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Developing Distinctions of Classical Principles for Modern Constitutions: *Integralism: A Manual of Political Philosophy* by Fr. Thomas Crean and Alan Fimister

Father Thomas Crean and Alan Fimister have produced a comprehensive yet concise treatise on classical political and legal philosophy.[1] As the title implies the hallmark of their approach is that jurisprudence, political philosophy, moral philosophy, and theology are not separate disciplines but integrally related. Their exposition and arguments move seamlessly among theology, philosophy, and jurisprudence. It is representative in this respect of the Thomistic tradition in which one finds St. Thomas Aquinas's discussion of law in the middle of his *Summa Theologiae*.[2] As J. Budziszewski has pointed out, "All of the limbs of the *Summa Theologiae* are interconnected, and the *Treatise on Law* is no exception."[3]

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[1] Thomas Crean & Alan Fimister, *Integralism: A Manual of Political Philosophy* (Havertown, Pa.: Eurospan, 2020), 290 pages. ISBN: 9783868382266.

[2] Thomas Aquinas, *Summa Theologiae*, I–II, q. 90–108, trans. Fathers of the English Dominican Province (Benzinger Bros., 1947) [hereinafter *S.Th.*].

[3] J. Budziszewski, *Commentary on Thomas Aquinas's Treatise on Law* (Cambridge University Press, 2014), xxii.

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Within the great *Summa*, the discussion of law is within the second part which is dedicated to the discussion of morality.[4] In addition to placing the discussion of law within the part dedicated to morality, St. Thomas places the topic of jurisprudence immediately before the section discussing God's grace.[5] Law is comprehensible only in the context of morality and theology. In contrast, modern Legal Positivists such as H. L. A. Hart maintain that law is divided from morality.[6] Even modern natural law jurists, such as Michael S. Moore and John Finnis, who accept a connection between law and morality argue that law can be separated from theology.[7] Crean and Fimister make clear they reject the divisions among these disciplines. At the outset they explain: "Political philosophy is . . . a branch of moral philosophy" and moral philosophy "must be instructed by divine revelation."[8] Budziszewski agrees that to separate law "from its broader context is to make it unintelligible, because human law cannot pull itself up by its own efforts. It hangs like a chandelier from something higher."[9] He goes on to argue that "[j]ust as law is not the first word about man, so it is not the last."[10]

The second characteristic of Crean and Fimister's work is how they interweave within a classical reading of Aristotle and St. Thomas several intriguing developments of the classical principles.

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[4] *Ibid.*

[5] See *ibid*., xxiii.

[6] See H. L. A. Hart, *The Concept of Law* (Oxford University Press, 1961), 173–175.

[7] See Brian M. McCall, *The Architecture of Law: Rebuilding Law in the Classical Tradition* (Notre Dame Press, 2018), 368–369.

[8] Crean & Fimister, *Integralism*, 9.

[9] Budziszewski, *Commentary on Thomas Aquinas's Treatise on Law*, xxi.

[10] *Ibid*., xxiii.

Types of Human Societies

The traditional understanding of different types of human societies derives from Aristotle. Aristotle defined a political community as a "human association . . . instituted for the sake of obtaining some good."[11] Communities are different from "a mere multitude of men," in that a political community is "bound together by a particular agreement, looking toward a particular end, and existing under a particular head."[12] Crean and Fimister would agree. They define a society as "a union of intelligent beings acting for an end."[13]

According to the Aristotelian/Thomist tradition, communities can be either perfect[14] or imperfect.[15] A perfect community possesses both the perfect or most complete end as well as the complete means of attaining such an end.[16] In a word, the perfect community is completely self-sufficient.[17] A community which aims at a complete good and thus incorporates the goods of all lesser communities is this perfect commu-

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[11] Thomas Aquinas, *Commentary on Aristotle's Politics*, bk. I., ch. 1, trans. Richard J. Regan (Hackett Publishing Company, 2007), 4 [hereinafter Aquinas, *Aristotle's Politics*].

[12] Francisco Suárez, *On Laws and God the Lawgiver*, in *Selections from Three Works of Francisco Suárez*, vol. 2, trans. Gwladys L. Williams, *et al.* (Clarendon Press, 1944), 86.

[13] Crean & Fimister, *Integralism*, 11.

[14] In this context, "perfect" is used in a precise sense to mean complete or fulfilled and not necessarily good or virtuous. *See* Wladyslaw Tatarkiewicz, "Paradoxes of Perfection," *Dialectics and Humanism* 7, no. 1 (1980): 77–78 (contrasting the Aristotelian notion of perfection as "complete," "finished," or "flawless" with a paradoxical view of perfection as "ceaseless improvement").

[15] Suárez, *On Laws and God the Lawgiver*, 86.

[16] See *ibid*., 86–87; Thomas Aquinas, *De Regno*, I, bk. I, ch. 2, in *Selected Political Writings*, ed. A. P. D'Entrèves, trans. J. G. Dawson (Oxford: Basil Blackwell, 1974) [hereinafter Aquinas, *De Regno*]; Nicholas Aroney, "Subsidiarity, Federalism, and the Best Constitution: Aquinas on City, Province, and Empire," *Law and Philosophy* 26, no. 2 (2007): 174–177.

[17] Suárez, *On Laws and God the Lawgiver*, 86.

nity.[18] The name of this perfect community varies from age to age and author to author. Aristotle referred to the *polis* or "city-state."[19] Aquinas varyingly refers to the perfect community as the *civitas* (city), *regnum* (kingdom), and *provincia* (province).[20] Suárez uses the term *civitas* when referring to Aristotle's perfect community.[21] Crean and Fimister share this distinction between perfect and imperfect community as well as the definition of each.[22] The perfect community is comprised of a variety of different imperfect communities, such as families, households, villages, etc.[23] Each of these associations share a common end, but each is only to some extent self-sufficient and thus imperfect.[24] The family's purpose is to provide the basic nourishments of life for one household and the begetting of children.[25] The village[26] aims at the necessities for

[18] Aquinas, *Aristotle's Politics*, bk. I, ch. 1, 4: "And the association that is supreme and includes all other associations is the absolutely supreme good."

[19] See Aroney, "Subsidiarity, Federalism, and the Best Constitution," 170; Crean & Fimister, *Integralism*, 11, 16.

[20] Aroney, "Subsidiarity, Federalism, and the Best Constitution," 170, n. 34.

[21] See Suárez, *On Laws and God the Lawgiver*, 37.

[22] See Crean & Fimister, *Integralism*, 16.

[23] See Aquinas, *Aristotle's Politics*, bk. I, ch. 1, 5 (showing how the union of men and women combine to form households, and households combine to form villages, and villages unite to form the political community); see also *ibid*., 2 (stating that "since there are indeed different grades and orders of these associations, the ultimate association is the political community directed to the things self-sufficient for human life"). Aristotle continues by proposing "the true relation of other associations to the political community. . . . First, he explains the association of one person to another. Second, he explains the association of the household, which includes different associations of persons. Third, he explains the association of the village, which includes many households." *Ibid*., bk. I, ch. 1, 9; Aquinas, *De Regno*, bk. I, ch. 1, 9 (containing the same list of family, household, and city).

[24] See Aquinas, *De Regno*, bk. I, ch. 1, 9.

[25] *Ibid*.

[26] The term *vicus* translated "village" has an economic overtone more than the modern word neighborhood or village, as can be seen when Aquinas says that a village is self-sufficient with respect to "a particular trade or calling." *Ibid.* Elsewhere, Aquinas refers to the fact that in many Medieval towns, streets or sections of a town were divided on the basis of occupation, as evidenced when he says "in one [*vicus*] smiths practice their

a particular trade or profession. The perfect community, city, or province has the aim of achieving all the necessities of human life and defense against external danger.[27] Each imperfect community aims to an aspect of the complete good but does not encompass all of that complete good, the good life, or human happiness; they are parts of a whole.[28]

St. Thomas recognized the greatest human political community (whether identified as a *polis*, province, or empire) as a perfect community on the natural level. For example, in commenting on Aristotle he teaches: "the perfect association . . . is the political community, now complete, having a self-sufficient end . . . Therefore, the political community was instituted for the sake of protecting life and exists to promote the good life."[29] He agrees that Aristotle taught that "the good to which the political community is directed is the supreme human good."[30] In his political work, *De Regno*, St. Thomas confirms that "the man ruling a perfect community, i.e. a city or a province, is antonomastically called the king."[31] Although St. Thomas never uses the term perfect society in reference to the Church, later writers claimed that the Church was a perfect society as it pursued a complete supernatural end, eternal beatitude, and was self-sufficient in pursuing that end.[32] Al-

craft, in another of which weavers practice theirs." Aquinas, *Aristotle's Politics*, bk. I, ch. 1, 15, *supra* note 69.

[27] Aquinas, *De Regno*, bk. I, ch. 1, 9.

[28] Aquinas, *Aristotle's Politics*, bk. I, ch. 1, cmt. 2, 7 (stating that "an association is a whole, and wholes are ordered so that one that includes another is superior. . . . And the association that includes other associations is likewise superior. But the political community clearly includes all other associations, since households and villages are included in the political community").

[29] *Ibid.*, 5.

[30] *Ibid.*, 7.

[31] Aquinas, *De Regno*, bk. 1, ch.1, 14.

[32] See Leo XIII, Encyclical Letter *Immortale Dei* (Rome 1885), 10 and 27. Available online—see the section *References* for details.

though St. Thomas never drew this conclusion explicitly, he would likely easily accept the conclusion.

Crean and Fimister go beyond the extension of the Aristotelian term to the Church and argue that only the Church and not the polis meet the Aristotelian definition of a perfect community.[33] They argue that

> Temporal society, meaning by this phrase, "the widest community generated by nature," does not contain within itself all the means needed to obtain its end, as a perfect community must. Even in a hypothetical community of pure nature, man's perfect society would be a "church" . . . but for fallen man, called to a supernatural end, temporal society is much less competent to be a perfect society in the strict sense of the term. Hence only the Catholic Church is properly speaking and intrinsically a perfect society.[34]

Their argument is two-fold. First, since its end, beatitude, is supernatural then its end is more perfect than temporal society whose end is merely natural happiness. Secondly, they argue that the polis is not self-sufficient even with respect to its own natural end and that after the fall to original sin, people cannot even attain their natural end without the Church.[35] According to their argument, only Christendom, or to use the Augustinian term the City of God, is a perfect society.

It is clear that Aquinas never argued that the temporal political community is not a perfect society (in fact as previously noted he refers to it as a perfect community in several writings), it is true that he argues that man cannot even attain his natural end (the common good of the temporal sphere) "without divine assistance."[36] It is possible therefore to argue that St. Thomas could accept Crean and Fimister's conclusion

[33] See Crean & Fimister, *Integralism*, 20–22.

[34] *Ibid.*, 20.

[35] *Ibid.*, 18–20.

[36] *S.Th.*, I–II, q. 62, a. 1.

that strictly speaking temporal civil society is not a perfect society since it is not completely self-sufficient.

Crean and Fimister do draw two important distinctions when making this claim that temporal civil society is not a perfect society. More precisely they claim that it is not intrinsically perfect but can become extrinsically perfect when a temporal society is incorporated with the Church into Christendom. They explain:

> *Within* the one perfect society, we can speak of a temporal society or commonwealth which is made up of the same members, and hence is materially co-extensive with the Church, though formally distinct from her. This temporal society is Christendom and the realms of which it is composed. These may be described as extrinsically perfect societies, in that as long as the Church resides within them with the fullness of her rights, they possess perfection; but it is a perfection which in order to possess they must submit to the higher power which transcends them.[37]

Thus, the polis or nation can become a perfect society (in the sense used by Aristotle and St. Thomas) if it enters into communion with the Church within Christendom. It does not possess in and of itself perfection but is potentially perfect. Their conclusion would be supported by St. Augustine's analysis that even the mighty Roman Empire was not a true commonwealth as it was not oriented to the true God.[38] Crean and Fimister claim that any temporal society established outside Christendom is not "strictly speaking . . . legitimate" or "in accordance with law."[39] Nonetheless, such a society is "in a certain respect" legitimate because its rulers do have a "right and duty to wield" legal authority that should be obeyed.[40]

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[37] Crean & Fimister, *Integralism*, 21.

[38] See St. Augustine, *The City of God*, bk. 19, ch. 21, in *Nicene and Post-Nicene Fathers*, vol. 2, ed. Philip Schaff (Christian Literature Publishing Co., 1887).

[39] Crean & Fimister, *Integralism*, *supra* note 80.

[40] *Ibid.*

The second distinction they draw is to clarify that even if the temporal civil society is not intrinsically perfect and if it is withdrawn from Christendom and thus not even extrinsically perfect, it still possesses authority which, when legitimately exercised, must be respected.

They explain that God created within human nature the ability for a man and a woman to form a particular type of society that "will possess a nature and properties fixed independently of their wills," that is called the family.[41] Likewise they explain that God created within natural law "the duty and hence the power to unite with other families into a new society."[42] This new society, temporal or civil society, is like the family a thing "with a definite nature and properties independent of the wills of its members."[43] When families so unite as families, natural law as designed by God will bring this specific type of union into being. One of these fixed properties of civil society is authority that comes from God.[44] Since civil society has been created by God as a definite thing that can be brought into being by families, it can be established naturally outside Christendom even if it remains imperfect. This type of temporal realm "confers a right to command and obey."[45] Yet, until incorporated into Christendom this authority is "dislocated" and instituted "only provisionally" until fully instituted by the spiritual power.[46] Thus, although they deny the status of a perfect society to any temporal society outside Christendom, they recognize such nations as possessing legal authority, even if it lacks permanent institution. Even the Church who waits to accept such nations into Christendom and properly institute their authority, recognizes provisionally their rulers and laws (to

[41] *Ibid.*, 84.
[42] *Ibid.*, 85.
[43] *Ibid.*
[44] *Ibid.*, 87–88.
[45] *Ibid.*, 90.
[46] *Ibid.*

the extent they are just). She cannot intervene in the affairs of nations outside Christendom to exercise her spiritual authority to the extent that she can with Christian nations.[47] Crean and Fimister's position is quite nuanced. Although they deny the status of perfect society to nations outside Christendom and although they consider legal authority constituted in them only provisionally, they maintain that this status does not undermine the exercise of legal authority or the obligation of citizens to obey just uses of it. Since legal authority and the obligation to obey it are natural, as created by God, and can be established, at least provisionally, by families, then the union they establish will possess the property of authority. In this way they are able to balance the traditional claim that ultimately all men and societies are called to submit to the reign of Christ the King while preserving due respect for legal authority in the circumstances in which most nations exist in our time. In this way they preserve the traditional principles while explicating a workable political and legal theory for a world that has almost universally rejected incorporation into Christendom.

Social Contract Theory

Although on the surface, Crean and Fimister's theory of the origins of civil authority may seem similar to social contract theory, it differs in three key respects. First, they maintain that although any particular civil society is brought into existence by the voluntary union of families, civil society itself has been created by God not by families that so unite.[48] As such civil society is not an artificial invention of human beings out of necessity to escape some worse state. It is natural. Secondly, their explanation of the origins of civil society are rooted not in the in-

[47] *Ibid.*, 219–232.
[48] See *ibid*., 84–86.

dividual who bands together with other individuals to form society, but in families. The family thus precedes society in the order of being.[49]

They also solve one of the major problems in the consent theory of authority—how does the consent of the founding members of a society bind future generations to the society formed? As they explain, the difference is that civil society although formed by the voluntary union of families is not a voluntary but a necessary society. Societies formed for "collecting stamps or mining coal" are not complete unions but formed merely for contingent objectives.[50] Marriage and civil society are necessary unions that involve a union not for a contingent end but a union as such. Once formed by the voluntary act of the husband and wife or founding families, the society created, marriage or civil society respectively, has a fixed nature that no longer depends upon the continued consent of those who formed it. As they explain, those who govern a constituted nation do "not depend on the continued consent of the subject, just as the husband's authority over his wife does not depend on his wife's continued consent to it."[51] Once formed by voluntary consent, a marriage and civil society are brought into being and have in a certain sense a life of their own.

Constraints on Legal Authority

Yet, this lack of dependence upon the continued consent of the governed does not create a totalitarian system. Although the legitimacy of any form of government is not dependent upon the continued consent of the citizens after it is formed by the consent of founding families, the exercise of that legitimate authority is constrained. First, the authority to make laws is circumscribed by the natural law and justice. Lawmak-

[49] See *ibid.*, 86; see also *ibid.*, 40–63.
[50] See *ibid.*, 84.
[51] *Ibid.*, 85.

ers may only make just laws and unjust laws are not laws but acts of violence.[52] This claim begs the question: who has the authority to determine if any particular law is unjust and thus no law? Crean and Fimister answer this question in another way that preserves the rights claimed by the Church and acknowledges the current reality in which the Church may not be able to exercise those rights. They argue that "the right to judge and to declare when a civil law, because it transgresses the natural or divine law, is null and void belongs of right to the spiritual power" but if "no definitive judgment is forthcoming from the spiritual power . . . each man must follow his conscience in this regard."[53] Although they maintain that within Christendom the Church has the authority to declare unjust laws null and void, with respect to a nation outside of Christendom they summarize the role of the Church thus: "When an unjust law is passed, the Church does not, outside Christendom, annul it though she may condemn it; and if it obliges citizens to unjust actions, she teaches that it does not bind in conscience and must not be obeyed."[54] This explanation contains an interesting ambiguity that they do not resolve. They state that the Church "does not" annul a law in this context but do not say "cannot." It is unclear if they maintain that in theory the Church can so annul a law and merely does not out of prudence (since it would likely be ignored). Given some of their arguments about the removal of tyrants I think it possible they do maintain this position.

Crean and Fimister draw an important theological distinction with respect to this legal authority to decide the legitimacy of potentially unjust laws. They make clear that such determinations by the Church "do not have the degree of infallibility that belong to doctrinal

[52] See *ibid.*, 122–136.
[53] *Ibid.*, 131.
[54] *Ibid.*, 224.

questions."[55] Thus, if a citizen or governor determines, in good faith after having given due respect to the judgment of the spiritual power on this matter, that this judgment is "erroneous or imprudent," such person must ultimately follow his informed conscience on this matter even if doing so involves suffering penalties.[56] This distinction is very significant when considering the topic of human law. When human law attempts to enact a principle of natural law into the positive law to reinforce that principle's importance, the Church's judgment on the content of the natural law precept would be of a more doctrinal nature and thus more likely to rely on infallibility. In cases in which the human law merely attempts to determine in more specificity an application of natural law to the contingent matter of a society, judgments as to the injustice of such a law are not so protected.[57] Most laws are of the latter sort and thus it would be in more rare circumstances in which the Church could infallibly declare a law unjust. Examples would include a law compelling one to offer sacrifice to false gods or declaring a universal right to procure an abortion.

The next constraint upon the exercise of legitimate legal authority relates to its usurpation. Although legal authority as such, once constituted, does not rely on continued consent for its legitimacy, citizens may resist the usurpation of that legitimate authority by one who unjustly seizes it from the one entitled to exercise it.[58] Once again in this section, Crean and Fimister demonstrate their ability to maintain a very nuanced balance between preserving principles and recognizing practical political realities. They maintain that a usurper's de facto control of political power can never legitimize their unlawful usurpation "for that

[55] *Ibid.*

[56] *Ibid.*

[57] For a further explanation of these two types of human laws, repetition of natural law precepts and determinations, see McCall, *The Architecture of Law*, ch. 6.

[58] See Crean & Fimister, *Integralism*, 98–100.

would make of theft a title of ownership."[59] Yet, if the legitimate holder of legal authority who has been usurped "abdicates or when it ceases to be probable that the good of conflict would outweigh the evil," Crean and Fimister introduce at such junction a form of consent that can legitimize the de facto government. They claim that upon either of the aforementioned conditions prevailing, the civil society is dissolved resulting in the ability of families "or a body speaking in their name" to reconstitute a new constitution of society and install the former usurper into the office of legal authority.[60] Although continuous consent is not needed to sustain a constituted society, consent (either directly or indirectly) is necessary to reconstitute a society if it is dissolved due to unresisted usurpation. This nuanced approach provides a method to maintain the principle that usurpation never confers legitimate title to authority as well as provides a practical solution to historical realities in which usurped authority persists over time.

Finally, Crean and Fimister place one final constraint upon legal authority. A governor who goes beyond adopting an isolated law that is unjust and becomes a tyrant may be removed legitimately from office. They define a tyrant as one "habitually manifesting his intention not to govern for the good."[61] They use the concept of habitual intention to distinguish a tyrant from an inept ruler. One may make unjust laws unintentionally through incompetence or manipulation by others. Yet, one becomes a tyrant by virtue of a habitual intention to make such unjust laws. Their definition is an interesting twist on St. Thomas's definition of a tyrant as one who "seeks his own benefit from his rule and not the good of the multitude subject to him."[62] Although very similar, Crean and Fimister's definition has the advantage of capturing a bad ruler who

[59] *Ibid.*, 99.
[60] See *ibid.*
[61] See *ibid.*, 95.
[62] Aquinas, *De Regno*, bk. 11, ch. 2.

habitually seeks to govern in a way that harms the common good of the nation but who may not intend to benefit himself thereby. It may in this sense capture a purely malicious ruler who knows that such bad government is actually contrary to his personal interest but who intends such destructive rule.

In dealing with a tyrant, Crean and Fimister once again demonstrate their ability to express a nuanced solution. They make clear that a tyrant "no longer has the right to use" legitimate legal authority and that authority may be transferred from the tyrant to others.[63] Yet, a tyrant who is not a usurper does not result in the dissolution of the civil society which remains constituted. Therefore, individual citizens or families are not free to force an extra-constitutional transfer of power from the tyrant because the one who displaces the tyrant "must have authority over the one displaced."[64] Since authority is not conferred from below but from above, those ruled by a legitimately installed but tyrannical ruler lack the authority to remove the tyrant. Who then can do so? The answer depends upon whether the nation has submitted to the rightful jurisdiction of the Church. In Christendom, the spiritual authority can remove the authority from one who obstinately persists in abusing it and transfer it to another.[65] Although their discussion seems to imply that outside Christendom the Church may still in theory have this ability, they acknowledge that in such a state some of the powers of the Church "lapse" and "others become unusable in practice."[66] In this case in which the spiritual power does not or cannot act to transfer authority, it "may be done by those who, though not the sovereign, have by their office some duty of care for the whole commonwealth."[67] The identity

[63] See Crean & Fimister, *Integralism*, 95.
[64] *Ibid.*
[65] See *ibid.*, 230.
[66] *Ibid.*, 234.
[67] *Ibid.*, 96.

of whom may fit this definition in a particular nation depends upon the constitution of the nation but would have to be the "most authoritative non-tyrannical body within the society"[68] and could include a parliament, court, or even the military.

Refining the Classification of Regime Types

In addition to adding new distinctions to the traditional analysis of tyrants and usurpers, Crean and Fimister also add some new distinctions to the traditional Aristotelian categorization of Constitutional regime types. They begin by recapitulating the three divisions of legitimate constitutions (monarchy, aristocracy, and timocracy) and their deviations (tyranny, oligarchy, and democracy).[69] After considering several different interpretations of Aristotle's principle of distinction among these forms, they conclude that it is the extent to which "the ruling element governs the society independently of the governed."[70] Traditionally Aristotle and St. Thomas have been read to identify the number of rulers (one, few, or many) as the point of distinction, but Crean and Fimister argue that this is merely a material or circumstantial distinction.[71] They claim their principle of distinction constitutes a formal distinction.[72] In addition to the three pure forms of constitution, St. Thomas argues that the best form of constitution is one that mixes the three pure forms (there is a mixture of some rule by one, some by a few, and some rule by the citizens).[73] They next explain how St. Robert Bellarmine identified seven different types of a mixed polity—one that

[68] *Ibid.*, 98.
[69] See *ibid*., 146.
[70] *Ibid.*, 147.
[71] See *ibid.*, 148.
[72] *Ibid.*
[73] See *S.Th.*, I–II, q. 105, a. 1.

mixes all three types and six different combinations of any two of them.[74] They use Bellarmine's analysis to refute Thomas Hobbes's claim that there cannot be a mixed constitution, and what appears to be mixed is really one of the other forms.[75] In doing so, Crean and Fimister identify more permutations than Bellarmine; they identify 12 permutations of a mixed form. They argue that a polity has a formal element that identifies it most with one of the three basic forms but then introduces secondary elements of one or more of the other forms to create a unique composite form.[76] The variations within each of the three forms derive from differences in the power to propose or approve laws and whether the body that proposes laws is elected by few or many citizens or not elected at all.[77] The polity is characterized formally as a mixed monarchy, aristocracy, or timocracy depending on whether one, few, or many have the ultimate authority to approve proposed laws. The four variations within each formal form derive from the nature of bodies that can propose laws for approval by the dominant authority and whether that constitutional organ is elected or not.[78] Crean and Fimister's approach not only adds more granularity to the traditional analysis, it also makes it more relevant to a twenty-first century constitutional law context. Unlike at the time of Aristotle and even St. Thomas, the modern administrative state is more complex in its constitutional structure and it is difficult if not impossible to identify any pure forms of constitutions. The complexity of modern constitutional law is better explained by their 12 variations of mixed regimes than by the classical three or four categories. Their distinctions have the advantage of permitting more precision in the description of constitutional structures while preserving the con-

[74] Crean & Fimister, *Integralism*, 150.
[75] *Ibid.*, 151.
[76] *Ibid.*, 152.
[77] *Ibid.*, 152–153.
[78] *Ibid.*

cept of a dominant form within a constitution (monarchial, aristocratic, or timocracy) that helps to describe the dominant feature.

Separation of Powers

One additional benefit of their more refined categorization is that it improves their discussion of a related topic: the separation of powers. Montesquieu popularized the idea that the legislative, executive, and judicial powers needed to be separated within a constitution among different people. He summarizes his argument thus: "There would be an end to everything were the same man, or the same body, whether of the nobles or of the people, to exercise those three powers, that of enacting laws, that of executing the public resolutions, and of trying the causes of individuals."[79]

As with the categorization of polities they offer a traditionally based but more nuanced discussion of the topic. Crean and Fimister define the three powers of the sovereign—legislative, executive, and judicial—in terms of the relation of each power to the natural law. They identify the legislative power with the authority to make particular determinations of natural law precepts.[80] They associate the power to derive by the use of human reason and not human determination, principles from natural law to resolve particular cases with the judicial power.[81] Finally the associate with the power to take practical actions to achieve the goods identified by the precepts of natural law with the executive.[82] Although their definitions of the three powers are similar in some respects to those of Montesquieu and although he makes refer-

[79] Montesquieu, *The Spirit of the Laws*, trans. T. Nugent (New York: Hafner Publishing Co., 1949), 152.
[80] Crean & Fimister, *Integralism*, 93–94.
[81] *Ibid.*, 93.
[82] *Ibid.*

ence to natural law, Crean and Fimister connect these three aspects of sovereignty to three ways human political action can relate to the natural law—determination, deduction, and action. This distinction adds clarity to the discussion of the need or desirability to separate them. Although they concede that some separation among those who exercise these three powers as a "safeguard to corruption," they argue that a complete separation "seems impossible in practice and unnecessary in principle."[83] They argue that there is a practical benefit to have those who must administer and judge the laws participate to some extent in the crafting of the law they must administer or judge in application. By connecting the powers to a common font, natural law, they gain the insight that these powers although distinct are inherently connected and therefore impossible and unreasonable to separate completely in their use. The partial separation of powers to avoid corruption is understood as a consequence of both human finitude and sin. They point out that Christ, who is not restricted by either of these, unites all three powers in himself.

Conclusion

This new book therefore contains both a concise but precise summation of traditional Aristotelian/Thomist political and legal philosophy while also introducing several interesting distinctions and interpretations of traditional concepts and categories. Their insightful distinctions in many ways adapt traditional doctrine to the complexities of twentieth century constitutional realities. In particular they balance preserving the immutable rights of the Church in theory and the practical reality in which the Church finds herself today in which many of those rights are impossible to exercise.

[83] *Ibid.*, 94.

Developing Distinctions of Classical Principles for Modern Constitutions: *Integralism: A Manual of Political Philosophy* by Fr. Thomas Crean and Alan Fimister

SUMMARY

Father Thomas Crean and Alan Fimister have produced a comprehensive yet concise treatise on classical political and legal philosophy in *Integralism: A Manual of Political Philosophy*. As the title implies the hallmark of their approach is that jurisprudence, political philosophy, moral philosophy, and theology are not separate disciplines but integrally related. Their exposition and arguments move seamlessly among theology, philosophy, and jurisprudence. The second characteristic of Crean and Fimister's work is how they interweave within a classical reading of Aristotle and St. Thomas several intriguing developments of the classical principles. They advance interesting distinctions and developments with respect to: whether civil nations can be perfect societies; the role of the Church in declaring a human law null and void under natural law; the removal of tyrants and usurpers; the classification of constitutional regimes, and separation of powers.

KEYWORDS

natural law, regime types, usurpers, tyrants, christendom, relation of Church and state, integralism.

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