counsellors in the case of Protestants. Here again, however, France led a reaction designed at making secular interests paramount. Richelieu as an ecclesiastic was perhaps better equipped to cope with strict confessors than the lay advisers of other rulers. Père Nicolas Caussin was defamed and exiled because his conscience forced him to incur the displeasure of the powerful Cardinal. His successor, the learned Jacques Sirmond, was forced to promise that, if he saw anything censurable in the conduct of the state, he would report it to the Cardinal and not attempt to influence the king's conscience.¹⁰

In other countries, too, in the course of time the *raison d'État* began to dominate. The princes continued to ask the advice of theologians on questions involving religion, but often this came to mean that the spiritual advisers were required to find Christian justification for measures already determined upon. Certain it is that the court confessors were not the Catholic counsellors who held up the peace. But against the theologians of the courts there was aligned a group of ecclesiastics, who, encouraged by the papal representatives in Germany, tried to bring it about that religious considerations should always take precedence over political ones, even at the risk of losing everything. But as the war wore on, it became clear that only the triumph of Catholic arms would keep the Catholic rulers of Germany from following more moderate counsels.¹¹

It happened that in Germany many of the leading theologians of both these groups were Jesuits. The outstanding court theologians were the confessor of Emperor, the Belgian Lamormaini, and the confessor of Maximilian of Bavaria, Vervaux, a native of Lorraine. They were men of integrity and ability, but even if they had possessed political talents their hands were tied against Richelieu and Mazarin by the prescription of Jesuit law that confessors of royalty were not to interfere in politics. The leader of the opposition was their confrère, Heinrich Wangnereck, chancellor of the University of Dillingen. At the request of the bishop of Augsburg, Heinrich V von Knöringen, and of Fabio Chigi, bishop of Nardò and papal representative at the congress of Münster¹², who was destined to be pope under the name of Alexander VII, Wangnereck became the champion of the extremist views among the Catholics.

In doctrinal position there was not so much difference between the two

¹⁰ G. Goyau, *Catholic Encyclopedia*, XIII, 48.

¹¹ Cf. L. Steinberger, *op. cit.*, and B. Duhr, *op. cit.*, pp. 452-493; also C. C. Eckhardt, *The Papacy and World-Affairs* (Chicago, 1937).

¹² Duhr has a long study of Lamormaini, *op. cit.*, Part II, 691-723; Eckhardt studies Wangnereck at length.

groups. Both held that Catholics were bound in conscience to oppose heresy; but the court theologians held that many Protestants in Germany were not now heretics in the formal sense of the word, but only in error.¹³ Both groups held that the Catholic State is obliged to work with the Church in the uprooting of heresy, although the extremists insisted more on the subordination of the State as a mere instrument of the Church in the matter; in their eyes the State had simply to follow directions. The zealots also tried to find their doctrine of repression in Holy Scripture, whereas the moderates based their contentions on the provisions of canon law.

The extremists maintained that if, out of dire necessity, religious freedom were granted to the Protestants, it could not be a perpetual grant, but valid only until the Catholics were strong enough safely to withdraw it. This the moderate theologians as a rule refused to admit; they saw that such a doctrine would vitiate any settlement. In their arguments for their position a certain hesitancy and lack of clarity appear. Some argued that the treaty guaranteeing religious freedom would bind perpetually because the reason permitting its negotiation—avoidance of perpetual warfare—would ever obtain. Others taught that the peace was perpetual in the sense that it was to last till the Protestants freely returned to Catholic obedience.¹⁴ To the extremists this was an impermissible subterfuge, because heresy according to them was *de se* perpetual. The Protestants objected that even though Catholics were bound by a peace, the Pope could dispense them. This the moderate Catholics denied on the grounds that the supreme pastoral power is given for edification and not for destruction. Nothing could be so dishonorable to the Christian religion or so harmful to Catholic princes and peoples as that treaties should not be kept. So if to avoid greater evils agreements were made with heretics they would have to be kept.¹⁵

The other difficulty of major import was that of the cession to Protestants of a share of Church property. Should the Protestants be allowed to retain the Church property and territory they had taken in violation of the

¹³ M. Becanus, *Manuale Controversiarum (Opera omnia, II, 960)*: "Constat multos viros et feminas esse in Germania qui quidem habentur Lutherani sed tamen quia pertinaces non sunt, non debent censi haeretici sed errantes"; quoted by Duhr, *op. cit.*, I, 454. Moritz Ritter, "Das römische Kirchenrecht und der Westfälische Friede," *Historische Zeitschrift*, CI (1908), 253-82, has a critical summary of the Catholic arguments; he should be completed by Duhr.

¹⁴ M. Becanus, *De fide haeticis servandis (Op. om. II, 140)*.

¹⁵ P. Laymann, *Disputatio moralis theologica de mendacio et dolo* (Monachii, 1623), pp. 23-25: "Sic enim haeresis permissio cum intrinsece mala non sit, cohonestatur necessitate Foederis publici observandi propter ius gentium, cum alioquin nulla inter homines societas tuta esse posset"; quoted by Duhr, *op. cit.*, I, 455.

Treaty of Augsburg (1555)? Both the rigorists and moderate theologians held that *jure divino* only ecclesiastics have any power to dispose of Church goods. Wangnereck held that property concessions could be made to the Protestants only with the express consent of the Pope. To reinforce his argument he taught that papal decisions in this matter were as infallible as in matters of faith. Since Rome was silent and no concessions in the matter could be expected from that quarter, the moderate theologians maintained that because of the necessities of the times Catholic rulers were not held by their ordinary obligation of appealing to the Pope. They had to drive the best bargain they could in the difficult circumstances. To this the *consultores rigidiore*s could only respond that the Court theologians feared men but not God. The latter responded that peace, which was so necessary, could only be obtained by abandoning great territories to the Protestants. If necessity knows no law, this was a case in point.¹⁶

Up to 1648 diplomatic difficulties and the opposition of the extremists under Chigi held up the peace. In 1648, however, the brilliant victories of Condé and Turenne forced the Emperor Ferdinand III and Maximilian of Bavaria to listen to moderate counsel and make the heavy sacrifices which would render possible the conclusion of hostilities. The intransigents would have nothing of this. Chigi, who had spent four unhappy years as mediator, absented himself from the decisive sessions. His name does not appear in the *Instrumentum Monasteriense* as mediator with that of Alvisi Contarini of Venice. It has been said, not without some truth, that the Pope in presiding at Münster through his delegate was conducting the funeral of the Middle Ages.¹⁷ Chigi's abstention during the final negotiations and his protest against the peace when it was signed show that he must have seen the proceedings in somewhat the same light.

The peace of Westphalia contained many stipulations concerning the Church; not all of them will concern us here. It was provided that in matters of religion a majority vote should no longer be held decisive in the Imperial Diet, but that such questions should be settled by amicable agreement. The Treaty of Passau (1552) and the Religious Peace of Augsburg (1555) were confirmed. Calvinism was given with Catholicism and Lutheranism the status of a legal religion, but no other form of cult was to be per-

¹⁶ Duhr, *op. cit.*, I, p. 491. The extremists, considering only questions of principle, rejected the peace as a matter of course. The court theologians, who know all the circumstances, rightly saw that an appeal had to be made to higher principles in order to save something.

¹⁷ Lavisse-Rambaud, *Histoire générale*, V, 575: "Par une cruelle ironie de la fortune, le pape présidait aux funérailles du moyen âge." This chapter was written by E. Denis.

mitted in the Empire. The principle, "cuius regio, eius et religio,"¹⁸ was reaffirmed, and the *jus reformandi* was granted for ecclesiastical as well as secular territories under certain conditions. Catholics and Protestants, living under rulers of the opposite faith, were granted at least the right of conducting private worship and of educating their children at home or abroad in conformity with their own faith. They were not to be discriminated against in civil life, nor denied Christian burial, but were to be at liberty to emigrate, selling their estates or leaving them to be managed by others.¹⁸ Most of the free cities of the Empire were to be exclusively in Protestant hands and Catholic Church property was lost in all Protestant regions. In addition two archbishoprics, twelve bishoprics, and six abbeys, which had formerly been ecclesiastical states, were lost to the Church. When it is remembered that in addition the Empire lost nearly all effective control over the member States, one can see what a blow the peace was to Germany and the Catholic cause. It was some consolation that a final stop was put to the spread of Protestantism in the Empire by means of conversion in high places.

Innocent X approved of Chigi's protest and eventually in 1650 issued a Brief of protest, *Zelo Domus Dei*, which was retrodated to 1648. Innocent expressed his sorrow that the decisions arrived at in Westphalia gravely infringed on the rights of, and were injurious to, religion, the Holy See, and the Church, because of the surrender for all time to the heretics and their successors of the property of the Church.¹⁹ He also protested against the toleration of Protestantism. Transactions or agreements concerning ecclesiastical matters made without the authority of the Holy See were declared null even though confirmed by oath.

The Congress, however, had foreseen the disturbing effect of the papal protest and inserted both at Osnabrück and Münster clauses which made the protests ineffective.²⁰ Since the Catholic powers had taken the steps independently of the Pope, his protest was not heeded; indeed in Germany the Archbishop of Trier was the only ruler who published it. Innocent X was perhaps not unaware that his protest would be without avail. It has been suggested that he had to protest, since there was still a remote possi-

¹⁸ "Patienter tolerantur (Catholics subject to Protestants or vice versa) et conscientia libera domi devotioni suae sine inquisitione aut turbatione privatim vacare, in vicinia vero ubi et quoties voluerint publico religionis exercitio interesse, vel liberos suos exteris suae religionis scholis aut privatis domi praeceptoribus instruendos committere, non prohibeantur" (Reich, *op. cit.* p. 9).

¹⁹ C. Mirbt, *Quellen zur Geschichte des Papsttums* (4th ed.; Tübingen, 1924), p. 382, gives essentials of the text.

²⁰ Cf. Eckhardt, *op. cit.*, pp. 137-39.

bility of a Protestant return to the Church. In that case the Church would have in the protest a legal basis for regaining its properties and rights. However that may be, the head of the Church could not see so many people definitively lost to the Church without expressing his sorrow and disapproval.

A recent writer speculates on what might have happened if Innocent X had been more sagacious, and had abandoned the Catholic cause in those lands in which Protestantism had been a success since the early sixteenth century, and had recognised the loss of Church lands which could in no case be regained. If he had so acted, the author opines, he would not have accustomed the Catholic princes to act without the guidance of the Church in making decisions on ecclesiastical affairs. It would have been possible, too, for him to have exacted more favorable terms for Catholics in Protestant lands. Finally, the writer advances the opinion that, if the Pope had taken a practical view of existing circumstances, he might have had himself elected as arbiter of Europe even with the consent of the Protestants, provided he was willing to abandon "the time-honored theory of world religious unity under hierarchical control."²¹ Dr. Eckhardt may be serious in maintaining that it was possible for seventeenth-century Protestants to consider the Pope as anything but anti-Christ, but certainly it is impossible that any Pope should ever deny the universal mandate of the Catholic Church or be party to any transaction which permanently separated millions from the Catholic fold.

Dr. Reinhold Niebuhr, in commenting on Dr. Eckhardt's ideas, seems far from convinced that the papacy lost its international influence either at Westphalia or later on. He holds that the papacy and the Church to a degree are political institutions: "The political power of the papacy is not without its spiritual advantages. Catholicism is not merely a religion but a civilization and a culture. As such it has advantages over Protestantism, which seeks merely to resist unchristian elements in cultures and civilizations but is never able to set a culture or civilization of its own against the forces of the world."²² Probably Dr. Niebuhr would be willing to admit that the Protestant disadvantages of which he speaks are rooted in the dark pessimism of Luther's view of man and man's production. Catholics would not admit that the Church poses as the exclusive mother of cultures and civilizations. If, as in early medieval times, all the burden of civilizing falls to the Church, it is because the secular element is largely incapable of performing its legitimate function.

A final reflection. When we consider the peace of Westphalia across the

²¹ *Ibid.*, p. 155.

²² *Christendom*, II (1937), 342 ff.

centuries from the viewpoint of diplomacy and international law, it stands out as a monument to the man who, although he died six years before it was signed, was more than any other responsible for it—Cardinal Richelieu. Because of Westphalia, there is some justification for the title “maker of the modern world,” which has been given him. But if we consider the peace of Westphalia from the religious viewpoint, it becomes a question mark. Richelieu was a convinced Catholic and a faithful priest, author among other religious tracts of a treatise on Christian perfection. Yet he was the man who more than any other prevented the reunion of Germany under Catholic auspices. Many are inclined to think that if the Empire had become once again a strong Catholic State, Protestantism would have died out within and without its borders. Certainly its sway in the Western world would have been immensely decreased. A new Christian commonwealth of the West might have been reconstituted. Did Richelieu foresee that he was preventing this?

Woodstock College

E. A. RYAN, S. J.