This article, which was SCSS president Stephen M. Krason’s online column for October 2010 (“Neither Left Nor Right but Catholic”) calls to task Patrick McKinley Brennan’s (Scarpa Chair at Villanova Law School) interpretation of subsidiarity, one of the most central principles of Catholic social teaching. Brennan’s curious interpretation seems to open the door to centralized power. The fact that he seems to view the enactment of more and more legislation as necessarily furthering the common good is also problematical.

Neither Left nor Right, but Catholic

ON PROFESSOR BRENNAN’S INTERPRETATIONS OF CATHOLIC SOCIAL TEACHING

Stephen M. Krason

I have rarely responded to reviews of my books, but I thought that a recent review of The Public Order and the Sacred Order called for it. This anthology of my writings inaugurated the Society of Catholic Social Scientists/Scarecrow Press Catholic Social Thought Book Series in 2009. The review in American Catholic Studies by Professor Patrick McKinley Brennan, who holds the Scarpa Chair in Catholic Legal Studies at Villanova Law School, gave a confused presentation of a couple of basic points of Catholic social thought. Brennan faulted me for viewing the crucial principle of subsidiarity as a “normative policy of ‘devolution,’” where activities are carried out “at the lowest level possible” in society. He said that view is characteristic of “neo-conservative political theory” and does not “approximate the magisterial one,” which holds that “social functions are to be performed in their proper places.”

If by “policy” Brennan means something of the nature of a public policy position or political program, I’m not sure how he got that from my book. Throughout the book—which extends to almost 700 pages of narrative—subsidiarity is always spoken of as a principle of social ethics and Catholic social teaching, a moral mandate (Pope Pius XI said that its violation is “a grave evil and disturbance of right order”). Public policy is supposed to follow it, as it must all principles of sound social ethics.

If Brennan puts me in the neo-conservative camp in American politics, as it has been understood since the 1970s, that would be a first. It also seems out of sync with his lauding of my disagreement with
quintessential Catholic neoconservative Michael Novak’s interpretation of *Centesimus Annus* in the book.

While social functions should indeed be performed in their proper places—military defense could only be provided today by a strong national government—Brennan’s suggestion that subsidiarity somehow intrinsically has nothing to do with the level at which activities are carried out is preposterous. In his trenchant criticism of the welfare state in *Centesimus Annus*, Pope John Paul II said, “it would appear that needs are best met by people closest to...those in need.” Or think about the Church’s consistent promotion of intermediate groups, or her preference for the family farm in *Mater et Magistra*, or her insistence in *Populorum Progressio* that international bodies not usurp the rightful powers of individual nations. Also consider what another Villanova professor (now emeritus), John J. Schrems, says about the principle of subsidiarity in his *Understanding Principles of Politics and the State*: “The burden of proof lies always on those who want to deprive a lower level of its function.” Quite the opposite, Brennan’s problematic interpretation of subsidiarity provides a justification for concentrating more authority at higher levels.

If preference for the local level, wherever possible and practicable, is neoconservative, then the whole modern social teaching of the Church and the Gospels on which it is based are “neoconservative.”

Brennan also took me to task for saying that “legislation should be formulated only when absolutely needed,” and seems bothered by what he sees as my bias “in favor of less government and fewer laws.” He insists (again) that this is not “magisterial,” and collides with Aquinas’ contention that the legislator should move a people toward the common good by legislation. Is he identifying Aquinas with contemporary big-government liberal activist legislators? What about Aquinas’ assertion that laws should proscribe only “the more grievous vices,” and should not try to prescribe all virtue? Is Brennan familiar with noted post-World War II theologian Fr. Francis J. Connell’s exhortation to legislators that “excessive legislation is very harmful to the welfare of a nation” and that “unnecessary legislation” is against the spirit of the U.S.? Does Brennan believe that the magisterium would find fault with my belief—expressed in the previous sentence in the book—that we should try to avoid the excessive use of law and instead employ more informal means (such as religious revival, proper moral formation, and strong communities) to maintain order? Is he oblivious to the problems of excessive bureaucracy, intrusive government, and erosion of liberties that I say are behind my position? These are explored at length.
in one chapter of the book about destructive American legal trends, which should have interested a law professor.

Brennan thought my book “eccentric,” apparently because it didn’t fit the usual narrow academic monograph mold. I won’t go so far as to say that some of his interpretations of Catholic social teaching are eccentric, just inaccurate and troublesome.