

THE LATERAN TREATY

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DURING the intervening years since the Great War, the public at large has acquired a rather sophisticated attitude towards pacts, treaties and agreements. Versailles, Locarno, Geneva, Lausanne and the others have proved less significant than the world of eager nations expected them to be. But the stir aroused by the signing of the agreements between Italy and the Vatican strikes a contrast to the usual matter-of-fact way in which transactions of this sort have come to be regarded.

That the explanation of this general change of attitude lies in a broad feeling or sense of the historical importance of the event, seems fairly obvious. Nevertheless, it is also true that recent controversies about religion and politics have served to enhance public interest in the negotiations. In England, it was the Prayer Book question, and the talk about disestablishment. France had its hectic squabble over *L'Action Francaise*, and the less prominent but thorny problem of the schools in Alsace and Lorraine. In Germany the question of the status of the Lutheran Church was rife. In the United States, too, the presidential election campaign precipitated a flood of discussion on this very subject.

Meanwhile, the strategic importance of the Vatican as a focus of international diplomacy had become more and more keenly appreciated. And the impressive gesture of His Holiness, Pope Pius XI., on the morrow of his election to the Supreme Pontificate presaged ulterior developments for which the world was not, therefore, wholly unprepared. The stage was set for the drama of events which was enacted in Rome, between the dates of February 11 and June 7, 1929, by accredited representatives of the oldest Government on earth and the contemporary Italian national state.

Since the publication of the official text of the documents upon which the agreement between Italy and the Vatican rests, the general character as well as the details of the mutual engagements has become common property. Readers of *THE DALHOUSIE REVIEW* are no doubt familiar with their contents. Suffice it, then, to give a brief survey or summary of the documents.

The Lateran Treaty proper embodies the settlement of the Roman Question in its political, international aspects. To it are

appended the Concordat, "a necessary complement to the treaty", regulating the status of religion and the Church in the Kingdom of Italy, and the Financial Agreement, which, though a separate convention, forms an integral part of the treaty. These three documents were the final outcome of protracted negotiations between the Holy See and the Italian Government, conducted on the one side by His Eminence, Pietro Cardinal Gasparri, Papal Secretary of State, and on the other side by His Excellency, Signor Cavaliere Benito Mussolini, Prime Minister of Italy. They were signed by these two plenipotentiaries on February 11th, subsequently passed by the Italian Chamber and Senate, and finally ratified by Pope Pius XI and King Victor Emmanuel III on the seventh day of June, 1929.

The Treaty.

In the preamble to the political treaty it is stated that "The Holy See and Italy have both recognized the desirability of eliminating every cause of disagreement existing between them, by coming to a definite understanding of their mutual relations which shall be in accordance with justice and compatible with the dignity of the two High Contracting Parties and which, by assuring permanently to the Holy See a status in fact and right that shall guarantee to it absolute independence in the exercise of its mission in the world, allows the said Holy See to acknowledge as definitively and irrevocably settled the 'Roman Question' which arose in 1870 with the annexation of Rome to the Kingdom of Italy under the dynasty of the House of Savoy".

The most important clauses of the Treaty deal with:—

The reaffirmation by Italy of the principle that "the Roman Catholic and Apostolic Religion is the sole religion of the State". (Article 1.)

The recognition of the sovereignty of the Papacy in the field of international relations "as an attribute which pertains to the very nature of the Holy See". (Article 2.)

The establishment of the Vatican City, the defining of the territory over which it extends, and the arrangements for the legal transfer of the properties within that territory. (Articles 6-7).

The provision of adequate public utilities and communications for the citizens of the Vatican City. (Articles 6-7).

The recognition of the inviolability of the person of the Sovereign Pontiff, and the penalties for the commission of offences against his person. (Article 8).

The right of the Holy See to send and receive diplomatic representatives according to the general provisions of international law. (Articles 13-19).

The jurisdiction of the Holy See in criminal cases, and Italy's co-operation in the handling of such cases. (Articles 22-23).

The explicit declaration by the Holy See to the effect that it "wishes to remain and will remain extraneous to all temporal disputes between nations and to all international congresses convoked for the settlement of such disputes, unless the contending parties make a concordant appeal to its mission of peace." (Article 24).

Finally, "the Holy See declares the 'Roman Question' definitively and irrevocably settled and therefore eliminated; and recognizes the Kingdom of Italy under the dynasty of the House of Savoy with Rome as the capital of the Italian State. Italy in turn recognizes the State of the Vatican City under the sovereignty of the Supreme Pontiff."

The Concordat.

By the terms of the Concordat the status of the Church in Italy is defined and regulated in accordance with the principles upon which similar agreements have been made in the past with other national Governments. Its provisions form the basis upon which questions of an ecclesiastical character which likewise involve problems of internal state administration in Italy will in the future be settled.

It guarantees to the Catholic Church "free exercise of spiritual power, free and public exercise of worship, as well as jurisdiction in ecclesiastical matters".

It regulates the obligation of Italian clerics in respect to military service.

It provides for the punishment of clerics who violate the law of the land.

It defines the powers of the police in buildings for worship in the city of Rome, and the extent to which they may co-operate in enforcing law and order within them.

It determines the methods to be followed in the appointment and control of military chaplains, and the religious rights of troops in all branches of the service.

It sets forth the regulations governing the number of dioceses in Italy, the selection of bishops, the conferring of ecclesiastical benefices, the management of Church property, the creation of new ecclesiastical institutions.

According to its provisions, the Italian Government undertakes to revise its legislation on matters ecclesiastical in order to bring it into harmony with the Lateran Treaty and its complement, the present Concordat.

Two sections of the Concordat, not included in the above summary, have occasioned considerable controversy. The Articles dealing with marriage laws have proved to be a source of misunderstanding outside of Italy; those dealing with religious education almost resulted in the collapse of the negotiations, when that portion of Mussolini's speech in the Chamber devoted to this question was severely criticized by the Pope in his letter to Cardinal Gasparri on the very eve of the final ratification of the treaty. The Supreme Pontiff signified, with deep regret, that he was prepared to sacrifice whatever benefits might accrue from the settlement rather than accept the consequences which Mussolini's attitude implied.

With reference to the articles of the Concordat dealing with marriage laws, it has been erroneously supposed that henceforth canon law should supplant the civil law on marriage within the Kingdom of Italy. It has also been supposed that henceforth the law of Italy would refuse to recognize the marriage of non-Catholic persons unless they were married according to the requirements of the Church law in respect to Catholics. The facts are these: Italian legislation on marriage has been definitely anti-religious. No marriage performed according to a religious rite was recognized before the law. In order to have civil effect, every marriage had to be solemnized before the civil authorities. By the terms of the present agreement a situation has been created which differs in no essential point from the actual condition at present prevailing in the province of Nova Scotia. The Concordat grants the same recognition before the civil law to Catholic marriages as the previous legislation granted to civil marriages. It further requires that Church marriages be duly recorded in the civil registry. No exclusive jurisdiction over marriage is granted by the Concordat to the Church. The Articles concerning marriage in no sense affect the status of non-Catholic marriages in Italy. Furthermore, a law extending to non-Catholic ministers the right granted to Catholic priests to perform marriages recognized as valid by the civil authorities has been passed by the Italian parliament. The Concordat does not abolish civil marriage, nor does the Italian State in any way surrender its right to legislate in matters affecting the civil status of the members of the family.¹

¹ Here and elsewhere in this article I have borrowed certain phrases from a paper written in the July, 1929, issue of *Current History* by William F. Montavon.

The stipulations of the Concordat touching education are clear and unambiguous. Article 36 states that "Italy considers the teaching of Christian doctrine, according to the form handed down by Catholic tradition, as the foundation and capstone of public education. Specific regulations for the application of this principle to primary, secondary and advanced education are set forth in the following four Articles. In an earlier clause of the Concordat (Article 5) it is expressly agreed that "apostate priests or those who have incurred censure¹ cannot be employed or retained in a teaching post".

The Pope's letter to Cardinal Gasparri drew attention to the construction placed by Mussolini upon these clauses of the Concordat. Mussolini declared in his speech before the Italian Senate that the State had still the right to educate the youth of Italy according to militaristic standards, though the Concordat had conceded to the Church the right to impart religious instruction. His Holiness protested against this distortion of the agreement. He emphatically reaffirmed the right of the Church to direct the task of educating the youth of the country, as recognized by the Concordat. He adds: "The State has nothing to fear from the education imparted by the Church. Nor have science and scientific methods or scientific research anything to fear from the development of religious instruction".

Despite the temporary cloud cast over the negotiations by the events which gave rise to these protests, the exchange of ratifications took place on the appointed day with every evidence of cordial understanding between the High Contracting Parties.

The Financial Agreement.

The third document included in the settlement, the Financial Agreement, deals with the question of reparations and indemnity granted to the Holy See for the losses incurred through the annexation of the Papal States by the Kingdom of Italy in 1870. The second clause in the preamble to the agreement runs as follows: "Whereas the Sovereign Pontiff, considering, on the one hand, the great damage suffered by the Apostolic See through the loss of the Patrimony of Saint Peter, which was established by the old Papal States, and of the properties of ecclesiastical organizations, and, on the other hand, the ever growing needs of the Church, even in the City of Rome, yet knowing very well the financial condition of the State and the economic status of the Italian people, especially

¹ This is a technical term taken from canon law, and signifying one of the three ecclesiastical penalties, viz. excommunication, interdict, suspension from sacred functions.

after the War, has deemed it advisable to restrict his demands to what is absolutely necessary, asking a sum, partly in cash and partly in securities, which is actually much less than the State would have to pay to the Holy See to-day were it merely carrying out the obligation assumed by the law of May 13, 1871." Italy, in turn, "appreciating the paternal sentiments of the Sovereign Pontiff, has considered it its duty to accede to the request for the payment of the said sum."

The law referred to in the present instance is the famous Law of Guarantees, according to which the Italian Government granted the Pope an annual income of 3,225,000 lire a year. This grant was never accepted by the Holy See. The sum agreed upon in the financial clauses of the Lateran Treaty is 750,000,000 lire in cash, and 5% negotiable Italian State bonds to the value of one billion lire.

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The Lateran Treaty with its appendages—the Concordat and the Financial Agreement—constitutes the modern settlement of a problem which, though comparatively recent in its present form, has its roots in the distant past. It is no simple domestic arrangement between a modern Government and a great international institution. It is rather the latest phase of the problem that confronted Nero and Trajan, Valerian and Diocletian. Constantine bent his efforts to resolve it. Charlemagne and Henry IV, Earbarossa and Philip the Fair, Louis XIV and Napoleon all found it too stubborn for their wits. European history, since the rise of Christianity, has been moulded to a large extent by the varying fortunes of that problem.

At the dawn of the Christian era the Roman Emperor bore the two-fold title of Caesar and Pontifex Maximus. The former indicated his secular power, the latter his supremacy in spiritual matters. Into the compact culture and civilization of the Roman Empire came the Christian Church, and with it the problem of Church and State. Within his own realm, Caesar found his absolute supremacy in matters spiritual openly questioned. The challenge was accepted, and for three centuries the Roman authorities tried to stamp out opposition—*Christianos esse non licet*—until in despair of crushing "that fertile brood", Constantine yielded to the force of events, and declared the practice of the Christian religion lawful before the State. Then, for the first time in history, the right of the Church to hold property was permanently recognized by the civil power. By the Edict of Milan the Church was given permission to exist, but its status before the

law was not determined. Centuries pass before a solution is found for the problem of the relations which must exist between the civil and the religious authorities.

When Constantine paved the way for a division of the Empire by founding his new capital on the Bosphorus, over against Asia, Rome was abandoned to its fate. But the Popes were statesmen as well as theologians. They preserved and held the traditions of Rome. While the Byzantine culture flourished in the East and the West was left to take care of itself, the Roman people turned to the Pope for leadership and guidance. Teutonic invaders threatened to overwhelm the ancient civilization; the power of Islam spread through Europe, and almost swamped the earlier culture; half-barbarian Lombards swept through the Roman provinces. But Pope Leo stopped Attila's devastating march, and likewise saved the Roman shrines from the Vandals who had ruined Carthage. When the menace of Mohammed hung over Europe, the hopes of the West centered in Rome, for "it was manifest," says William Barry, "that none but the Roman Father could bestow on Europe, from Illyria to Ireland, a humane religion or the elements of civilized life". To combat the Lombards the Pope called Pepin to his aid; the threat of extinction was at last averted, and the Romans acclaimed the Holy Father their deliverer. They bestowed upon the See of Peter the Eternal City, and Pepin granted to the Pope his spoils of war. Thus began the temporal power of the Popes. "Their noblest title," says Gibbon, "is the free choice of a people whom they had redeemed from slavery."

For eleven centuries, from 756 A.D. to 1870, this settlement was the norm of the relations between the Church and the secular powers of Europe. During that long period of history, the temporal power of the Popes alternately waxed and waned with the spirit of the age, the temper of the ruling personages in Church and State, the fortuitous circumstances which sometimes shape the course of history, the success or failure of great political undertakings.

Inevitably, the Church became a feudal monarchy. Its wealth increased. Its influence grew. Its bishops and abbots became great feudal lords. High positions in the Church, with the rich benefices and emoluments attached to them, were eagerly sought by ambitious persons. Princes and nobles strove to provide for their children from the revenues of the Church, and even thrust their illegitimate offspring into ecclesiastical positions, or refused to allow well-endowed sees to be filled, in order to keep the revenues for themselves. Clerics, who were not infrequently creatures of ambitious princes, coveted political power and sacri-

ficed much to obtain the favour of temporal rulers. Kings and Emperors alternately sought the favour of the Sovereign Pontiff and resisted his efforts to control their high ambitions. The crisis came when the quarrel over investiture brought the Church and the State in open conflict. The power of conferring dignities and emoluments by the bestowal of the ring and the crosier was claimed as a right by both Emperor and Pope. In that famous struggle, which ended in the *Pactum Callixtinum*, the problem of the relation between the temporal and the spiritual powers, unsettled since the earliest ages, received a solution which endured until that fatal day at Anagni when Nogaret, the French lawyer, and Colonna, the Roman Prince, outraged Pope Boniface upon his throne.

Meanwhile, the revival of Roman law renewed the vast conception of the boundless authority conferred upon the Emperor by the Institutes of Justinian, to which Irenerius of Bologna had called the attention of the learned world. Armed with this weapon, the venerable *Corpus Juris*, Frederick Barbarossa laid claim to unlimited rights over laity and clergy alike. He refused to countenance an independent Italy, or a Pope who declined to be his subject. Although the Papacy was once more victorious in the conflict, that victory was but the prelude of defeat. The spirit of secularism, which the study of Roman law aroused, persisted through the centuries. It was prominent in the quarrel between Boniface VIII and Philip the Fair. Through the long captivity of the Popes in their gilded castle at Avignon it ruled the day. The Great Western Schism was an outcome of its influence. The incarceration of Clement VII and the sack of Rome by emissaries of the Emperor Charles V., and the neo-Caesarism of the sixteenth and seventeenth centuries, with its doctrine of the Divine Right of Kings, brought nearer and nearer the inevitable day when the Pope would no longer receive recognition as a temporal ruler. The splendour of the Papacy during the Renaissance, and the spiritual fervour of the Counter-reformation, masked for a time the trend of events. But when the smoke of the Revolution had cleared, and Napoleon became master of the destinies of Europe, the Pope's struggle for independence was consummated. All that was needed was the culminating stroke, the triumphal entry of King Victor Emmanuel II into Rome on that memorable Venti Settembre, 1870, to abolish in fact the temporal power of the Papacy.

Throughout this long period of history, eleven hundred years of controversy, political struggle and religious or semi-religious wars, the Successors of St. Peter clung tenaciously to one guiding

principle:—The Church can never acknowledge the authority of secular rulers to decide questions of religion, nor can the Pope be subject to any temporal power, since his mission is to all without distinction of race or nation.

No serious historian would pretend that every Pope who sat upon the Throne of the Fisherman defended that principle with moderation. Ludwig Pastor's *History of the Popes* and William Barry's interesting little works, *The Papal Monarchy* and *The Papacy in Modern Times* (works whose authors are both Catholic priests) record, and in recording, deplore the abuses which arose from a misuse of the temporal power by worldly and ambitious Pontiffs. To summarize a few passages by Professor Carlton J. H. Hayes, of Columbia University, we may say that the arrangements which prevailed from the eighth to the nineteenth century conferred some benefits on all concerned but the situation had its drawbacks, too.

For the Papacy has two complementary, if not contradictory, aspects. On the one hand, it is the Bishopric of Rome, the Office of the Successor of the Apostle Peter who established himself as Chief Pastor of the Christian Church in Rome. On the other hand, the Papacy is looked upon by the majority of Christians throughout the world as the divinely appointed agency for the interpretation of faith and morals for the universal, international Church. In other words, the Papacy is at once a Roman and an international institution.

The recognition of the Pope as the temporal ruler of the Papal States rendered him independent of princes and Governments, autonomous and sovereign within his own realm. He was free to exercise his spiritual jurisdiction over the Catholic Church without let or hindrance from secular authority. Italy and the Italians benefitted by this arrangement, since they shared in the glory of the Rome of the Popes, which had succeeded the Rome of the Emperors. Foreigners, too, shared in that glory, for Frenchmen and Spaniards and Germans and even an Englishman could and did rule the Church from the See of Peter. Moreover, from Rome there spread a culture which penetrated to the ends of the earth, giving ever fresh impetus to the cultivation of literature, the fine arts and the nobler, higher things in life. From this arrangement there were obvious advantages to be gained by all concerned, including the Papacy itself.

But there were no less obvious disadvantages. The complications arising from political obligations and the care of temporal matters—the levying of taxes, the regulation of trade, postal

service, roads, courts of law and all the details of government—hindered the full and satisfactory performance of the Pope's universal spiritual mission. Alliances with various secular powers, the support of one political faction against another, the intrigues of diplomacy, the balancing of domestic and foreign policies, in a word, all the intricacies of political relations imperilled his spiritual authority and exposed the Sovereign Pontiff to outrageous treatment and indignity on the one hand, and, on the other, to ambition, vanity and worldliness.

Still, the vast majority of Christians, no less than the Popes themselves, have always felt the advantages outweighed the drawbacks. Even Lecky says, "No human pen can write the epitaph of the Temporal Power, for no imagination can adequately realize its glories. In the eyes of all who estimate the greatness of a sovereignty, not in the extent of its territory or in the valour of its soldiers, but by the influence it has exercised over mankind, the Papal Government has had no rival and can have no successor."

At all events, territorial independence with its concomitant sovereign autonomy was the legally recognized status of the Papacy when the Papal States were annexed, in 1870, and made part of the Kingdom of Italy.

The immediate consequence of this act was to upset a situation of fact and right which had stood the test of centuries. During all the years which have passed since that date, the "Roman Question" has been a harrassing problem for Italy, the source of misunderstanding and almost continuous disturbance. As a protest against the action of the Italian King, Pope Pius IX retired into voluntary imprisonment within the Papal Palace on the Vatican Hill. His successors without exception have followed his example, and clung to the policy of protest. Moreover, the mandate of the Sovereign Pontiff, commonly known as the "*non expedit*", forbade Catholics in Italy to take part in politics either as candidates for office or as voters. Further, the Pope repudiated the Law of Guarantees passed by the Italian Government in 1871, on the ground that, as a sovereign ruler in his own right, he could neither subject the Holy See to any secular power, nor acknowledge the right of any Government to make or impose upon him unilateral treaties or laws in the framing of which he had no voice.

The Italian Government paid no heed to these emphatic protests, but continued throughout the next fifty-eight years to regard this law as the only basis of its relations with the Holy See. Even the annual grant of monies to the Sovereign Pontiff provided in the Law of Guarantees, though never accepted by the Pope, has been consistently set down in the Budget each year.

Further complications arose from the fact that rulers of Catholic states were forbidden under pain of excommunication to visit the King of Italy in Rome. The Popes also refused to receive at the Vatican non-Catholic heads of states who were in Rome to visit the Italian King. Nor were the mutual relations of the Holy See and Italy improved by a succession of anti-clerical Governments in Rome. The incidents which occurred during the funeral of Pius IX, when a mob nearly succeeded in throwing the Pontiff's body into the Tiber; the unveiling of a monument in Rome to the apostate monk, Giordano Bruno; the insulting words of Ernest Nathan, Mayor of Rome, in his speech at the fortieth anniversary of the fall of the Papal States; the clause written into the London Pact by Italy's Foreign Minister, Sonnino, through which Italy bound her allies in the Great War to oppose the participation of the Vatican in the peace negotiations; the expulsion from Rome, during the War, of the diplomatic representatives of the Central Powers accredited to the Vatican; these and similar less important incidents fanned the flames of discord as the years went by.

Nevertheless, official relations did improve. The mandate forbidding Catholic Italians from participating in national politics was withdrawn. A diplomatic device was invented to permit the reception at the Vatican of non-Catholic heads of states visiting the Italian King in Rome. The Fascist Government showed itself less hostile to the Church than previous Governments had been. Gradually, too, the Vatican gave up its insistence on entire restitution of the Papal States and complete reparation of the losses incurred. Insistence on such burdensome conditions, it was felt, could only aggravate an already serious situation, and indefinitely retard all hope of settlement. Besides, extensive territorial possessions as a condition of sovereign autonomy is, after all, an anachronism in this day of small independent nations. To quote Arnold Cortesi, the Roman correspondent of the *New York Times*: "The Roman Question amounted to this: that the Holy See and the Italian Government should freely enter into a bilateral treaty, which should establish the status of the Holy See on such a basis that it should not only enjoy complete and absolute independence, but that its independence should be visible and obvious to all the world. The consequence of this is that the Pope cannot be the subject of any temporal ruler, which in turn leads to the conclusion that he must himself be a temporal ruler over a strip of territory, however small." A solution was sought which would permit the Pope to perform his function and office as Bishop of Rome, and at the same time leave him free from all interference in the govern-

ment of the Catholic Church throughout the world. The solution was found in the establishment of the Vatican City, a territory scarcely as large as the property held by the Imperial Government in the heart of the city of Halifax.

Finally, a feeling had gradually spread through the whole Italian nation that the anomalous and unfortunate situation of the Pope in his relations with Italy was simply the outcome of an egregious political blunder committed in 1870, and the most reasonable thing to do in the circumstances was to patch up the breach by reverting, as far as feasible in our present-day conditions, to the traditional solution of the problem which the history of Europe had provided.

Mussolini had his finger on the pulse of the nation. He fully realized that the vast majority of Italians are Catholics, and want to be at the same time good Catholics and good Italians. In the condition of affairs created by the Law of Guarantees and its immediate consequences, this was scarcely possible. The Italian citizen was called upon to make his choice; he could either side with the Pope or side with the Italian nation; he could not do both. According to the spirit and the letter of the present agreement, a loyal Italian can serve his country without feeling that he is disloyal to his Faith. Had the Lateran Treaty accomplished no more than that, the peace and ease of conscience it has given to the Italian people as a whole would alone be sufficient warrant for the trouble and sacrifices it involved.