

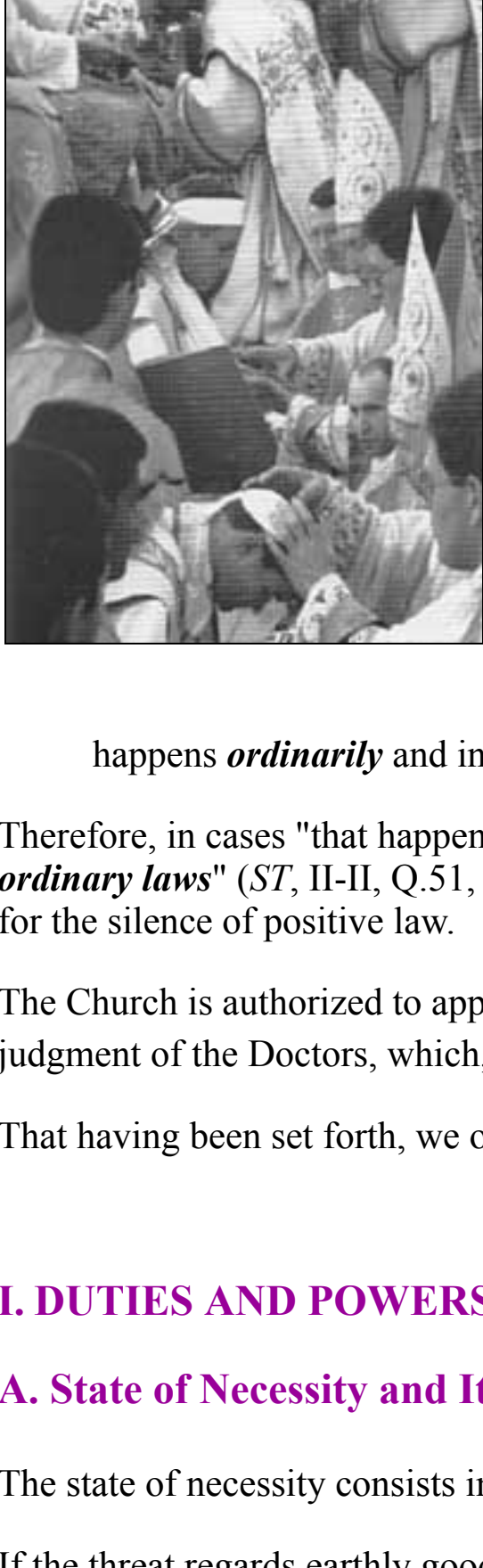


sisinono

"But he can speak his 'Yes,' his 'No,' and whatever is beyond these comes from the will alone. (Ib. 5.3.97)"

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The 1988 Consecrations



This issue of the *Angelus* English-Language edition of *ISISINONO* begins a series of two studies - one theological and one canonical - regarding the "state of necessity" invoked by Archbishop Lefebvre to justify his consecration of four bishops on June 30, 1988. These remarks are for those who admit the existence of an extraordinary crisis in the Church but do not know how to justify the extraordinary action of Archbishop Lefebvre on June 10, 1988 when, lacking permission from Pope John Paul II, he transmitted the power of episcopal orders to members of the Fraternity founded by him.

THEOLOGICAL STUDY - PART I

Archbishop Lefebvre justified his act by appealing to the state of necessity. The force of this excusing cause was not undervalued by Vatican authorities, who did not contest it on the doctrinal level, but responded with an argument of fact, namely, that there was not a state of necessity¹, knowing full well that, if it had been, the action of Archbishop Lefebvre would have been fully justified, even as much as it concerns the "no" of the Pope, according to Catholic doctrine on the state of necessity.

The strength of the justification advanced by Archbishop Lefebvre escapes, on the contrary, most people through the simple fact that Catholic doctrine on the state of necessity is little known. We will try to explain it. The principles we will use are found in any traditional treatises regarding moral law or canon law. It is an absurdity to admit an extraordinary crisis in the Church and, at the same time, to pretend to measure what has been done in such *extraordinary* circumstances with the rule of norms valid in *ordinary* circumstances. It is contrary to logic and to the doctrine of the Church. Law, in fact:

...ought to be established on the *more ordinary* conditions of social life and, in consequence, *necessarily leaves out of consideration* those things which occur only rarely [emphasis added].²

St. Thomas Aquinas reinforces this principle:

Universal laws... are established for the good of the whole. Therefore, in establishing them the legislator bears in mind that which happens *ordinarily* and in the *greater number of the cases* (Summa Theologiae, II-II, Q.147, A.4) [emphasis added].

Therefore, in cases "that happen rarely" and in which "one happens to have to act outside the ordinary laws," "it is necessary to judge on the basis of *principles higher than the ordinary laws*" (ST, II-II, Q.51, A.4). These "higher principles" are the "general principles of divine and even human law" (Suarez, *De Legibus* I. VI c. VI n.5) which supply for the silence of positive law.

The Church is authorized to apply said principles when, because of cases not foreseen by the law, it defers to the general principles of law and to the common and constant judgment of the Doctors, which, precisely because common and constant, must be considered canonized by the Church.³

That having been set forth, we offer for the convenience of readers a summary of the arguments that we will treat here in succession.

I. DUTIES AND POWERS OF A BISHOP IN THE STATE OF NECESSITY

A. State of Necessity and Its Various Degrees

The state of necessity consists in "a threat to the spiritual goods of life, of liberty or other earthly goods."⁴

If the threat regards earthly goods, we have *material* necessity; if it regards spiritual goods, we have *spiritual* necessity, a necessity all the "more urgent than that material" to the extent that spiritual goods are more important than material goods.⁵

In reality various degrees of spiritual necessity can be given, but theologians commonly distinguish five of them:

- 1) *ordinary* (or *common*) *spiritual necessity* is that in which any sinner finds himself in ordinary circumstances;
 - 2) *grave spiritual necessity* is that when a soul finds herself threatened in spiritual goods of great importance (e.g., faith and morals);
 - 3) *spiritual necessity almost extreme* is the status of a soul which, without someone else's help, could be rescued only with great difficulty;
 - 4) *extreme spiritual necessity* is that status of a soul is situated which, without the help of someone else, could not be able to be saved or would be able to do so with such difficulty that her salvation would be considered morally impossible;
 - 5) *grave general* (or *public*) *spiritual necessity* is that when several souls find themselves threatened in spiritual goods of great importance (e.g., faith and morals).
- Canonists and theologians commonly adduce as examples of grave general or public spiritual necessity epidemics and the *public spreading of a heresy* [emphasis added].⁶

B. Today's State of Grave General Spiritual Necessity

Today a state of grave general (or public) spiritual necessity exists because many Catholics are threatened in faith and morals by the *public* and undisputed spreading neo-modernism or self-styled "new theology," already condemned by Pope Pius XII as the assembly of error which "threaten to destroy the foundations of the Catholic Faith,"⁷ a revival of that modernism previously condemned by Pope St. Pius X as "the synthesis of all heresies."⁸

This public diffusion of errors and of heresies was dramatically denounced by Pope Paul VI who went so as to speak of the "auto-destruction" of the Church⁹ and the "smoke of Satan in the temple of God,"¹⁰ and was admitted by Pope John Paul II at the beginning of his pontificate on the occasion of a Congress on missions people:

There is need to admit realistically and with a deep and sober sensibility that Christians today, for the most part, are dismayed, confused, perplexed and even frustrated; ideas conflicting with revealed and constantly taught Truth have been scattered by handbills; true and real heresies in the sphere of dogma and morals have been spread, creating doubts, confusions, rebellions, the liturgy has been violated; immersed in intellectual and moral "relativism," and therefore in "permissiveness," Christians have been allured by atheism, by agnosticism, by a vaguely moralistic enlightenment, by a socialistic Christianity, without defined dogma and without objective morals.¹¹

There is, therefore, a state of grave public or general necessity: grave, because faith and morals have been threatened; public or general, because these spirit goods, indispensable to salvation, have been threatened among a *large part* of the Christian people. The situation has grown worse after 20 years of Pope John Paul II.

It was believed [Pope Paul VI once acknowledged] that after the Council there would have come a sunny day in the history of the Church. There came, on the contrary, a day of clouds, of storm, of doubt.¹²

Under these "clouds," in this "storm," amidst these "doubts," souls nevertheless must direct their course to the harbor of eternal salvation in the brief time of trial allotted to them. Who can deny that today, generally, many souls live in a state of "grave spiritual necessity?"

1. 1st Principle: the Grave Necessity of Many Is Equated with the Grave Necessity of the Individual

It is the common doctrine of theologians and canonists that the grave necessity of *many* (either general or public) must be equated with the grave necessity of the *individual* (P. Palazzini, *Dictionarium Morale et Canonium*, vol. I, p. 571). This is a fundamental principle because it means that that which is lawful in the extreme necessity of the individual is lawful in the grave necessity of many. Theologians explain the reasons for this:

- 1) because among many persons in grave necessity individual souls in the state of extreme necessity are not lacking, e.g., in an epidemic souls not capable of an act of perfect contrition are not lacking and that in order to be saved, therefore, have need of sacramental absolution. Likewise, if a heresy has been spread, souls unable to defend themselves from the sophisms of the heretics are not lacking and hence are in danger of losing their faith;¹³
- 2) because the grave spiritual necessity of many is a threat as well to the *common good* of Christian society. Not only is there not a spiritual necessity of many which does not become extreme for individual persons, but "in such kind of necessity the Christian religion itself and its honor are very nearly always in grave danger."¹⁵

The common good must be considered in danger not only when 1) many effectively suffer harm, but also 2) when they *are* able to suffer it. In the first application to our case, people lose the faith; in the second, they are not to lose it if, in fact, only *one* objective cause exists which renders this damage possible.¹⁴ The spread of errors and heresies already condemned by the Church is sufficient for judging the danger to the common good. These expose the old generations to the loss of faith and deprive the new generations of the integral transmission of doctrine. Both old and young are robbed of the goods due to them by the hierarchy according to the norms of divine law, natural and positive, and also according to the norms of ecclesial law (1917 *Code of Canon Law*, can. 682; 1983 *Code of Canon Law*, can. 213), doctrine, and the sacraments, the rites of which today have been left to "creativity," as denounced by Pope Pius XII.

Private individuals, therefore, even though they be clerics, may not be left to decide for themselves in these holy and venerable matters [*Mediator Dei* (1947), available from Angelus Press. Price: \$2.50].

This is enough to say that today not only do many souls live in the state of grave necessity. The "double end which the Church pursues: the good of the religious community and the eternal salvation [of souls]"¹⁵ has been compromised and "the very sense and scope of the whole life of the Church [Pope Pius XII]"¹⁶ and, hence, the common good, is at stake.

2. 2nd Principle: The Grave General Necessity Without Hope Of Help On the Part of Legitimate Pastors Imposes an Obligation of Assistance Upon Clerics

Who is responsible for helping souls in the state of necessity? By way of justice (*ex officio*) it belongs to the legitimate pastors, but if, for any reason, their help happens to be lacking, this duty falls, by way of charity (*ex caritate*), up on anyone who has the possibility of offering help.⁹ St. Alphonsus and Suarez observe that the power of order adds to the duty of charity a *duty of state*, that is, the duty of the sacerdotal state - instituted by Our Lord precisely for assisting the spiritual needs of souls.¹⁷

Note that the duty of charity imposed by the need of souls is a duty under pain of mortal sin. In fact, the greatest commandment, the commandment of charity, obliges coming to the aid of one's neighbor in necessity, especially spiritual, and demands it under pain of mortal sin in extreme or near-extreme necessity of the individual and in the grave necessity of many, which is equivalent to it.¹⁸ Rev. Fr. E. Genicot, S.J., writes that:

...it can be grave [thus "sinning mortally by omitting it - *Ed*] obligation to aid people who otherwise, through the efforts of heretics and unbelievers, would lose the faith, especially because at times it is morally impossible for the more simple to recognize their sophisms and hence many will probably be in extreme necessity."¹⁹

This duty of charity in some cases can oblige also at the risk of one's own life, reputation, and goods. St. Alphonsus says that grave public or general spiritual necessity obliges in this way and that therefore:

...one is held at the risk of life to administer the sacraments to people who otherwise would be in danger of losing the faith.²⁰

Suarez is of the same mind:

If I knew that a heresy is being preached among the people by heretics, I would be held to oppose myself to it even in spite of peril to me.²¹

At his time, Billuart writes:

...[I]f a heretic preaches a whole community with a false doctrine, a private individual [e.g., the simple faithful or the priest who is not officially invested with the care of those souls - *Ed*] is held, when he is able to do it, to obstruct it at the risk of his life. If, in fact, anyone is found to assist at the risk of life the common *temporal* good, [how much] greater is the *spiritual* good. All the more in the case where many individuals are bound in extreme necessity.²²

a.) Today's State of Grave General Necessity Without Hope of Help on the Part of Legitimate Pastors

The grave general or public necessity for the souls of today is without hope on the part of the legitimate pastors because these generally are swept away or paralyzed by the neo-modernistic course of the Church. Contradiction to revealed truth is championed by the hierarchy or it is silent or in collusion.

...[I]deas conflicting with revealed and constantly taught Truth, true and real heresies in the sphere of dogmas and morals [through which] Christians today are dismayed, confused, perplexed, ...²³

The Church finds herself in a time of unrest, of self-criticism, it could even be said of auto-destruction. It is almost as if the Church assaults her very Self [Pope Paul VI].²

This last admission amounts to saying that today the Church and souls are attacked by the very ministers of the Church as at the time of Arianism, when "the priests of Christ were contending against Christ."²⁴

Romano Amerio in *Iota Unum* [available from Angelus Press. Price: \$24.95] has been able to document the doctrinal deviations of the Vatican Council II with conciliar texts, acts of the Holy See, papal allocutions, declarations of cardinals and bishops, pronouncements of Episcopal conferences, and articles from *L'Observatore Romano*.

That is to say, traditional Rome condemns neo-protestant Rome with "official or unofficial disclosures of the Church hierarchy"²⁵ arriving at the conclusion that:

...the doctrinal corruption has ceased to be a phenomenon of little esoteric circles and has become a public action of the ecclesial body in sermons, books, schools, and catechisms.²⁶

In *Iota Unum* Romano Amerio illustrates the renunciation on the part of the Holy Father to exercise the power received from Christ Our Lord in order to condemn error and extirpate the ones erring.²⁶ Pope Paul VI admitted:

...so many expect from the Pope outspoken actions and energetic decisions. The Pope cannot consider any other possibility [of action] than that of confidence in Jesus Christ, for Whom His Church matters more than anything else. It will be up to him to calm the tempest.²⁷

Fine and good, but this does not exempt Peter from maintaining the place of Christ in the government of the Church by taking hold of the rudder again and straightening it out! Regarding the pontificate of Pope John Paul II, the following declaration of the prefect of the Congregation of the Doctrine of the Faith, Joseph Card. Ratzinger, to the Chilean Episcopal Conference (1988) says it all:

...[T]he myth of Vatican hardness in the face of progressivist deviations has been shown to be an empty speculation. Basically, as of today, only admissions have been issued [which are] in no case fully canonical in the proper sense.²⁸

The abandonment of utilizing supreme papal authority in the face of error and the ones erring endorses the abandonment of every other authority in the Church. Cardinal Ratzinger continued at the same episcopal conference:

The same bishop, who, before the [Second Vatican] Council, used to have an irreproachable professor expelled for somewhat uncouth speech, is in no position to remove, after the Council, a teacher who is denying openly some fundamental truth of the Faith.

Now, whenever souls are not able to hope for help from the legitimate pastors, there is imposed upon anyone having the possibility the duty under pain of mortal sin of offering help to Catholics in large part perished by atheism, by agnosticism, by a sociological Christianity, without defined dogma and without objective morals, and this duty falls first of all upon the bishops and then the priests, because the failure to help souls in the state of spiritual necessity is a matter not only contrary to the precept of charity, but is also a matter "directly inconsistent with the episcopal and sacerdotal state...in direct conflict with the episcopal and sacerdotal state (Suarez)."

b.) The Duty of Temporary Substitution on the Part of Bishops

This duty of assistance is especially imposed upon the Bishops. Cardinal Journet writes that the papacy and the episcopate:

...are two forms, one independent...; the other subordinate to one and the same power that comes from Christ and is ordered to the eternal salvation of souls.²⁸

In plain words, the pope and bishops are in the Church through divine positive law as husband and wife are in the family through divine natural law. The bishop is subordinate to the pope, just as the wife must be to her husband, but both ordered to the same end, that is, the good of the Church and the salvation of souls. As the duty is imposed upon the wife to substitute (within the limits of her capabilities) for her husband if, with or without fault, he is delinquent in his office, so the duty is imposed upon bishops to substitute (within the limits their capabilities) for the pope if, with or without fault, does not provide for the necessity of souls.

3) 3rd Principle: The Obligation of Assistance Is Coextensive With the Power of Order (But Not of Jurisdiction). The Power of Jurisdiction Springs From the Necessity of the Faithful.

In necessity one is bound to offer help, while it is needed, within the limits of one's possibilities, which, for a priest or bishop, means within the limits of their own power of Order. It is in account of this that in the extreme necessity of the individual and in the grave necessity of many, any priest is bound under pain of mortal sin to give sacramental absolution, even if deprived of jurisdiction.²⁹ St. Alphonsus writes that even:

...the excommunicated *viandus*, if he can validly administer the sacraments, is bound to administer them in danger of death on account of divine and natural precept to which the human precept of the Church would not be able to oppose itself.³⁰

In brief, as long as the extreme necessity of the individual or the grave necessity of many demands it, one can *lawfully*, indeed, one must under pain of mortal sin do all that he is able to do *validly* in virtue of the power of order. The necessary jurisdiction is acquired at the request of souls. The 1917 *Code of Canon Law* (can. 2261, §2.3) states that the faithful can "on account of any just cause" demand the sacraments from an excommunicated priest [whom the Church has deprived of jurisdiction] and at that time the one excommunicated, so requested, can administer them. Fr. Hugueny, O.P. remarks that "the demand [of the faithful] gives to the excommunicated priest the power of administering the sacraments."³⁰ This means that, in necessity, the exercise of the power of order to the full extent necessary is called into act not by the will of the hierarchical superior, but directly by the state of necessity. "The action otherwise prohibited... is rendered licit and permitted by the state of necessity." [*Catholic Encyclopedia*, on "Necessity (State of)"]

In such extraordinary circumstances, the jurisdiction lacking is said to be supplied by the Church. The Council of Trent (Sess. XIV, c.7) [Denzinger, 903] assures us that it is contrary to the mind of the Church that souls be lost by reason of jurisdictional reservations or limitations:

But lest anyone perish on this account, it has always been piously observed in the same Church of God that there be no [jurisdictional] reservation at the moment of death [i.e., grave necessity of the individual thus equated with grave necessity of many - *Ed*].³¹

And Pope Innocent XI, cutting off every argument on the subject, establishes definitively that in necessity the Church supplies jurisdiction lacking even to heretical, infamous, and excommunicated *viand* priests.³²

The thought and practice of the Church has as its principle that in necessity there is imposed, through natural and positive law, a justice duty of charity and that against the divine and natural law the Church does not have any power. In addition to St. Alphonsus already quoted above, Suarez writes, "Grave or charity command avoiding... harm to neighbor, and to this [divine] mandate human law cannot be reasonable opposed."³³ St. Thomas Aquinas says that "the disposition of human law cannot ever infringe upon the natural law and the law of God [ST, II-II, Q.66, A.7].

This is valid above all for human ecclesiastical law which is meant to facilitate the exercise of charity, not obstruct it. Fr. Cappello writes that it is certain that the Church supplies jurisdiction in order to provide either for the extreme necessity of the individual or "for the public or general necessity of the faithful."³⁴ The reason, says St. Alphonsus, is that otherwise many souls would be lost and therefore it is reasonably presumed that the Church supplies jurisdiction.³⁵ In other words, as in material necessity the rights revert to their primary end, which is the benefit of all men in general, so in spiritual necessity the power of Order reverts to its primary end, which is that of providing for the necessity of all souls in general, and the limitation (or total deprivation) of jurisdiction arising from ecclesiastical laws vanishes.³⁶ St. Thomas Aquinas explains:

In virtue of the power of order, any priest has power indifferently over all [men] and for all sins. The fact that he is not able to absolve all from all sins depends on the jurisdiction imposed by the ecclesiastical law. But since necessity is not subject to law [*Constitutum de Observ. Letan., De Reg. iur. (V Decretal.)* c.4]. in case of necessity, he is not impeded by the discipline of the Church from being able to absolve even sacramentally provided that he has the power of order [Supplement, Q.8, A.6].

a.) The Doctrine on "Supplied Jurisdiction" Is Applied Regarding a Bishop Who in an Extraordinary Necessity Consecrates Another Bishop. The Primacy of Jurisdiction of the Pope.

The doctrine on supplied jurisdiction is ordinarily treated in regard to the sacrament of Penance because the lack of jurisdiction renders confession not only unlawful but also invalid. This doctrine, however, can also be applied to other acts through analogy.³⁷ As a priest in the extreme necessity of the individual or in grave public necessity without hope of help from the legitimate pastors can and must absolve sacramentally "given that he has the power of order" (St. Thomas, *op. cit.*), so a Bishop, if a grave and general necessity of souls without hope of help from the legitimate pastors demands it, is able to duty-bound of transmitting the episcopacy, given that he has the power of order.

Fr. Cappello says that it is certain that the Church supplies jurisdiction in order to provide for the "public or general necessity of the faithful" in all those cases "in which she has manifested either expressly or at least tacitly being willing to supply it."³⁸ Now, it is evident from history that the Church has manifested, at least tacitly, her will to supply jurisdiction through the consecration of other bishops in case of grave general or public spiritual necessity. Recent history records that "clandestine" bishops were consecrated without Pontifical approval in order to provide for the grave general necessity of souls. Longer ago, during the Arian crisis, St. Eusebius of Samosata and other bishops, not only consecrated but even established other bishops in episcopal sees,³⁹ and the Church has not hesitated to proclaim his sanctity.

Cardinal Billot writes that Our Lord instituted the primacy, but left in some way the limits of episcopal power undefined, precisely because:

...it would not have been fitting that those things which are subject to change would be incurably fixed by divine law. Some things are indeed subject to change because of the variety of circumstances and of times and because of greater or lesser facility of recourse to the Apostolic See among other such-like things [De *Ecclesia Christi*, Q.XV, §2, p.713]

History confirms that the state of necessity extended not only the duties and powers, but also their power of jurisdiction. Dom Grea whose attachment to the pope is above all suspicion testifies (*De l'Eglise et de sa divine constitution*, vol. I) that not only at the beginning of Christianity did "the necessity of the Church and the Gospel" demand that the power of the episcopal order be exercised in all its fullness without jurisdictional limitations, but that in successive ages extraordinary circumstances required "even more frequent and more extraordinary manifestations" of episcopal power (*ibid.*, p.218) in order "to apply a remedy to the current necessity of the Christian people" (*ibid.*, p.218), for whom there was no hope of aid on the part of the legitimate pastors nor from the Pope. In such circumstances, in which the common good of the Church is also at stake, the jurisdictional limitations vanish and "that which is universal" in episcopal power "comes directly to the aid of souls" (*ibid.*, p.218).

Thus in the 4th century St. Eusebius of Samosata is seen passing through the Oriental Church devastated by the Arians and ordaining Catholic Bishops for them without having any special jurisdiction over them" (*op. cit.* p.218).

Palazzini recalls that:

...today jurisdiction [over a diocese] is conferred [upon bishops] directly and expressly by the Pope... Formerly, however, it used to derive more indirectly from the Vicar of Christ as if from itself it flowed from the Pope onto those bishops, who were in union and peace with the Roman Church, mother and head of all churches [emphasis added].⁴⁰

Jurisdiction "as if from itself" seems to have flowed from the Pope in the history of the Church whenever a grave necessity of the Church and of souls demanded it. In such extraordinary circumstances, says Dom Grea, the episcopacy proceeded "resolute in the tacit consent of its Head rendered certain by necessity" (*op. cit.* vol.I, p.220). Dom Grea does not say that that the consent of the Pope rendered the bishops certain of the necessity. On the contrary, the successive ages extraordinary circumstances required "even more frequent and more extraordinary manifestations" of episcopal power (*ibid.*, p.218) in order "to apply a remedy to the current necessity of the Christian people" (*ibid.*, p.218), for whom there was no hope of aid on the part of the legitimate pastors nor from the Pope. In such circumstances, in which the common good of the Church is also at stake, the jurisdictional limitations vanish and "that which is universal" in episcopal power "comes directly to the aid of souls" (*ibid.*, p.218).

The keys of Peter are also referred to the keys of jurisdiction. The erroneous course taken by the authors of *Du sacre episcopale contre la volonte du Pape* leads them to conclude that "the question of other bishops not only validly but also lawfully, despite failure to receive a mandate from the Pope. As in the day, for example, when the Arian heresy was threatening the whole Church, so also in our day in Eastern Europe. As long as grave necessity without hope of help for souls and for the Church demanded, bishops have consecrated other bishops not only validly but also lawfully, despite failure to receive a mandate from the Pope. As in the day, for example, when the Arian heresy was threatening the whole Church, so also in our day in Eastern Europe. As long as grave necessity without hope of help for souls and for the Church demanded, bishops have consecrated other bishops not only validly but also lawfully, despite failure to receive a mandate from the Pope. 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