

si si no no

"But in your speech, 'Yes, yes,' 'No, no,' and whenever beyond these comes from the culture. (Mt. 5:37)"

March 2000 No. 37

The 1988 Consecrations

This issue of the *Angelus* English-Language edition of *SISISNONO* is the third installment of the second half of a double study regarding the "state of necessity" invoked by Archbishop Lefebvre to justify his consecration of four bishops on June 30, 1988. In our issues of *SISISNONO* of [July](#) and [September](#) of 1999, we discussed the *theological* aspects. Starting with the [November](#) 1999 we are discussing the *canonical* aspects. These remarks are for those who admit the existence of an extraordinary crisis in the Catholic Church but do not know how to justify the extraordinary action of Archbishop Lefebvre on June 30, 1988 when lacking permission from Pope John Paul II, he transmitted the power of episcopal orders to members of the Fraternity founded by him.

CANONICAL STUDY – PART 3

F. The State of Necessity

From what has been seen in Part II of this canonical study of the 1988 Consecrations by Archbishop Lefebvre (*SISISNoNo*, #36 in *The Angelus*, Jan. 2000), it is certain that through the *1983 Code of Canon Law* the attenuating and exempting circumstances have not only *objective* force, but also *subjective* force. This means that the canon is to be applied even if the situation of crisis, such as the state of necessity, of grave fear, *etc.*, exists merely in the mind of the acting subject, that is to say, be it the fruit of his own erroneous judgment, an error which can even be due to his own fault, namely to a culpable ignorance which leads the subject to a "false judgment about some thing."¹ Let us return to the text of canon lawyer Fr. Rudolf Kaschewski, whom we have been quoting from in this series [see *Is Tradition Excommunicated?*, "The Episcopal Consecrations: A Canonical Study," available from Angelus Press. Price: \$7.95].

Even if one were to call to question, or actually deny altogether, the existence of a situation of emergency, as we have described it [i.e., his analysis of the dreadful situation of today's Catholic Church - *Ed.*], the following would still apply:

No one will deny that a bishop who, in the aforementioned situation, consecrates another one, would be *at least subjectively* of the opinion that he is in a situation of necessity such as we have described above. Thus one cannot speak of a premeditated violation of the law: for one who goes against the law but believing even Wrongly that his action is legitimate, does not act in a premeditated way. The *New Code [of 1983]* is even clearer:

- The person who thought, *without fault* on his part, that a circumstance foreseen in Canon 1323, Numbers 4, 5, and 7 applied when he was breaking the law or an administrative order, *does not incur any punishment*.
- The violator of the law is not exempt from all penalty but the penalty laid down in the law or in the administrative order must be mitigated, or a penance must be substituted, if the offense was accomplished by someone believing through an error, even if culpable, that he was in a circumstance foreseen in Canon 1323, Numbers 4 and 5 (Canon 1324, § 1, No. 8)....

Thus those who would suppose that the emergency exists only in the fantasy and the imagination of the bishop concerned could hardly argue that this supposedly erroneous conception would be punishable.

Even if someone were to put it to him that he was guilty for having arrived at such a mistaken notion of the existence of an emergency (not, in fact, existing), still:

- The automatic excommunication could not follow as mentioned in Canon 1382 [i.e., it could not be automatic].
- In any case, an eventual penalty which a judge might apply would have to be more clement than that foreseen in the law, so that here, too, an excommunication would be out of the question.² [All emphasis in original.]

How can it be denied that, in the case of consecrations imposed by necessity, "a bishop is at least subjectively convinced that it is a question of a state of necessity detrimental to souls?" The *1983 Code of Canon Law* protects this very consideration by establishing a true and proper presumption of good faith, since it protects it even when it is erroneous, that is, even when it may be the result of an error of judgment to be ascribed to the acting subject and not to the circumstances. It is evident that the current law renders the application of a *laetæ sententiæ* excommunication to the consecration of a bishop without mandate practically impossible, and that, therefore an excommunication declared in contempt of that *1983 Code of Canon Law* (especially of Canons 1323,1324) must be considered completely invalid with the consequent intrinsic nullity of all the effects which canon law attributes to it.

How was the Holy See able to make such a mess of the case of Archbishop Lefebvre? - It has judged him to have had bad faith. Perhaps, while violating the principle that the Church does not judge internal matters, the Church has conducted a trial on the intentions of Archbishop Lefebvre, something that only God can do.

The "Notice" that appeared in *L' Osservatore Romano* (June 30 – July 1, 1988) addressed the fact that in some circles the *laetæ sententiæ* excommunication was considered completely invalid. *L' Osservatore Romano* took action against Archbishop Lefebvre's intentions by accusing him of bad faith. It said that in this situation "Canon 1323 [of the *1983 Code of Canon Law*] cannot be applied," which considers, as we know, the state of necessity among those reasons that exempt one from penalty. *L' Osservatore Romano* proposed that even the supposed "state of emergency" in the Church was *deliberately created* by Archbishop Lefebvre in order to preserve his position of defending tradition within the Catholic Church!³ This insanely ludicrous proposal does nothing more than show the bad will of *L' Osservatore Romano*! It is clear! Obviously, it felt it necessary to embrace this proposal because saying so means Archbishop Lefebvre acted in bad faith, preventing the application of Canon 1323 and thereby justifying the bogus excommunication!

The "Notice" in question does not mention Canon 1324 at all, which establishes the ten famous attenuating circumstances exempting one from penalty, even in the presence of error imputable to the acting subject. That which we have called the *subjective relevance* concerning the state of necessity, as conceived by the *1983 Code of Canon Law* so as to exclude every action against intentions, is passed over in silence by *L' Osservatore Romano*.

It is sure that the Vatican authorities know canon law. The silence on Canon 1324 has, according to us, a specific reason. Please tell us, how can the supposed bad faith of a bishop who believes (even erroneously!) in a state of necessity in the Church and who acts as he feels he must as a consequence be proven conclusively? It is a proof that can follow only from judgments against his intentions, that is, a proof that is impossible to make. Yet the allusion to bad faith is quite clear in the "Notice." From this, the antagonists will advance the proposal that this "bad faith" arose from a schismatic will which they attribute unjustly to Archbishop Lefebvre. The "Notice" says that the consecrations of bishops in Ecône which were "performed expressly against the will of the Pope," are to be absolutely considered an "act formally schismatic according to the norm of Canon 751 [of the *1983 Code*]", by holding that Archbishop Lefebvre openly refused submission to the Supreme Pontiff and communion with the members of the Church subject to him.⁴ The so-called "schismatic will" of Archbishop Lefebvre will then be used to "prove" his bad faith in invoking the "state of necessity" in the Church. The whole circular argument boils down to its central point: *What is schism?*

Before analyzing schism from the juridical point of view, we want to examine how the non-mention of Canon 1324 [which was heavily discussed in Part II of this canonical study in *SISISNoNo* #36, *The Angelus*, Jan. 2000 - *Ed.*] is tantamount to the exclusion by the Conciliar Church of every possible attenuating circumstance useful to defending Archbishop Lefebvre and those others who, such as Bishop Antonio de Castro Mayer, maintained and are maintaining themselves faithful to the dogmas of the Faith. This has become a constant in the Conciliar Church which has provoked a distorted representation of Canon 1324 of the *1983 Code of Canon Law*.

With this in mind, we make reference to the opinion of the Pontifical Council for the Interpretation of Legislative Texts which attempts to debunk the well-founded thesis of canonist Fr. Gerald Murray regarding the validity of the *laetæ sententiæ* excommunication of Archbishop Lefebvre. Fr. Murray is an American priest who has no connection with the Society of Saint Pius X. The "Murray Thesis," receiving the highest grade at the Pontifical Gregorian University in Rome, holds that the excommunication *laetæ sententiæ* declared against Archbishop Lefebvre, Bishop Antonio de Castro Mayer, and the four bishops consecrated, was not valid according to strict canonical law nor is the accusation of schism valid in the formal sense (see *SISISNoNo*, #36, *The Angelus*, Jan. 2000, p.18). Against the Murray Thesis, the Pontifical Council said:

Nevertheless, the validity of the excommunication of the Bishops, declared by the motu proprio and by the decree, cannot be reasonably doubted. In particular, the possibility of looking for attenuating or nullifying circumstances concerning the imputability of the offense (Canons 1323,1324 of the *1983 Code of Canon Law*) does not seem admissible. As far as concerns the state of necessity in which Archbishop Lefebvre would have been able to find himself, it is necessary to remember that *such a state must exist objectively* and that the necessity of consecrating bishops contrary to the will of the Roman Pontiff, head of the College of Cardinals, never happens [emphasis added].⁵

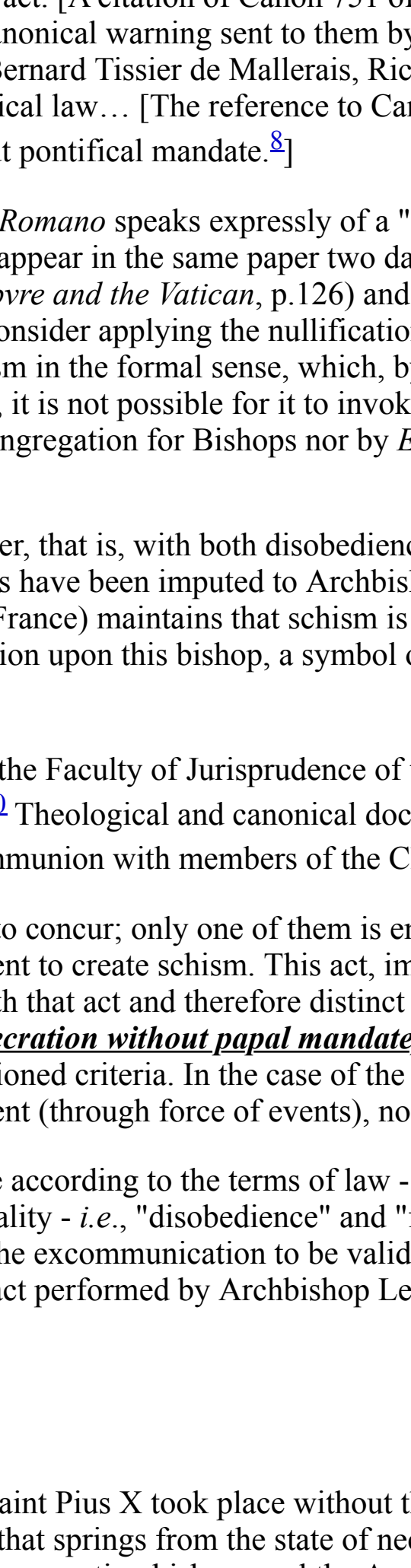
This "clarification" clearly contradicts what is established in the *1983 Code of Canon Law*. It affirms, in fact, that for the 1983 Code the state of necessity "must objectively exist," but in fact, according to the same *1983 Code*, the state of necessity, as we have already shown, can exist only subjectively. Hence, the "clarification" misrepresents the norms in force, as if the *1983 Code* considered the state of necessity only in its objective reality, as is the case of the *1917 Code of Canon Law*. The Pontifical Council passes over in silence the attenuating circumstances that the Holy See should have legitimately considered had it wanted to, in order to prevent the application of a *laetæ sententiæ* excommunication that was not only unjust but also invalid.

G. Schism, and Consecration Without Mandate

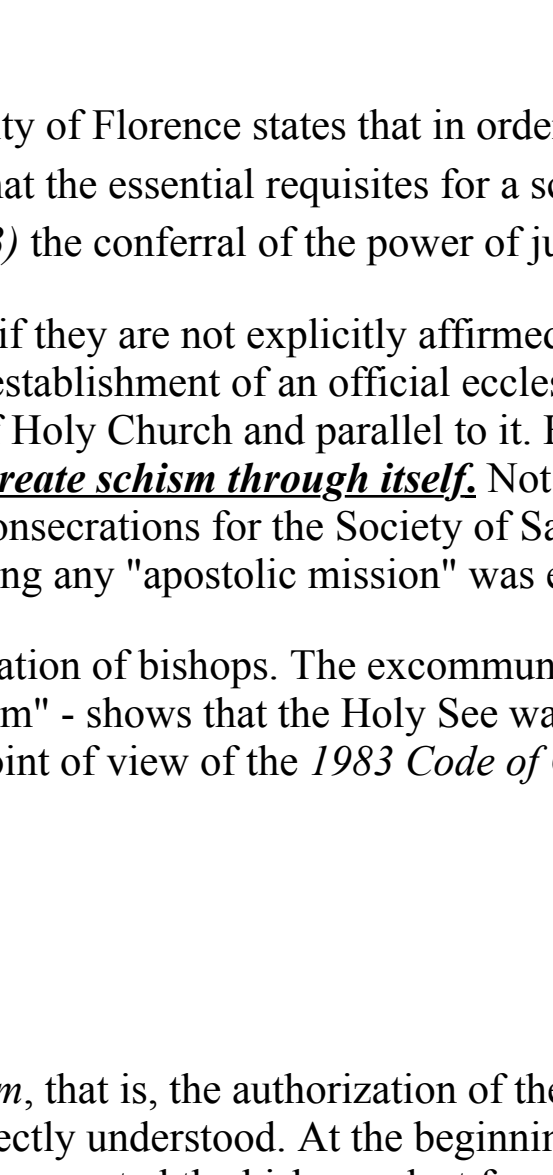
It was written by Prof. Kaschewski and reported above (*SISISNoNo*, Jan. 2000, p.18; also in this issue, p.18) shows how *consecration without pontifical mandate* and *schism* are two totally independent things which by their very nature are not related. They are governed by two distinct canons of the *1983 Code of Canon Law* [i.e., Canon 1382 for consecration without pontifical mandate, and Canon 1364, §1 for schism - *Ed.*] even if the penalty provided is the same.

Nevertheless the documents which declare or explain the condemnation of Archbishop Lefebvre all contain the accusation of schism, and of schism in the formal sense, beginning with the already cited anonymous "Notice" from *L' Osservatore Romano* of June 30 - July 1, 1988, published two days before the official documents of the Holy See. In the "Notice," it is affirmed that, since to "no bishop is it permitted to consecrate anyone as Bishop, unless it is first established that a pontifical mandate has been issued (*1983 Code*, Canon 1013), the episcopal consecrations which took place:

...were performed expressly against the will of the Pope *with a formally schismatic act* according to the norm of Canon 751 , he [Archbishop Lefebvre] having openly refused submission to the Supreme Pontiff and communion with the members of the Church subject to him.



"We are not schismatic and we do not want to found a new Church. Our attachment to the eternal Church is obvious. But today there is an emergency situation. The "modern" Church is apostatizing: it is not doing what it was founded to do. What the Church has always condemned is now permitted: liberalism and communism are acceptable: ecumenism is in the process of destroying our Faith. If I too were to teach error, I would aid in this destruction and the loss of souls."



As a consequence of this, the "Notice" says that:

he cannot even apply Canon 1323, any relevant matter foreseen by him not being verified in this case, since even the alleged "necessity" was deliberately created by Archbishop Lefebvre in order to preserve a posture of separation from the Catholic Church, notwithstanding the offers of communion and the concessions made by the Holy Father John Paul II.⁶

The official declarations of excommunication on the part of Cardinal Gantin Guly 1, 1988) affirm likewise that Archbishop Lefebvre has "...performed a schismatical act by the episcopal consecration of four priests without pontifical mandate and contrary to the will of the Supreme Pontiff...".⁷ Also the motu proprio of the Pope, *Ecclesia Dei Adflicta* July 2, 1988), condemns the consecrations of Ecône as a "schismatic act" using the same faulty theological and canonical reasoning as that in the "Notice":

...In itself, this act was one of disobedience towards the Roman Pontiff in a very grave matter and of supreme importance for the unity of the Church, such as is the ordination of bishops whereby the apostolic succession is sacramentally perpetuated. Hence such disobedience - which implies in practice the rejection of the Roman primacy - constitutes a schismatic act. [A citation of Canon 751 of the *1983 Code of Canon Law* defining "schism" is inserted here. - *Ed.*] In performing such an act, notwithstanding the formal canonical warning sent to them by the Cardinal Prefect of the Congregation for Bishops on June 17 last, Archbishop Lefebvre and the priests Bernard Fellay, Bernard Tissier de Mallerais, Richard Williamson, and Alfonso de Galaretta, have incurred the grave penalty of excommunication envisaged by ecclesiastical law... [The reference to Canon 1382 is inserted here which, as we know, provides for *laetæ sententiæ* excommunication for consecration without pontifical mandate.⁸]

Only the anonymous "Notice" of *L'Osservatore Romano* speaks expressly of a "formally" schismatic act. As already mentioned, this "Notice" furnishes the so-called "canonical motivation" for the condemnation which would appear in the same paper two days later (July 3) with the simultaneous publication of the Decree of the Office of the Congregation for Bishops (see *Archbishop Lefebvre and the Vatican*, p.126) and of the motu proprio, *Ecclesia Dei Adflicta*. The "Notice" is therefore of extreme importance because it makes clear that the Vatican did not consider applying the nullifications provided by Canon 1323 of the *1983 Code of Canon Law* because it accused Archbishop Lefebvre of giving life to a true and proper schism in the formal sense, which, by definition, is manifested by the denial of the primacy of Peter and the creation of a parallel "Church." This being the mindset of the Vatican, it is not possible for it to invoke any circumstance nullifying imputability. This impatency of schism by the Vatican was not repudiated by the Decree of the Office of the Congregation for Bishops nor by *Ecclesia Dei Adflicta*, although both use the adjective "schismatic" without the adverb "formally."

Archbishop Lefebvre has been charged twice over, that is, with both disobedience and schism in the formal sense. Be it the one or the other, they cause the acting subject to incur excommunication *ipso iure*. If after two offenses have been imputed to Archbishop Lefebvre, has he incurred *two* excommunications at the same time? The dean of the faculty of Canon Law at the *Institut Catholique* (Paris, France) maintains that schism is not created *per se* by the consecration of a bishop without papal mandate. What causes schism is the subsequent conferral of an Apostolic Mission upon this bishop, a symbol of the usurpation of power by the Supreme Pontiff proving one wishes to constitute a parallel Church.⁹

On the same note, the canonist Neri Capponi of the Faculty of Jurisprudence of the University of Florence states that in order to consummate a schism, Archbishop Lefebvre would have had to establish his own hierarchy.¹⁰ Theological and canonical doctrine hold that the essential requisites for a schism in the formal sense consist in 1) the express denial of the papal primacy; 2) the denial of communion with members of the Church, and 3) the conferral of the power of jurisdiction.¹¹

The first two requisites do not necessarily have to concur; only one of them is enough. And if they are not explicitly affirmed, by themselves or together, the act of the conferring of the power of jurisdiction is sufficient to create schism. This act, implying the establishment of an official ecclesiastical jurisdiction over a determinate territory, causes a *plene heresis* to be born, created with that act and therefore distinct from that of Holy Church and parallel to it. Here we have a formal rupture of unity. *The act of disobedience alone (such as an episcopal consecration without papal mandate) does not create schism through itself*. Nor every act of disobedience is schismatic, but only those that meet any or all of the three aforementioned criteria. In the case of the episcopal consecrations for the Society of Saint Pius X, nothing done applies to be called "schismatic." Though, yes, the act was disobedient (through force of events), no act conferring any "apostolic mission" was ever performed.

The act imputed to the Archbishop was only one according to the terms of law - the consecration of bishops. The excommunication is, therefore, one only. But the fact that one unique act has received two imputations of illegality - i.e., "disobedience" and "formal schism" - shows that the Holy See wanted to establish an intrinsic relation between the *consecration without mandate* and *schism*. For the excommunication to be valid from the point of view of the *1983 Code of Canon Law*, the connection of these two different imputations must find its foundation in the one act performed by Archbishop Lefebvre.

H. The "Mandate" at Ecône

The episcopal consecrations for the Society of Saint Pius X took place without the *mandatum*, that is, the authorization of the pope. Nevertheless a *mandatum* was read during the ceremony. With what right? - With the right that springs from the state of necessity, correctly understood. At the beginning of the rite of consecration of the four bishops, the following dialogue took place between the consecrating bishops and the Archpriest who presented the bishops-elect for consecration:

Do you have an apostolic mandate?
We have it!
Let it be read.

We have this Mandate from the Roman Church, always faithful to the Holy Tradition which She has received from the Holy Apostles. This Holy Tradition is the Deposit of Faith which the Church orders us to faithfully transmit to all men for the salvation of their souls...¹²

If the authorities of the Church refuse their permission for an episcopal consecration required by the state of necessity created by a Catholic clergy infected with postmodernist errors and which no longer transmits the deposit of the Faith, then it is totally legitimate to hold that the "Roman Church" of 19 centuries (excluding Vatican II) "orders" those who have remained faithful to the Magisterium to "faithfully transmit" the Deposit of the Faith for the salvation of souls. The "authorization" of Archbishop Lefebvre to consecrate these bishops comes from the Catholic Church of All Time and its Head of All Time. Our Lord Jesus Christ is the Head of the Church, not properly the Holy Father, who by definition is only its Vicar *pro tempore*. If, in a case like the consecration of these four bishops, the earthly ruler refuses to authorize an act required by the public and general necessity and totally in accordance with the Church of All Time, it is lawful to maintain that the Church supplies jurisdiction.

A *mandatum* conceived in this manner is totally legitimate from both the theological and canonical points of view.

After having declined in the first part of the *mandatum* the Authority which conferred this mandate, the dialogue continued:

...Since the Second Vatican Council to this day, the authorities of the Roman Church are animated by the spirit of modernism. They have acted contrary to the Holy Tradition since "...there shall be a time when they will endure sound doctrine;...and will no longer turn away their hearing from the truth, but will be turned to fables..." as says St. Paul in second Epistle to Timothy (II Tim. 4:3-5). This is why we reckon of no value all the penalties and all the censures inflicted by these authorities.¹³

That which is affirmed here is not a refusal of submission to the Pope nor a refusal of communion with the members of the Church. And neither is it the denial of the authority of the present hierarchy, insofar as it is the legitimate Catholic hierarchy. More simply, validity is denied to "penalties and censures" inflicted or declared by an authority which at the present moment is infected by a postmodernist spirit and professing grave errors and ambiguities such as to lead souls into error.

In this case, the understanding of the authority of the Holy Father to govern the Catholic Church is not taken in a purely formal sense, that is to say that, as though his authority extends to making valid everything the pope says or does simply by the fact alone that he is formally invested with the authority of the papacy. *This* simplistic idea of authority has never been Catholic. On the contrary, the perennial principle prevails, that is, "The corruption of law is not law." Therefore it is not enough that authority be legitimate, it is also necessary that its commands are legitimate and do not contradict the reason for being of the authority itself. The sole reason for papal authority is that the Holy Father propagate the Faith and extricate heresy.

If authority is clearly infected by a postmodernist spirit, the spirit of heresy which has penetrated the Church through Vatican II documents like *Lumen Gentium* [which gives a new definition of the Catholic Church (88) contrary to that given by the Church herself for 19 centuries and thus placing the Church in contradiction with herself - *Ed.*], if legitimate authority shows itself by consistent and various acts and declarations to have lost the sense of the Catholic Faith, then let it be resolved that it is lawful to often ask how much value ought to be attributed to the decisions of the Conciliar Church and if it ought to be always unquestionably obeyed as expressing the will of the God.

All actions made in the spirit of postmodernism and hence manifestly in contradiction with the purposes of the Church are "devoid of weight" and therefore invalid. On the contrary, when Pope John Paul II reaffirms in conformity to Tradition the prohibition against women being ordained priests (*L' Osservatore Romano*, May 30-31, 1994), this action is unquestionably valid because it corresponds to the doctrine and purposes of the Holy Church of All Time. When, however, the same Pontiff declares Archbishop Lefebvre - a bishop most faithful to the papal primacy, whose desire owing to the urgency of the age was to call to consecrate bishops to preserve the life of his priestly fraternity which Rome had enthusiastically approved and which was found unapproachable in doctrine and ecclesiastical discipline, devoted to the formation of priests for the purpose of helping souls in the state of grave general necessity - to have incurred a *laetæ sententiæ* excommunication, we call this action invalid in the substantial plane, considered apart from the formal plane already examined (i.e., constituted by conformity to what has been established expressly by the pertinent canons of the *1983 Code of Canon Law*, which nevertheless we claim exclude the possibility of Archbishop Lefebvre's excommunication *ipso iure* - *Ed.*). The action is invalid and without weight because it wishes to exclude from the Catholic Church the defenders of Tradition with totally unfounded theological and canonical imputations because these defenders do not accept the New Theology's concept of "living" Tradition proposed by Pope John Paul II and other members of the present hierarchy.

Rejecting the validity for "penalties and censures" inflicted with a "modernist spirit" by Vatican authority does not indicate a rejection of the legitimacy of this authority insofar as with this denial we do not confess any act of schism. It indicates that we declare unacceptable and invalid every act of authority that is contrary to the preservation and perpetuation of the doctrine of the Catholic Faith.

Among these acts considered invalid are the suppression of the seminary of Ecône and subsequent founding of Archbishop Lefebvre's *divinis*. The latter is to be judged invalid because the Vatican did not consider the state of necessity in which Archbishop Lefebvre found himself as a consequence of the illegitimate suppression of the Ecône seminary.

The *mandatum* of the episcopal consecrations reaffirmed a truth in the form of a general principle which implies, in the concrete case, the invalidity *a priori* of the penalties and censures already inflicted or to be declared by an authority that is fundamentally postmodern and acting with a false notion of Tradition.

The Vatican's false notion of Tradition shows up in an explicit manner in the motu proprio *Ecclesia Dei Adflicta* where Archbishop Lefebvre is accused of having accomplished an act to be considered schismatic for not having sufficiently embraced "the living character of Tradition."¹⁴ In the language of modernism, "living tradition" is tradition as understood by the New Theology, and not the tradition which the Magisterium of the Church has always understood. "Living tradition" moves (that is, lives) by a dynamic concept, moving to see truth evolve and see that evolution applied to Church doctrine, whose content is no longer unchanging but must be updated to the times. Thus in the already cited §8 of the Vatican II document, *Lumen Gentium*, the notion of the Catholic Church is adapted to the demands of ecumenism, fundamentally denying that the Catholic Church is the one and only Church of Christ, that the Christian denominations which cut themselves off from Her are not the Church of Christ. The notion of "living tradition" in the New Theology is nothing more than passing off as being in harmony with true Catholic Tradition any adaptations to the falsehoods of heretics and schismatics by the Conciliar Church of the past 40 years.

The *mandatum* concludes with the explicit, official motivation of the episcopal consecrations of 1988:

As for me, "I am even now ready to be sacrificed; and the time of my dissolution is at hand" (II Tim. 4:6). I heed the call of souls who ask for the Bread of Life. Who is Christ, to be broken for them. "I have pity upon the crowd" (Mk. 8:2). It is for me therefore a grave obligation to transmit the grace of my episcopacy to these dear priests here present, in order that in turn they may confer the grace of the priesthood on other numerous and holy clerics, instructed in the Holy Traditions of the Catholic Church.

It is by the Mandate of the Holy Roman Catholic Church always faithful, then, that we elect to the rank of bishop in the Holy Roman Catholic Church the priests here present as auxiliaries of the Priestly Society of Saint Pius X: Fr. Bernard Tissier de Mallerais, Fr. Richard Williamson, Fr. Alfonso de Galaretta, Fr. Bernard Fellay.¹⁵

The text is most clear. On account of the state of necessity in which he had come to find himself, Archbishop Lefebvre knew he had to "transmit his episcopal grace" without further delay to other priests, satisfying the legitimate expectations of seminarians and faithful, for the salvation of their souls. To the bishops consecrated by him he gave the power of *order*, not the power of *jurisdiction*, so that they "might be best called "auxiliaries" of the Society of Saint Pius X.

Archbishop Lefebvre was consistent with the general stance taken and maintained by him for a long time. In the letter addressed to the future bishops, already prepared on August 28, 1987, in which he was inviting them to take upon themselves this grave responsibility, it was declared in an explicit manner that he would confer on them only the power of order:

[T]he principal object of this transmission [of my episcopal grace - *Ed.*] is that of conferring the grace of the sacerdotal order for the continuation of the True Sacrifice of the Holy Mass and to confer the grace of the sacrament of Confirmation to children and the faithful who ask it of them.¹⁶

So you see, there is no intention to create a parallel hierarchy, and therefore, no power of territorial jurisdiction conferred. The jurisdiction that he did confer was *unicamente supplita ad usum*, that is, a jurisdiction to exercise on a case-by-case basis at the request of souls in the state of necessity.

Even more important for showing the consistency and good faith of Archbishop Lefebvre is what he wrote Pope John Paul II (Feb. 20, 1988) six weeks after a presumably favorable report had been given the Holy Father by Edward Cardinal Gagnon, President of the Pontifical Council for the Family, who had been assigned by the Vatican to make an Apostolic Visitation to seminaries, schools, and priories of the Society of Saint Pius X. Told by Cardinal Gagnon the Pope had read the report and yet not receiving any response from the Holy Father, Archbishop Lefebvre writes this letter to Pope John Paul II expressing once again the three requirements he understood to be necessary for a happy resolution of problems: 1) a Roman Secretariat composed exclusively of members chosen from within Tradition; 2) consecration of several bishops to be decided on or before June 30, 1988; and 3) exemption *vis-à-vis* the local Ordinaries. It is the part of this letter which talks about the *second* of these requirements that we quote:

2) The consecration of bishops succeeding me in my apostolate appears indispensable and urgent

For the first designation, and while waiting for the Roman Office to assume its functions, it seems to me that you can entrust it to me, as is done with the Eastern patriarchs.

If this is agreed to in principle, I will present the names [of the episcopal candidates - *Ed.*] to Cardinal Gagnon.

The second point is the most urgent one to be resolved, given my age and my fatigue. It is now two years that I have not done any ordinations at the seminary in the United States [in Ridgfield, CT at the time - *Ed.*] The seminarians ardently aspire to be ordained, but I no longer have the health to be crossing oceans.

This is why I entreat Your Holiness to resolve this point before June 30 of this year.

These bishops would be in the situation *vis-à-vis* Rome and *vis-à-vis* their Society [i.e., the Society of Saint Pius X - *Ed.*] that the missionary bishops were *vis-à-vis* the Congregation for the Propagation of the Faith and their own Society. Instead of a territorial jurisdiction, they would have a jurisdiction over individuals.

It goes without saying that the bishops would always be chosen from among priests of Tradition.¹⁷

From this text, the state of necessity for the Church and in the person of Archbishop Lefebvre himself clearly appears. What is more interesting is the qualification he gives concerning the jurisdiction of the future bishops. There is no question here of threatening a schism. Archbishop Lefebvre is inspired with the precedent familiar within the Church of the "missionary bishop," a *prelate devoid of territorial jurisdiction, with a jurisdiction only over individuals*. These individuals are not predetermined by belonging to any particular diocese, but are those who would be qualified before the bishop as persons in need of an act of his power of order.

Archbishop Lefebvre remained faithful to this letter to the Holy Father and to the *mandatum* of the consecrations by conferring only the power of order upon the four bishops consecrated by him. While it can be maintained that the bishops consecrated by him are not exactly identical to "missionary bishops," it can be said that the "auxiliary" bishops of the Society of Saint Pius X are effectively "missionary," because they have received (only) a power of order to be exercised with a supplied jurisdiction over individuals.¹⁸

Causidicus (edited and abridged by Rev. Fro Kenneth Novak)

[This article continues in a third episode the *canonical* aspect of the double study of the 1988 Episcopal Consecration of Archbishop Lefebvre. The *SISISNoNo* issues of July and September (1999) dealt with the *theological* aspect. The fourth installment of the canonical study will appear in the May 2000 issue of *SISISNoNo*. - *Ed.*]

1. This is the doctrinal definition of "Error" as found in *Commento al Codice di Diritto Canonico [a.k.a., Commento]*, p.761: "Error, which is in reference to an action done out of ignorance, is a false judgment about some thing." As regards ignorance, it is "the lack of due knowledge, that is, an habitual state." It can be culpable (i.e., "slight, grave, crass or supine, affected or fully deliberate"). Ignorance that "removes all penal imputability is only that which is incurable" (*op. cit.*, p.761).

2. See *Is Tradition Excommunicated?*, "The Episcopal Consecrations: A Canonical Study," by Rev. Fr. Rudolf Kaschewski, pp.108,109 [available from Angelus Press. Price: \$7.95]. Translated from *Una Voce Korrespondenz*, March-April 1988.

3. *L' Osservatore Romano*, cit.

4. *L' Osservatore Romano*, cit. Canon 751 of the *1983 Code of Canon Law* reads: "Heresy is the obstinate denial or doubt, after baptism, of a truth which must be believed by divine and Catholic faith. Apostasy is the total repudiation of the christian faith. Schism is the withdrawal of submission to the Supreme Pontiff or from communion with the members of the Church subject to him."

5. *Mise au point du Conseil Pontifical pour l'Interpretation des textes legislatifs in La documentation catholique*, 79 (1997), 2163, of July 6, 1997, p.529.

6. *L' Osservatore Romano*, 3 July 1988.

7. *Archbishop Lefebvre and the Vatican*, pp.126 (available from Angelus Press).

8. *Ibid.*, pp.126,127.

9. *Valueurs Actuelles*, July 4, 1988, p.18.

10. Interview in *The Latin Mass*, Summer, 1993.

11. The word "Schism," written by Fr. Yves Congar, in the *Dictionnaire de Theologie Catholique*, XIV, col.1286-1301; col.1299 ff. See also the words "Schisme" and "Schismaticum" in the *Dictionnaire de Theologie Catholique*, col. 886,887.

12. Excerpted from *Archbishop Lefebvre and the Vatican*, p.123. For the text in Latin, see *Fraternite S. Pie X. Bulletin Officiel du District de France*, July 13, 1988, n.10, p.2.

13. *Archbishop Lefebvre and the Vatican*, p.123.

14. *L' Osservatore Romano*, July 3, 1988, cit.

15. *Archbishop Lefebvre and the Vatican*, cit.

16. *Fideliter*, June 29-30, 1988.

17. *Archbishop Lefebvre and the Vatican*, pp.42,43.

18. The bishops consecrated as "auxiliaries" of the Society of Saint Pius X are not to be included in the category of "auxiliary bishop" without "right of succession," referred to in Canon 403, § 1 of the *1983 Code of Canon Law*. These latter enjoy the power of jurisdiction over the territory of a diocese, being placed alongside [*a latere*] the diocesan bishop when "he is not able personally to fulfil all the episcopal offices as the good of souls would demand" (*Commento*, cit., p.241). It must be remembered that jurisdiction *in actu supplita* is not the same as *in actu exercitia* referred to in §2 of the *Nota Praevia* affixed to *Lumen Gentium*, this latter always resulting from a canonical mission. That which justifies jurisdiction *supplita* in *actu exercitia* is especially the state of necessity, in particular in the case of grave error and of heresy which have been publicly spread, and also above all on account of a temporary cessation of the authority of the official Church. In a similar situation, *grave* necessity of the many which is effected by a danger of seduction to error is equated by unanimous teaching to the *extreme* necessity of the individual as can be had in the danger of death.