

Twelve sovereigns and two faiths: the federal law of religion

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The fate of the Locarnese was decided in Baden, the small town on the Limmat where the Federal Diet (*Tagsatzung*, Italian *Dieta*) normally met, by delegates who carried instructions from their governments and who reported back for ratification. To understand the decision one has to understand the legal framework within which these delegates worked. It consisted of three elements: the federal pacts with their tradition of arbitration, the Second Landfrieden of 1531 with its rules for the common lordships, together with the practice of joint government that required the ruling cantons to agree on every question of importance. Each element pointed in a different direction. The solution of 1554 can be read as an attempt to reconcile them.

1 The Second Landfrieden of 1531

The Second War of Kappel ended with the defeat of Zurich at Kappel on 11 October 1531 and the death of Huldrych Zwingli on the battlefield. The peace that followed, the Second Landfrieden, was concluded between the five Catholic cantons and Zurich on 20 November 1531, followed by separate instruments with Bern on 24 November, with Basel on 22 December 1531 and with Schaffhausen on 31 January 1532.¹ It replaced the First Landfrieden of 1529, which had favoured the Reformed side, and fixed the confessional order of the Confederation for more than a century.

The core religious articles confirmed the principle that each canton was free to determine its own religion, in formulations that leaned towards the Catholic reading. For the common lordships, the peace introduced a new rule: individuals and groups were given the right to return to the Catholic faith, while communities that were confessionally mixed were required to divide church property in proportion to their members.² The article operated in one direction. It protected those who wished to return to Rome

but gave no comparable right to those who wished to adopt the Reformed faith after 1531. Hans Ulrich Bächtold, the author of the historical dictionary's article on the peace settlements, describes the result as an asymmetrical protection of Catholic recovery that shaped the confessional map through a selective application of the majority principle.

Applied to Locarno, the Landfrieden had a clear meaning in the eyes of the Catholic cantons. Locarno had been Catholic in 1531. A Reformed community that formed after that date had no protection under the peace. Its members could be treated as heretics under the existing law of the bailiwick, which included the Lombard and canonical rules on heresy. The Reformed cantons read the peace differently. They argued that the Landfrieden guaranteed the faith of each canton and that the subjects of the common lordships, as subjects of Reformed cantons too, could not be punished for professing the faith of some of their sovereigns. The text did not resolve the question, because its drafters had not anticipated a Reformed community forming within a Catholic bailiwick after 1531.

2 Notes

1. Hans Ulrich Bächtold, "Landfriedensbünde", HLS, version of 20 November 2014, <https://hls-dhs-dss.ch/de/articles/009807/2014-11-20/>; Helmut Meyer, "Kappel, guerre di", DSS, version of 12 November 2009, <https://hls-dhs-dss.ch/it/articles/008903/2009-11-12/> (battle of 11 October 1531; Zwingli among the about 500 Zurich dead). ↩
2. Bächtold, "Landfriedensbünde" (above) ("Für die gemeinen Herrschaften galt neu das Recht von Einzelnen oder Gruppen auf Rückkehr zum katholischen Glauben"). ↩

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