

CHRISTIAN INSTITUTIONS

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IN every age, even in the centuries called Christian, believers have had to lament the infidelities of men. That is a grief which concerns, most of all, our own individual souls. But the lawyer and the statesman are concerned with institutions, and with the fact that these institutions have been Christian for centuries and have ceased to be so in our time. Christian lawyers and statesmen should feel a tremendous responsibility for this decline of Christian standards in their own generation. They cannot be consoled by the sort of sophistry which suggests that Christian institutions are impossible; that to talk about them only betrays an external view and an unspiritual outlook; that there may be more genuine Christianity in the souls of a few human beings in a so-called unchristian age than in all those celebrated centuries of Christian culture, and that it is only this true Christianity in some individual souls which really matters.

There is one institution, however, which is so closely connected with the very essence of human personality that nobody should venture to call it external; namely, matrimony. And there have been two fundamental changes in it during the last four or five centuries: one that dates back to the Reformation and one that is a specific development of our own time.

Some of the Reformers taught that marriage should be considered as something merely secular. They never had the wholehearted support of really religious followers. Pious people who, without any personal guilt of their own, have been brought up in Protestant circles still know in their hearts that matrimony is a sacrament. But the reformers succeeded in decisively influencing secular legislation. Divorce was held to be compatible with Christian doctrine. In some of our Lord's sayings Protestant theologians claimed to discover 'biblical' reasons for divorce.

It may be conceded, however, to a still Christian Protes-

tant legislation that it tried to stick to such 'biblical' grounds, and thus to restrict the number of divorces. That was so in the last century. And a comprehensive code like the German Civil Code is still stamped by that tendency. The most famous German lawyers, like those of other Protestant countries, were in complete agreement with such restrictions. The greatest of all the German professors of law was von Savigny, of whom Sir Frederick Pollock wrote: 'I owe most, so far as I can judge, to Savigny.'¹ It was Savigny who, long before the German Civil Code, defended the legislation of his country on divorce by contending that it was restricted to 'biblical' grounds. Savigny (the father of a Catholic family who himself urged tolerance towards Catholics) was quite Protestant in that respect. A most remarkable friend of his, von Gerlack, the conservative leader, was much closer to Catholicism, fighting together with Carl Ernst Jarcke, the great Catholic writer, against the secularisation of the law of marriage. Savigny differed from such conservatives and rather compromised. But he undoubtedly intended to remain Christian in every respect. He and his followers could not prevent the legislation from getting further and further away even from the so-called 'biblical' grounds. There were now not only 'absolute' reasons, such as adultery and other gross unfaithfulness in married life, but also 'relative' reasons for a divorce, by which it was made comparatively easy to dissolve marriage. But even for most of such legislation marriage remained indissoluble if there were no guilt. A husband could not get rid of his wife by divorce if she remained loyal and chaste. Likewise the wife was unable to destroy her husband's legal position as a married man. Only insane persons lost that protection of the law in legislations like the German Civil Code of 1896, which came into force in 1900. But that was a hotly debated exception. The rule was that there was no divorce without guilt.

And then came the fundamental change of our century, that may have been foreshadowed in some legislations after the French Revolution but gained full power only quite

¹ *A First Book of Jurisprudence for Students of the Common Law*, 6th Ed.

recently. Some modern legislation, e.g. in Germany and Sweden, entitles the guilty husband to demand a divorce against his innocent wife. And likewise the guilty wife may ask for a divorce against her innocent husband. There is little or no protection in such legislation for the innocent and faithful partner who wants to stick to the sacred right of marriage and prevent its dissolution.

Even this change, which is no longer Protestant but simply heathen, has found some defenders among famous Protestant lawyers. Their way was paved already by Rudolph Sohm who defended the new German law of 1900 and went far beyond what Savigny had held in the first half of the last century. Sohm did not bother about 'biblical' grounds. Bible, Religion, Christianity on the one hand and Law on the other hand are for him quite incompatible. Sohm's contentions were: Christianity is only concerned with the individual soul and its strictly private sphere. Law is something external that the State enforces.

Thus Sohm's teaching is only part of that positivistic doctrine expressed in the formula, 'Law is what a political superior enforces on a political inferior'. And as Christian marriage cannot be enforced in such a way it has, in the view of those secular positivists, nothing to do with law. Sohm claimed to be a good Christian and professed a belief in Christian marriage as a voluntary moral art of free Christian individuals in their private sphere. But he does not recognise any such institution as Christian marriage. His teaching is that there are no Christian institutions at all. Sohm did not live long enough to see that statute concerning divorce,² in which, strangely enough, Hitler and the Control Commission of the Powers who defeated Hitler so harmoniously coincided and agreed. That marriage statute is unfortunately considered valid by the courts. (I have done my best in nearly all my publications of recent years to prove that it is absolutely invalid, null and void.) But famous liberal Christian lawyers defended even these new legislative tendencies in Sweden as well as in Germany. The most conspicuous among those modern Protes-

² cf. article by Dr Karl Meyer, 'Divorce after Separation', in **BLACKFRIARS**, June 1951.

often enough stained by sin, but still also imbued with true vocation and noble obedience. It may be that God permitted the political destruction of so many institutions that seemed external only, and the inner meaning of which was never grasped by our superficial minds. It may be that he wants to see what we can do when we no longer live in a Christian State but under a Nazi or Communist dictatorship. Yet all such philosophising on the divine judgment is merely guesswork. There is no doubt about God's sovereignty. He will do as he pleases. But there is no doubt either about our duty. As far as our inner life is concerned it is expressed by the Sacred Heart of Jesus that remains the eternal model and goal of our love. And as far as the institutions of State and community go, there is the rulership of Christ the King; his word is the law of laws because he is the King of Kings.

THE ENIGMA OF SIMONE WEIL

BEDE GRIFFITHS, O.S.B.

WHY was it that Simone Weil, with her intense desire for the truth at all costs, with her love of God, of Christ crucified and of the Mass, was yet kept outside the Church and died without receiving baptism? The answer to this question is to be found partly in the letters which she wrote to Father Perrin, the Dominican, and which were published in an earlier book, *Waiting on God*, and more definitely in the *Letter to a Priest*,¹ which she wrote from New York a year before her death. It is not merely a personal question, because Simone Weil, though more intense in the ardour of her desire for truth and more uncompromising in its pursuit than anyone, perhaps, in our time, was yet typical of a whole generation of those who are apparently estranged from the Church or from any form of organised Christianity. She expresses the position both of herself and of many others in the opening words of the letter: 'When I read the catechism of the Council of Trent, it seems as though I had nothing in common with the religion there set forth. When I read the New Testament,

¹ (Routledge and Kegan Paul; 7s. 6d.)