The SOCIETY of ST. PIUS X: COMMENTS and OBSERVATIONS

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Introduction. By virtue of a decree of the Congregation for Bishops dated 1 July 1988, the excommunication incurred *ipsa facto* by Marcel Lefebvre, his co-ordinating prelate, and the four priests of the Confraternity of St. Pius X who were ordained bishops without pontifical mandate was declared. In a circular dated 17 Aug 1998, the cardinal-archbishop of Manila reminded the clergy and the religious in the archdiocese, on the basis of the decisions made by the Holy See and the documents issued by it, of the canonical standing of the leadership of the confraternity: that those who adhere formally to the positions of the Society of St. Pius X with respect to the Roman Pontiff are objectively in a situation of schism, and that the priests of this same confraternity do not have the required authority in the archdiocese and consequently, the sacrament of reconciliation they celebrate and marriages they officiate at are invalid, and the other sacraments are illicit.

Hereunder are comments and explanatory notes on the circular of Cardinal Sin and a response to the allegations made in the open letter of Daniel Couture, SSPX. They are organized into four parts: [1] a summary of the non-controverted facts such as they had transpired immediately before the declaration of the latae sententiae excommunication incurred by the six members of the Society of St. Pius X; [2] the canonical steps that were taken as a result of the unauthorized episcopal ordination carried out by Msgr. Lefebvre in clear violation of canon law; [3] some introductory explanation of the law of the Church on the basis of which those canonical steps were taken concerning the leadership of the confraternity; [4] some comments on the points raised by Father Couture in his open letter.

Non-controverted facts

1. The following facts are not controverted:

1.1 For the purpose of reaching a solution that would permit the confraternity of St. Pius X to have a regular position in the Church in full communion with the Apostolic See, a series of meetings was held between representatives of the Congregation for the Doctrine of the Faith and of the Fraternity [12-15 April 1988].¹ The satisfactory progress of these talks permitted a further meeting with the personal participation of Cardinal Ratzinger and Archbishop Lefebvre. At the end of these meetings, a protocol was drawn up, agreed, and signed by the parties. Among the issues stipulated were these two:

[a] Archbishop Lefebvre promised to respect the general discipline of the Church, especially those contained in the Code of Canon Law of 1983, without prejudice to the special discipline, such as may be accorded to the

¹ Informatory Note in Osservatore Romano [English edition], (27 June 1988), 1-2.
Fraternity by virtue of particular law;

[b] it is to be proposed to the Holy Father to nominate a bishop from among its members, who normally should not be the superior general.

1.2 However, on 6 May 1988, the day right after the protocol of agreement was signed, Msgr. Lefebvre, in a clear violation of the agreement, insisted that the episcopal ordination of a member of the Fraternity provided for in the protocol should take place on the following 30 June, adding that should the reply of the Holy See be negative, he would nevertheless proceed with the ordination.²

1.3 In accord with the laws of the Church, specifically the Code of Canon Law of 1983, which Msgr. Lefebvre promised to respect in the protocol signed by himself and Cardinal Ratzinger, those concerned were warned of the grave consequences of the course of action they were embarking on, namely the ordination of a bishop without pontifical mandate as required by Cc.1013 and 1382. This canonical warning was issued by the Congregation of Bishops to the effect that should the proposed unauthorized episcopal ordination take place, both Msgr. Lefebvre and the bishops ordained by him would incur ipso facto the penalty of latae sententiae excommunication reserved to the Holy See in accord with C.1382.³ Other appeals were sent to the Msgr. Lefebvre by the episcopal conferences of France, the Federal Republic of Germany, and of Switzer-


³ The text reads: Congregation for Bishops to His Excellency, Mons. Marcel Lefebvre, Archbishop-Bishop Emeritus of Tulle: Since on 15 June 1988, you stated that you intend to ordain to the episcopate without having obtained the mandate of the Supreme Pontiff as required by C.1013 of the Code of Canon Law, I myself convey to you this public canonical warning, confirming that if
land, entreating him not to inflict this irreparable damage to
the unity of the Church;\(^4\) Cardinal Ratzinger, Prefect of the
Congregation for the Doctrine of the Faith also sent a per-
sonal appeal in a similar tone.\(^5\) All these, as was the personal
appeal of the Holy Father himself,\(^6\) were ignored by Msgr
Lefebvre, as he proceeded with the episcopal ordination of some
members of the Confraternity without the pontifical mandate
required by the Code of Canon Law.

1.4 On 30 June 1988, as he had proposed, Msgr. Lefebvre
carried out the episcopal ordination of four priests without
pontifical mandate. Accordingly, the Congregation of Bish-
ops declared the \textit{latae sententiae} excommunication incurred
by the ordaining prelate and the co-ordaining prelate, as well
as by those four priests of the confraternity whom he ordained.\(^7\)
The Holy Father himself declared in his apostolic letter
\textit{Ecclesiae Dei} [2 July 1988]\(^8\) that, as a result of this act, in

\begin{itemize}
\item \textit{Osservatore Romano} [English ed.] (27 June 1988), 2.
\item Dated 29 June 1988, also in \textit{Osservatore Romano} [English ed.], (4 July
\ 1988), 12.
\item Dated 9 June 1988, in \textit{Osservatore Romano} [English ed.], 27 June
\ 1988), 2.
\item The penalty was declared in a decree of the Congregation of Bishops
dated 1 July 1988, and published in \textit{Osservatore Romano} [English ed.], (11
July 1988), 1.
\item \textit{In semetipsa talis actus fuit inobodeidentia adversus Romanun Pontificem
in causa quadam gravissima summique omnino ponderis pro Ecclesiae
\end{itemize}
clear and deliberate contravention of the laws of the Church and of the express wishes of the Supreme Pontiff:

[a] Msgr. Lefebvre, and the bishops he ordained, incurred the penalty of *latae sententiae* excommunication reserved to the Holy See;

[b] this act of clear disobedience to the Supreme Pontiff in a very grave matter and of supreme importance to the unity of the Church constitutes a schismatic act.⁹

**Canonical steps taken**

2. On the basis of these established facts, the following

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unitate, cujus generis est episcoporum ordinatio per quam nempe sacramentaliter sustinetur apostolica successio. Quam ob rem talis inobedientia—secum quae infert veram repudiationem primatus romanii—actum schismaticum efficit. Atque eundem peragentes actum, quamquam publicum monitum ad illos deferendum curaverat Cardinal Praefectus Congregationis pro Episcopis superiore die decimo septimo mensis juni, Reverendissimus Dominus Lefebvre necnon sacerdotes Bernardus Fellay, Bernardus Tissier de Mallerais, Richardus Williamson et Alfonso de Galarreta in gravem incurrerunt excommunicationis poenam jam ecclesiastica disciplina praestituitam. cf. the apost. letter, *Ecclesia Dei* of Pope John Paul II, in *AAS* 80 (15 Nov 1988), 1496.

⁹ Schism is understood as a deliberate separation from ecclesiastical communion; it also refers to the state of being separated from ecclesiastical communion, or to the Christian group which is in such a state. The schismatic is one who causes the schism, who favors or bears responsibility for it, or who simply adheres to it through conviction or simply as a matter of fact. Custom, with the passage of time, reserved the term “schism” for breaches of communion provoked by personal conflict or mere refusal to obey. On the other hand, “heresy” was applied to breaches of communion caused by serious divergences in the understanding of the faith. Cf.: V. Conzemius, “Schism”, in K. Rahner, ed., *Encyclopedia of Theology* (London: Burns and Oates, 1975), 1532-1538; T. Macdonald, “Schism”, in Komonchak, Collins, and Lane, eds., *The New Dictionary of Theology* (Passay City: Saint Paul Publications, 1991), 934-936; V. de Paolis, “Schismatico”, in Corral, de Paolis, and Ghirlanda, eds., *Nuovo Dizionario de Diritto Canonico* (Torino: Edizioni San Paolo, 1993), 958-959.
canonical steps were taken in virtue of the Code of Canon Law of 1983, the law that Msgr. Lefebvre promised to respect.

2.1 The leadership of the Confraternity of St Pius X announced its intention to ordain bishops, with or without the pontifical mandate required by the law of the Catholic Church to which they say they belong.\textsuperscript{10}

2.2 The same leadership was warned of the canonical consequences of the course of action that they were about to embark on, namely, the ordination of a bishop without pontifical mandate as required by C.1013. In the case of such an ordination unauthorized by the Holy See, both the consecrating bishop and those consecrated by him incur an automatic penalty of excommunication, and the remission of this penalty is reserved to the Holy See [C.1382]. These are the provisions of the law, which Msgr Lefebvre says he respects, by which the catholic Church, to which Msgr Lefebvr says he belongs, is governed.

2.3 When the episcopal ordination was carried out as threatened, the warnings and pleas from the Holy See notwithstanding, the Congregation of Bishops declared the excommunication that the consecrators as well as those consecrated incurred. The decree is dated 1 July 1988.

Commentary of the canonical steps taken

3. Regarding the foregoing canonical steps that were taken, the following must be clarified: the canonical warning issued to Msgr. Lefebvre; the remission of the penalty; the presumption of imputability when a law is violated; the effects of the penalty of excommunication and those affected by it.

\textsuperscript{10} Cf. the Informatory Note which reproduces the letter of Msgr. Lefebvre announcing this intention to ordain bishops. Osservatore Romano (27 June 1988), 2.
3.1 A canonical warning was issued to the leadership of the St. Pius X Confraternity [cf. footnote 3]. This warning is not required by the law. The provisions of C.1347 apply only to *ferendae sententiae* penalties, not to *latae sententiae* penalties which is how the penalty was incurred in this case.

3.2 The remission of this penalty is reserved to the Holy See. The provisions of C.1358 should be underscored here. The remission of a censure cannot be granted unless an offender has withdrawn from contumacy in accord with the norm of C.1347.2; on the other hand, a remission cannot be denied to a person who withdraws from contumacy. In the present case, the parties under penalty can hardly claim to have withdrawn from contumacy since up to the present, they insist that they have done nothing wrong; that, on the contrary, it is the Roman authorities of the Catholic Church who are in error. *A fortiori*, it can hardly be claimed that the penalties have been remitted.

3.3 Like any legal system, canon law proceeds by presumptions in some cases specified by law. One of these cases in which the law of the Church proceeds by presumption is the matter of a clear violation of church discipline. According to C.1321.3: unless it is otherwise evident, imputability is presumed whenever an external violation has occurred. Imputability, in general, means juridical responsibility.

Imputability or juridical responsibility for an act is understood to arise from two sources: *dolus* [malice] and *culpa* [lack of due diligence]. *Dolus* or malice does not require moral evil; it means that the intention to violate the law or precept is clear and deliberate, implying thereby legal responsibility.\(^{11}\) On

\(^{11}\)The Code of 1917 defines *dolus* thus: *deliberata voluntas violandi legem*,
the other hand, *culpa* means the omission of due diligence: "I did not know that there was such a law; I was not aware that there was a penalty attached to it; I did not foresee that that such would be the consequences." [C.1321.2] It is only imputability arising from the deliberate intention to violate the law which is punishable.

In the matter under discussion, not only is imputability presumed, but it is difficult to imagine any other alternative possibility. The recalcitrant parties were warned officially; the episcopal conferences of three countries pleaded with them; Cardinal Ratzinger and the Holy Father himself, as one bishop to another brother bishop, appealed to Msgr. Lefebvre not to embark on the course of action that he was contemplating. All these notwithstanding, he went ahead, and carried out the episcopal ordinations without papal mandate. Because there is clear knowledge of the law as well as of its consequences, and because there is full freedom in the action, imputability is not only presumed but clearly established beyond the proverbial shadow of doubt.

3.4 The declared penalty of excommunication affected directly the six principals: the consecrator and the co-consecrator, and the four who received the ordination illicitly. Among other things, the excommunication means for the six persons excommunicated: they are forbidden to celebrate the sacraments and the sacramentals; they are forbidden to receive the sacraments; they invalidly place acts of government [in the concrete, for example, absolving in the sacrament of penance and officiating at marriages]. [C.1331]

*eique opponitur ex parte intellectus defectus cognitionis et ex parte voluntatis defectus libertatis.* It is the deliberate decision to violate the law. The deliberateness of the decision would not be full if there were lack of knowledge or is a defect of freedom.
Since the bishop is the principle of unity within the particular church over which he presides, and he is the bond that links that particular church to the universal Church, he is unable to fulfill that function unless he himself is united with the universal church. This union with the universal church is achieved through the Roman Pontiff and with the college of bishops, specifically through episcopal consecration and hierarchical communion. This means that the community under the leadership of these excommunicated bishops are in a schismatic condition; they are not in union with the one Catholic Church under the one shepherd, the Roman Pontiff. If the members of the confraternity consciously support and abet the schismatic position of their leaders, then they also become formal schismatics themselves. In the concrete, the conscious abetting and supporting would be more likely of the priests and of the better informed members of the community. Because they are consciously abet-

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12 Cf. Nota explicativa praevia, nos. 1, 3, 4; cf. also LG 22, 23, 25. Ghirlanda’s explanation: Praeterea episcopus suos subditos in communione hierarchica statuere non potest nisi particeps esset, vi pontifici mandati et missionis canonicae, struturae hierarchicae communionis cum collegii capitis atque membris. Quod si episcopus hierarchicae communionis particeps non ficeret, sua ecclesia particularis schismatica esset quia in ecclesiastica communione cum ecclesia Romana, ideoque cum omnibus ecclesiis particularibus, non inveniretur. Animadvertendum est etiam duplícem esse relationem hierarchicae communionis cum collegii capitis atque membris. Relatio cum collegii capite officium ipsum episcopale relate tum ad ecclesiam universalem tum ad ecclesiam particularum constituit. Etenim individuale vinculum uniuscujusque episcopi cum capite collegii etiam efficit ut episcopi simul sumpti eodem vinculo cum eodem capite jungantur. Quo fit ut unusquisque episcopus statuatur in relatione organicae communionis cum omnibus alis episcopis, quia relatio ipsa individualis episcopi cum collegii capite, praeter consecrationem illum statuit ex una parte in vinculo communionis individualis inter pares cum unoquoque episcopo collegii et, ex altera parte, in vinculo hierarchicae communionis cum omnibus episcopis simul sumptis qui, vi praesentia Summi Pontificis tamquam capitis inter eos, collegium efformat. De Ecclesiae Munere Sanctificandi [De Ordine] (Rome: Pontificia Universitas Gregoriana, 1983), 11.
ting and supporting this schismatic act, they probably incur the *latae sententiae* excommunication themselves in virtue of C. 1364.1. The condition of the other lay members of the confraternity is less clear.

**Comments on the Reply of Fr. Couture**

4. The reply of Fr. Daniel Couture, SSPX, District Superior for Asia, to the circular of Cardinal Sin raises three points, one of them with several parts. These points shall now be addressed individually.

4.1 Father Couture questions the validity of the excommunication incurred by the six members of the confraternity and declared by the Congregation of Bishops according to procedures prescribed by the Code of Canon Law. He adduces three general grounds for this challenge.

4.1.1 The first basis for questioning the validity of the excommunication cited by Father Couture, is the *obiter dicta* allegedly of Cardinal Ratzinger\(^ {13}\) and Cardinal Cassidy.\(^ {14}\) I say allegedly because I have assiduously searched for records of these declarations and I have not found a single reference to them. But even if Cardinals Ratzinger and Cassidy did say what is being attributed to them, however unlikely that may be, the facts of the case are too clear and unam-

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\(^{13}\) According to Father Couture: Bishop Ferrario of Honolulu wrote a letter to his diocese declaring the Society and its followers schismatics and excommunicated. The matter was brought to ... the Congregation for the Doctrine of the Faith. On June 28 1993, Cardinal Ratzinger declared that such condemnation was "lacking foundation and hence validity" thus denying explicitly the "schism" and the "excommunication" to which you allege. [sic]

\(^{14}\) In a private letter answering "someone," Cardinal Cassidy is supposed to have said in May 1994 according to Father Couture, that the situation of the members of this Society is an internal matter of the Catholic Church. The Society is not another Church or Ecclesial Community.
biguous to be overturned by vague and unrecorded *obiter dicta* by private individuals. What Father Couture wants to challenge are the formal and official acts of the Congregation of Bishops and that of the Holy Father himself, the former in a decree issued following the procedures prescribed by the law and the latter in an apostolic letter. The bases of Couture's challenge are alleged remarks of private individuals, admittedly high-placed in the Roman hierarchy, but private individuals nonetheless.

Cardinal Ratzinger, if the report of Father Couture is accurate, may have acted officially, but it is difficult to imagine how his alleged reversal of a bishop's decision in his own diocese can overturn the Code of Canon Law, the official declaration of the Holy Father in his apostolic letter *Ecclesia Dei*, and the decree of the Congregation of Bishops. Cardinal Cassidy, if he indeed said what he is reported to have said, was acting in a private capacity, expressing a private opinion and responding to a certain "someone" who is alleged to have asked the question which the Cardinal answered. Father Couture ignores completely the provisions of the Code [Cc.1013 and 1382], the decree declaring the excommunication incurred by six of their members, and the apostolic letter of the Holy Father. In effect, he is saying that they are not excommunicated because the private remarks of two cardinals can be interpreted to mean that they are not.

4.1.2 Second, the excommunication was not incurred, according to Father Couture, because no penalty is incurred without grave moral imputability.\(^{15}\) He misunderstands moral imputability however to mean subjective mortal sin. Clearly,

\(^{15}\) C.1321.1: No one is punished unless the external violation of the law or precept committed by the person is seriously imputable to that person by reason of malice or culpability.
Fr. Couture's knowledge of canon law is sadly inadequate. His understanding of the imputability required in order to incur the penalty contemplated by the canon is vague and confused. The law of the Church makes these three basic points as we mentioned above: [a] there are two sources of imputability: malice or lack of due diligence (C.1321.1); [b] when there is an external violation of a law, imputability is presumed unless the contrary is clear or until proven otherwise (C.1321.3); [c] however, only when imputability arises from malice is the penalty incurred.

By *dolus*, the law means the conscious and deliberate decision to violate the law, as distinct from and opposed to a deficient knowledge [from the point of view of the intellect] and inadequate freedom [from the point of view of the will].

*Dolus* requires the freedom to act and the knowledge of the obligation arising from the law; it does not require malice. It is clear that there was full knowledge of the obligations arising from the law. This certainty arises not only from the general presumption of the law that bish-

16 *Dolus heic est deliberata voluntas violandi legem eique opponitur ex parte intellectus defectus cognitionis et exparte voluntatis defectus libertatis*. C.2200.1 of the Code of 1917.

ops and the other members of the confraternity know this, but also from the fact that there were all sorts of warnings and reminders and pleas. It is equally clear the the ordaining bishops and those who were ordained were not acting under duress or irresistible pressure from the outside. Unless Father Couture is willing to say that those six people were not *sui compos*, or that they were acting under duress, it is not altogether clear how it could be claimed that there was no imputability *ex dolo*.

4.1.3 Father Couture further claims that even where there was a violation of a law to which a penalty is attached—he does not seem to deny that there was such a violation, though he denies that the violator incurred the penalty—the penalty was not incurred because it was performed out of necessity; presumably therefore, the violators of the law were not acting freely, compelled as they were by the emergency situation. The emergency situation, according to Couture is that Msgr. Lefebvre felt obliged to consecrate these four bishops in order to provide “traditional” priests for the tens of thousands of people asking for them worldwide.

It is claimed that he had to ordain these bishops so that they in turn can ordain the traditional priests needed and being requested worldwide. Two things need to be said about this allegation. First, if indeed there was such a need—and this is a question of fact that needs to be empirically proven—the Holy See was willing to look into the matter. This was among those points taken up in the promising talks between the Confraternity and the Congregation for the Doctrine of the Faith. The fact that there was an alternative to the course of action that Msgr. Lefebvre embarked on, waters down and weakens the lack-of-freedom argument. One of the points agreed upon in those preliminary meetings was precisely the appointment of a bishop from among their members, who would preferably not be their superior general.
Second, from a strictly juridical point of view, the meaning of freedom, and the lack of it, as understood by the laws of the Church and the jurisprudence of its tribunals, is something more basic and fundamental, more "primitive," if you wish. A decision of the Roman Rota in 1928 affirms the validity of the ordination received because, even if it was received under some pressure, the freedom of the person was not completely taken away.

In other words, therefore, the alleged necessity adduced by Father Couture does not take away the requisite freedom that constitutes the "dolus" which gives rise to punishable imputability. According to the Code of Canon Law and the jurisprudence of the Church, as well as the long tradition behind them, Msgr. Lefebvre acted freely; the imputability arising from malice required in order that the violator of the law or precept be punished is verified in his case. This is the import and the burden of the clarification published in *Osservatore Romano*: the necessity alleged by Msgr. Lefebvre is not a necessity that would excuse from penalty. None of the conditions contemplated by C.1323 [conditions that would have excused from penalty a person who has vio-

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18 Classical theologians teach that if a person receives baptism under some pressure, provided that there is some minimum intention to submit himself to the sacrament rather than to death or punishment for example, he receives the sacrament validly because while he received it under some pressure, he still intended to receive it [he would rather receive it than be punished]. Only physical coercion would deprive him of this minimum freedom required. Cf. for example, Bonaventure, *In IV Sententiarum*, LA, D4, A2, Q2.

19 Invalida estigitur sacra ordinatio ob coactionem absolutam ut eveniret in eo qui per extrinsecum cuiri resisti non posset aut ligaminibus teneretur. Vali da autem sed illicita est ordinatio recepta ob metum causativum seu conditionalem, nempe si ad effugientium malum quis vult accepere ordines, nam coacta voluntas voluntas est. *c. Andreas Jullien* [13 Jan 1928], in *SRRD* 20 (1928), 4.

20 *Osservatore Romano* 27 (4 July 1988), 12.
lated a law] are verified in the case of the episcopal ordination of four members of the Confraternity of St. Pius X.

4.2 The second point raised concerns the validity of the ministry of the ordained ministers of the confraternity. The circular of the Archbishop of Manila expressly affirmed that the absolutions imparted by these ordained ministers outside of the danger of death are invalid because they do not have the faculty required for validity to hear confessions and give absolutions [C.966.1]; for the same reasons, the marriages officiated by them are also invalid [C.1108.1]; the confirmations conferred by their priests who may possess the faculty to administer the sacrament from their bishops are also invalid [Cc.882 and 887].

Father Couture seems to concede these points of the Cardinal for he admits that "we have no ordinary jurisdiction," but his meaning is not entirely clear. If by this statement he himself personally does not have ordinary jurisdiction—that he is not a local ordinary according to the terms contemplated by C.134—it is clear that he does not have ordinary jurisdiction over lay people since he is not a diocesan bishop, or an equivalent in law of a diocesan bishop, or a vicar general, or an episcopal vicar. If he is referring to the confraternity, it is equally obvious that the confraternity does not have ordinary jurisdiction since the confraternity is a juridical person and juridical persons do not have jurisdiction, ordinary or otherwise. If by "we" he means the ordained bishops of the confraternity, the case becomes even more obscure and complicated because it is quite arguable that they have ordinary power, for example the power to confirm [C.882], although this fact does not make them local ordinaries with jurisdiction. Further, it is not immediately evident over whom they exercise this ordinary power since they do not have a proper coetus fidelium, since the Holy See, the only authority competent to do so according to the

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Code of Canon Law, has done nothing to organize such a particular church.

Further, Couture once again quotes an alleged statement of Cardinal Cassidy that the Mass and sacraments administered by the priests of the Confraternity are valid. On the basis of this one statement, allegedly made by and attributed to Cardinal Cassidy, he extrapolates that since no distinction is made in this statement between the sacraments needing jurisdiction [confession and matrimony] and the others that do not need jurisdiction, therefore the absolutions they give in confession and the marriages they solemnize must be valid.

The prescriptions of the Code of Canon Law, of both 1917 and 1983 are crystal clear. C.966 of the Code of 1983 determine that for the valid absolution of sin, it is required that besides the power received through sacred ordination, the minister possesses the faculty to exercise that power over the faithful to whom he imparts absolution. According to C.969.1, the local ordinary alone is competent to confer on any presbyter the faculty to hear the confession of the faithful. Likewise according to the Code, only those marriages are valid which are contracted in the presence of the local ordinary or parish priest, or of the priest or deacon delegated by either of them who, in the presence of two witnesses, assists in accordance with the Code [C.1108.1]. Thus, Couture's irresponsible allegations have absolutely no basis in the law of the Church. He is ready to throw out of the window clear prescriptions of the law of the Church in favor of some vague, unqualified, non-specific statement attributed to Cardinal Cassidy.

4.3 The third and final point raised in Couture's letter in effect claims that the Confraternity of St. Pius X is the last perduring remnant of the Catholic Church, the rest hav-
ing been lost to heresy and error when they accepted Vatican II [1962-1965]. The decree on ecumenism [*Unitas redintegratio*] was already condemned by Pius XI in his encyclical *Mortalium animos* [1928]; the decree of religious freedom [*Dignitatis humanae*] by Pius X in his encyclical *Vehementer* [1906] in which he condemned the separation of Church and State; the decree on the Church in the modern world [*Gaudium et spes*] by Pius IX in his Syllabus of Errors. These are theological points that we do not feel competent to enter into here. However, these are good examples illustrating the observation of the Holy Father, in his encyclical *Ecclesia Dei*, that at the root of the problem of Msgr. Lefebvre and the Confraternity of St. Pius X is an incomplete and contradictory understanding of tradition in the Church. The overwhelming majority of bishops who approved the directions indicated by Vatican II, in effect, acknowledge that the Church is a living organism that must grow and adapt and address the present concerns of the world today. Lefebvre clearly thinks otherwise.

**Summary and concluding comments**

The preceding pages dealt with the controversy provoked by the unauthorized episcopal ordination conferred by Archbishop Marcel Lefebvre, the consequent excommunication that he and the other parties incurred, the declaration of that penalty, and the debate that arose from these. Various provisions of law were clarified. [a] C.1347, which requires a canonical warning for a *ferendae sententiae* penalty to be imposed, does not apply to the matter although, as we had pointed out, its provisions were observed if only to prevent the formal schism that was imminent. [b] The basis of penalty is imputability *ex dolo*. The meaning of *dolus* was defined more sharply: it is the free and deliberate decision to violate a law, it does not require subjective malice and bad faith. [c] The freedom with which a person violates the law is understood by the jurispru-
dence of Church tribunals to mean the absence of physical force. It is hoped that these comments will clear the air and make possible more reasonable dialogue which hopefully will lead to reconciliation and repair of the seamless robe of our Lord desired by all.