

Introduction

Biographical Sketch

Johannes Althusius, whose surname appears variously as Althus, Althusen, or Althaus, was born in 1557 at Diedenshausen, a village in the countship of Witgenstein-Berleburg.¹ Very little is known for certain of his parents, his youth, or his early course of studies. He appeared at Cologne in 1581, where he apparently studied the writings of Aristotle. At some point prior to obtaining his doctorate, Althusius also studied law at Geneva with Denis Godefroy (1549–1622), the renowned legal scholar who published the first complete edition of Roman Civil Law in 1583.² He received his doctorate in both civil and canon law at Basel in 1586. Astonishingly, he published his first book *Jurisprudentiae Romanae*, which was a systematic treatise on Roman law based on the Godefroy edition, during the same year. While at Basel, he lived for a time in the home of Johannes Grynaeus (1540–1617), with whom he studied Reformed theology and thereafter maintained a lifelong correspondence.

In 1586, he accepted a call to teach in the newly founded law faculty in the Reformed Academy at Herborn. The Academy, which had been founded only two years earlier by Count John VI of Nassau-Dillenburg (1535–1606), became immediately successful and attracted an international student body. Its first rector was Caspar Olevianus (1536–1587), the coauthor with Zacharias

Ursinus (1534–1583) of the Heidelberg Catechism.³ As the first professor of law at Herborn Althusius began lecturing on Justinian’s *Institutes*, but his teaching interests soon shifted to the science of public law, or what is now political science. In 1589, he became a member of the count’s Chancery at Dillenburg and later became councilor to the count (1595).⁴ After studying theology for a time in Heidelberg,⁵ Althusius was made rector of the Academy in 1597. His second book, a volume on ethics titled *Civilis conversationis libri duo*, was published in 1601. The most notable achievement of his tenure at Herborn was the publication in 1603 of the *Politica methodice digesta & exemplis sacris & profanis illustrata*, a work that received immediate and widespread attention.

Even though Althusius had already begun to establish a scholarly reputation with his first and second books, it was the *Politica* that seems to have been instrumental in securing for him an attractive offer to become syndic of Emden in Friesland. Althusius assumed his duties in 1604 and led the city’s legal and political affairs without interruption until his death in 1638. During his lengthy term of service, he engaged in strategic diplomatic missions with the territorial authorities to assist Emden in achieving independent statehood, he also developed and maintained a municipal constitution, and kept up with his literary pursuits. He published two new and enlarged editions of the *Politica* (1610 and 1614), and also wrote the *Dicaeologicae* (1617), a work in which he systematized the entire body of existing law and coordinated it with Roman and Jewish civil law. In 1617, Althusius was elected elder of the church of Emden, and was highly esteemed by the Reformed clergy under the leadership of Menso Alting (1541–1612). “There is a sense in which [Althusius’] two functions of syndic and elder, coupled with capacities for leadership and hard work,” observes Carney, “enabled him to coordinate the civil and ecclesiastical jurisdictions of the city, and thus to exercise somewhat the same kind of influence in Emden as Calvin did in Geneva.”⁶

Johannes Althusius: Political Theorist, Jurist, Syndic of Emden

Until Otto von Gierke’s (1841–1921) rediscovery of Althusius in the 1880s, few political theorists and jurists, and even fewer theologians, had any substantive appreciation for Althusius’ contribution to either the Western political

canon or the Western legal tradition. One possible explanation for the rather slow reception of Althusius among twentieth-century scholars, at least until recently, is that prior to Frederick Carney's 1964 translation there had been no published translation of a substantial portion of the *Politica* in any vernacular language.⁷ This state of affairs has changed in the last few years. In 2003, an unabridged translation of the *Politica* into German was published,⁸ leaving the rest of Althusius' corpus untranslated from the Latin originals, the only exception being the selections from the *Dicaeologicae* that now appear in the *Journal of Markets and Morality* for the first time in English translation.⁹ Another factor contributing to his relative obscurity, however, is less benign: Althusius was the focus of a maelstrom of criticism from all sides by seventeenth-century polemicists, including Henning Arnisaeus (d. 1636) and Hugo Grotius (1583–1645). From the mid-seventeenth century onward, he was routinely attacked by Hermann Conring, Naamann Bensen, Peter Gartz, Johann Heinrich Boecler (1611–1672), and Ulrich Huber (1636–1694) who insisted that the *Politica* was “a book worthy of the flames,” “the most noxious fruit of Monarchomachism,” “the dogma of popular sovereignty a product of Presbyterian error,” and its author “the seditious architect of disorder.”¹⁰

It should hardly be surprising that the *Politica* would occasion such searing indictments for it vigorously defended the local autonomies of the old plural order of guilds, estates, and cities against the rise of territorial absolutism and those early apologists of the modern unitary nation state such as Jean Bodin (1520–1596) and Thomas Hobbes (1588–1679). Furthermore, in later editions of the *Politica*, Althusius urged readers to follow closely the logic of the arguments presented therein because they provided theoretical justification for the Dutch revolt from Spain. That much is clear from the dedication of the book (second and third editions) to the Estates of Frisia, which he praised for their role in resisting the king of Spain and in fearlessly proclaiming the right of sovereignty “to reside in the association of the multitude and the people of the individual provinces.”¹¹ Needless to say, the *Politica* was one of the most widely read and, by some, the most despised book of its day.

Besides the *Politica*, Althusius wrote a series of treatises in jurisprudence, of which two undertook a systematic treatment of civil law. The first of these appeared in 1586 at Basel under the title: *Jurisprudentiae Romanae libri duo ad leges methodi Rameae conformati et tabellis illustrati*. This book was widely used as a legal textbook and went through several editions. It was later

completely revised and published (at Herborn in 1617, and at Frankfurt in 1618 and 1649) as *Dicaeologicae libri tres, totum et universum jus, quo utimur, methodice complectentes, cum parallelis hujus et Judaici juris, tabulisque insertis atque Indice triplici*. The *Dicaeologicae* was an immense work (792 Latin folio pages) that sought to construct a single comprehensive juridical system by collating the Decalogue, Jewish law, Roman law, and various streams of European customary law. In the preface to the *Dicaeologicae*, Althusius explains that the *Jurisprudentiae* “has been praised and attacked at different times in different places contrary to my thoughts and anticipations.” In fact, “learned and eminent men have advised me a number of times to recall that treatise so that I might iron out and explain more fully what I expressed rather succinctly, briefly, and obscurely. Diligently have I obeyed my advisors and whatever leisure time I have had away from my duties and obligation to the state I devoted to this concern and pursuit. These earlier concerns have produced a work that is almost completely new and is, in fact, different in many ways from the previous one.”

The *Dicaeologicae* was Althusius’ principal juridical work and evidences the “method” of legal systematization initiated at Wittenberg by Johann Apel (1486–1536) and Konrad Lagus (ca. 1499–1546). The new legal science pioneered in the works of Apel, Lagus, Nicolas Vigelius (1529–1600), and other early and middle sixteenth-century German Protestant jurists was strongly influenced by the topical method of the Reformer Philip Melanchthon (1497–1560) and developed over the next two centuries by jurists throughout Europe, both Roman Catholic and Protestant. In Harold Berman’s estimation, Johannes Althusius and Nicolas Vigelius are “among the most prominent German legal ‘methodists’ of the latter part of the sixteenth century.”¹² The new legal science differed from the earlier legal sciences “in its use of topical method to analyze and synthesize law as a whole as well as to analyze and synthesize the various systems of law that prevailed in Europe—Roman, canon, royal, feudal, mercantile.”¹³ It was this legal science, above all, contend Berman and Reid, “that constituted the basis of the new European *jus commune* of the sixteenth to eighteenth centuries. The legal scholars who developed it formed a pan-European class of jurists, a *Juristenstand*, who wrote not only for their respective countrymen but also, and sometimes primarily, for each other.”¹⁴

Finally, for the sake of completeness in our survey of Althusius’ corpus, we should mention that he also wrote a system of practical ethics, which his cousin

Philipp Althusius published under the title: *Joh. Althusii V. Cl. Civilis conversationis libri duo, methodice digesti et exemplis sacris et profanis passim illustrati* at Hanau in 1601 (2d ed. 1611).¹⁵

The Modern, Interdisciplinary Renaissance in Althusius Studies

As mentioned above, the modern resurgence of interest in Althusius began with the nineteenth-century German jurist and historian Otto von Gierke.¹⁶ Gierke recovered Althusius from two centuries of relative obscurity and attributed to the *Politica* the distinction of making one of the pivotal contributions to Western political thought. He saw in Althusius a seminal thinker who was enabled by an exceptional education in law, theology, politics, and history to develop a political theory that served as a capstone of medieval social thought and a precursor to modern political ideas.¹⁷ The chief feature of this theory, Gierke thought, was its federalist structure, which he understood to result from an admixture of contractual and natural-law principles. Althusius' main contribution, in Gierke's words, was "to give logical unity to the federal ideas that simmered in the ecclesiastical and political circles in which he lived, and to construct an audacious system of thought in which they all found their place."¹⁸ Gierke believed, however, that he could discern deist and rationalist elements in Althusius' system that arose from his supposed sequestering of religious belief from political theory.¹⁹

The renewal of interest in Althusius was given further impetus by the work of Carl Joachim Friedrich,²⁰ who, as Carney states, "in 1932 not only republished the largest part of the 1614 edition of the *Politica* in its original language, but also provided for it an introduction that considerably advanced our knowledge of Althusius' life as well as his thought."²¹ Friedrich, contrary to Gierke, focused attention on the concept of the symbiotic association as the foundation of Althusius' political theory and on his religious beliefs as the interpretive key to understanding the concept of symbiosis. Nonetheless, like Gierke, Friedrich conceded that Althusius seemed to be drifting toward deism though, in his judgment, the move was attributable to "the rigid determinism of the dogma of predestination" as it came to expression in his new science of politics.²² Friedrich self-consciously read Althusius through the interpretive

lens provided by Max Weber, and so, concluded that Althusius' alleged biological naturalism (*symbiosis*) and determinism were rooted in his Calvinist concept of God,²³ that stressing the emotional bonds among persons living in groups led to his formulation of a theory of the corporate state (akin to the collectivist states of Italy and Russia in the 1930s),²⁴ and that utilitarianism had come to maturity in his version of secularized Calvinism.²⁵ Despite the evident differences in their appraisals of Althusius, Friedrich shared with Gierke a very high estimate of Althusius' importance, so much so, in fact, that Friedrich considered him to be "the most profound political thinker between Bodin and Hobbes."²⁶

In addition to Gierke and Friedrich, the two scholars most responsible for reestablishing Althusius' reputation after a three-hundred-year hiatus, there is a broad array of twentieth-century scholars from various disciplinary backgrounds who have devoted considerable attention to his thought. As might be expected, political theorists and historians have been in the vanguard of scholars assessing the importance of Althusius' contribution to the development of the Western political tradition. The older generation of political historians, such as A. J.²⁷ and R. W. Carlyle,²⁸ William Archibald Dunning,²⁹ and John Neville Figgis,³⁰ all acknowledge a debt of gratitude to Gierke for reviving interest in Althusius, on the one hand, and largely follow his lead in viewing Althusius as an early proponent of social contract as the foundation of an ordered and authoritative political society, on the other.³¹ A. P. d'Entrèves,³² in particular, subscribes to Friedrich's version of the Weber thesis—that Althusius' political theory was an attempt to develop the implications of a deterministic doctrine of predestination for the natural order—and, on that basis, concludes that Calvinist nominalism led inexorably to Hobbesian voluntarism.³³

By mid-century, scholars were already skeptical of Gierke's and Friedrich's assessments of the relationship of Althusius' religious beliefs to his political theory and sought to address a broader range of topics in Althusian scholarship. Pierre Mesnard³⁴ and Frederick Carney,³⁵ for example, provided extensive analyses of Althusius' constitutionalism, focusing on the institutional foundation of his political theory in the associations of civil society. Stanley Parry addressed the issue of the relationship of political norms to processes in Althusius. He suggested that Althusius' concern with symbiosis is actually a search to find a means for obtaining participation by the people in decisions that rulers conceive to be the demands of natural law.³⁶

In the 1950s and 1960s Ernst Reibstein,³⁷ Peter Joachen Winters,³⁸ Erik Wolf,³⁹ and Eckhard Feuerherdt⁴⁰ focused scholarly attention on the antecedents, application, and role of the natural-law tradition in Althusius' thought. Reibstein and Winters, in particular, disagreed over the extent to which Althusius worked within the natural-law tradition and the way he related it to the moral precepts of the Decalogue. Reibstein argued Althusius first became acquainted with the natural-law tradition of the Spanish school of Salamanca through Diego Covarruvias' and Fernando Vázquez's writings on Roman law jurisprudence. He contends Althusius' early conflict with the Herborn theological faculty already evidences his inclination toward a "natural-law interpretation of the Bible"⁴¹ by reducing the commands of the Decalogue to the precepts of natural law. Therefore, when Althusius appeals to profane examples in the *Politica* to illustrate his theory, Reibstein thinks he intentionally employs the humanistic natural-law methodology of the Spanish school with only minor modifications.

Winters responds to Reibstein with a Barthian-style argument claiming precisely the opposite. According to him, Althusius developed a "biblical or Christological interpretation of natural law"⁴² because, for Althusius, it was not possible to speak either of the Decalogue or the *lex naturalis* except through Christ, the One who is the very fulfillment of the moral law. For this reason, then, Winters insists Althusius does not appeal to an abstract ontology to ground his formulation of natural law but rather to God's sovereign will and the revelation of his justice ascertained through Scripture alone. Unfortunately, neither Reibstein nor Winters look to antecedents in the Reformed tradition (other than Calvin) to assist in tracing the development of Althusius' doctrine of natural law. More recently, however, several German scholars associated with the Johannes Althusius Gesellschaft have labored to fill in the historical gaps of our knowledge concerning the theological texts, traditions, and institutions that influenced Althusius' thought.⁴³

In the early 1970s, scholars began making a concerted effort to probe the theological (covenantal) and political (federalist) dimensions of Althusius' thought. Building on the work of P. S. Gerbrandy,⁴⁴ neo-Calvinist James Skillen⁴⁵ sought "to discover the place of Althusius in the development of Dutch Calvinist political thought" and, in so doing, challenged Gierke's and Friedrich's understanding of Althusius' religious beliefs and discerned the importance of the concept of symbiotic communities for later Dutch Calvinist

political thinkers. Skillen comments that neither Groen van Prinsterer nor Abraham Kuyper display “any direct knowledge of Althusius’ writings, yet the most important twentieth-century political thinker from those circles, Herman Dooyeweerd, recognizes in Althusius the kernel of truth that lies at the heart of his own covenantal political perspective.”⁴⁶ Dooyeweerd praises Althusius for being the first to take account of “internal structural principles in his theory of human symbiosis” but thinks this insight put him “in opposition to the entire medieval-Aristotelian tradition.”⁴⁷ Unfortunately, Skillen accepts Dooyeweerd’s judgment that Althusius developed his doctrine of symbiosis and understanding of common law (i.e., natural law) and proper law (i.e., positive or customary law) along non-Aristotelian, nonscholastic lines.

Skillen is concerned to rebut Friedrich’s claim that Althusius, as an Aristotelian, is merely using the concept of symbiosis to develop the Graeco-Roman tradition of state absolutism.⁴⁸ However, instead of acknowledging Althusius’ obvious debt to Aristotle and the ways in which Althusius’ thought is either continuous or discontinuous with Aristotle’s, Skillen juxtaposes Dooyeweerd’s antiecclesial, antischolastic mentality to Friedrich’s position as mutually exclusive alternatives. “If Friedrich is correct, then there is no conception in Althusius of an internal difference of nature, or independence, of the various human associations. If Dooyeweerd is correct, then we will discover in Althusius a definite limit to the state according to its peculiar nature—a limit which is determined, at least in part, by the peculiar natures (and laws) of other human association which will not permit the state to ‘devour’ the entire community.”⁴⁹ Thus, Skillen feels compelled to assent to Dooyeweerd’s viewpoint that Althusius had not yet fully separated himself from “the old Roman Catholic culture with its scholastic thinking” to discover “God’s order for the creation (including human social life) not the order which the church had sought to impose upon it.”⁵⁰ As a result of accepting Dooyeweerd’s analysis, Skillen does not appreciate fully the extent to which Althusius utilized the work of such Protestant Scholastic writers as Philip Melancthon, Heinrich Bullinger (1504–1575), John Calvin (1509–1564), Peter Martyr Vermigli (1499–1562), Jerome Zanchi (1516–1590), and Franciscus Junius (1545–1602),⁵¹ on the one hand, and the precise relationships Althusius establishes between the concepts of *jus commune*, *jus naturale*, *lex moralis*, *lex naturalis*, *lex communis*, *lex propria*, and *lex divina*, on the other.⁵²

Contemporary theologians and political theorists, such as J. Wayne Baker, Alain de Benoist, Daniel Elazar, Ken Endo, Thomas Hueglin, Fabrizio Lomanaco, Charles McCoy, and Patrick Riley, who are each interested in reinvigorating federalist political structures, have devoted extensive scholarly attention to Althusius' role as a codifier and theorist of European confederal political arrangements of the late sixteenth and early seventeenth centuries. While each of these scholars would add important qualifications to the following statement by Elazar, they would all agree that "the federal theology that [Reformed Protestantism] articulated . . . stimulated the renewed political application of the covenant idea, which was given expression first by political theologians and then by political philosophers such as Althusius and in the next century was secularized by Hobbes, Locke, and Spinoza."⁵³ Each of the aforementioned scholars has approached the matter of Althusius' contribution to the development of federalism from different but complementary perspectives.⁵⁴

J. Wayne Baker,⁵⁵ Fabrizio Lomonaco,⁵⁶ and Charles McCoy,⁵⁷ for example, focus on the relationship of Reformed covenantal theology to federal theories of government in the post-Reformation era of England, Germany, the Netherlands, Switzerland, and France. They are interested in showing that Althusius' federal political philosophy arose out of the political and theological climate of the time. According to Baker and McCoy, federal political models "were widely practiced, especially in areas influenced by the Reformed tradition coming from Zurich and Bullinger. Althusius could draw, therefore, on many actual examples of operating federal polities as well as scholarly treatises of the past and present on government."⁵⁸ Furthermore, McCoy insists that covenant is the root metaphor by means of which Althusius understands human society. In fact, he thinks the concept of covenant (*pactum*) is what ties together the various streams of Greek, Roman, biblical, and sixteenth-century polities from which Althusius draws.⁵⁹

During his lifetime, Jewish scholar Daniel Elazar was at the forefront of the twentieth-century interdisciplinary and ecumenical interest in assessing Althusius' contribution to the development of federalism. Throughout publications spanning more than three decades, Elazar argued that the arduous road to modern democracy began with the Protestant Reformation's revival of the biblical-covenantal tradition of politics.⁶⁰ In his introductory essay to Carney's translation of the *Politica*, Elazar contended that exponents of Reformed Protestantism developed a theology and politics that set the Western world on

the road to popular self-government, emphasizing liberty and equality: “Only at the end of the first century of the Reformation did a political philosopher emerge out of the Reformed tradition to build a systematic political philosophy out of the Reformed experience by synthesizing the political experience of the Holy Roman Empire with the political ideas of the covenant theology of Reformed Protestantism.”⁶¹ Elazar’s main concern with the *religious* foundation of federalism centers in its origin in the covenantal structure of the Old Testament. Indeed, the argument could be made that Elazar’s legacy consists of having shown how the covenantal basis of Judaism was reiterated in Reformed Protestantism and later expressed in the federalist principles of the American polity.⁶²

By focusing on the constitutional dimensions of Althusius’ federalism, contemporary political theorists and legal scholars such as Michael Behnen,⁶³ Alain de Benoist,⁶⁴ Ken Endo,⁶⁵ Thomas Hueglin,⁶⁶ Patrick Riley,⁶⁷ and Nicholas Aroney⁶⁸ have provided nuanced assessments of Althusius’ political theory as a form of medieval corporatism and modern constitutionalism, on the one hand, and argued that his doctrine of subsidiarity can be seen as more-or-less consonant with modern federal (territorial) and confederal (nonterritorial) polities, on the other. Hueglin, in particular, has been a vigorous proponent of the confederal tradition of political thought that Althusius represents. He writes:

The classical canon of political thought has remained committed to the idea of state power as an independent variable of societal organization. Given the pluralization of power among political, economic, and social actors in the modern polity, the continued adherence to that canon amounts to nothing less than “studying the wrong authors.” Althusius reminds us not only that there is an alternative tradition of political thought that emphasizes the horizontal over the vertical in political life. His conceptualization of politics also serves as a reminder that the sovereign territorial state is but an episode in the history of political civilization.⁶⁹

The research team of Jacques Delors, president of the European Commission during the long and difficult gestation period of the Maastricht Treaty in the European Union, thinks the modern beginning of subsidiarity as a guiding principle of power allocation in plural systems of governance is to be found in a 1571 resolution passed by the Synod of Emden to govern the relationship between parishes and general synods. The researchers attribute the genesis of

this political principle to Calvinist “federal theology, Emden and Althusius,”⁷⁰ which predates Pope Pius XI’s famous description of the doctrine of subsidiarity in the 1931 encyclical *Quadragesimo Anno* (nos. 79–80) by nearly three and one-half centuries.

The *Dicaeologicae*: Significance and Overview

As Althusius indicates in the preface to the *Dicaeologicae*, he was not satisfied with the synthesis of law set forth in the *Jurisprudentiae Romanae*. And thus, for the next several years he sought to perfect his system in an effort to make it maximally coherent and comprehensive. Already in the year 1591, recounts Gierke, “Althusius gave to Corvinus, his publisher in Herborn who desired a new edition, a brief outline of his revised system which was prefixed to the edition of 1592 and the later Herborn editions under the title of *Epitome et brevis ... Dicaeologicae Romanae*.”⁷¹ The expansion of this project into a full account of the whole body of law was not completed until the publication of *Dicaeologicae libri tres, totum et universum jus, quo utimur, methodice complectentes* in 1617 at Herborn.

Yet, in Gierke’s judgment, the material of the *Dicaeologicae* is systematized to the point of being contrived. “From the first principles down to the most minute details it is deduced with inexorable rigor, one might even say fanaticism,” he states disparagingly of Althusius’ use of Ramist logic. “At every point the successive division of concepts is worked out by the force of dialectic. Often indeed the required dichotomy can only be set up by recourse to somewhat arbitrary antitheses, such as ‘general’ and ‘special.’”⁷² While Gierke was critical in general of Ramist logic and scholastic method, Berman has a firmer and more subtle grasp of the philosophical, theological, and philological antecedents of the new legal science of the sixteenth and early seventeenth century. The *Jurisprudentiae Romanae* and the *Dicaeologicae*, which were republished many times in the seventeenth and eighteenth centuries, writes Berman, “were in the tradition of Lagus and Vigelius; like them, Althusius divided all law into public law and private law, subdivided private law into ownership and obligation, subdivided obligation into contract, tort, and unjust enrichment, and sought to deduce from general concepts and general principles the detailed rules applicable to individual transactions.”⁷³ The systematization of law that took place in the sixteenth century in work of Apel,

Lagus, Vigelius, and Althusius “remain to this day the basic ‘topics’ of Western legal science.”⁷⁴

Before concluding, I will provide a brief overview of the *Dicaeologicae*, in which I rely upon Gierke’s helpful schematic,⁷⁵ and will state in broad strokes the significance of the material that has been translated. Althusius divides the science of law into a general and a special part, which are distinguished as the *membra* and the *species* of jurisprudence. As elements (*membra*) of all legal relations, a distinction is drawn between the *negotium symbioticum*, that is, the activity of human life as leading to the establishment of rights, and the *jus*, or law (right). Althusius divides the general part (I.1–34) into two sections.

The first section concerns the *negotium symbioticum* and the *factum civile*, or the business of this world. Its elements (*membra*) are things and persons. Persons are considered only insofar as their qualities, conditions, and strivings involve legal differences; following the strictures of Ramist method Althusius will not attempt to analyze aspects of persons that come into play in other disciplines such as political science, ethics, theology, or history (c. 1, nos. 9–10). Next, he analyzes things, their partition into real and ideal parts and their division into individual and composite things, with further subdivisions (c. 1, nos. 11–44). Then, he treats the person as *homo juris communionem habens*, which is divided into two species, first individual persons and the influence of inherited and acquired status (c. 5–6), and second the natural and voluntary associations of persons (c. 7–8). After this comes a section on the theory of the human act whereby the person constitutes things as elements of social relations (c. 9–12). Last comes a consideration of the various species of *factum civile* (c. 12, nos. 12–17).

The second section treats *jus*, which is divided into the theory of *constitutio juris* (or objective law) and *species juris* (or subjective law). The establishment of law takes place through a rational deduction from the essential nature of *negotium*. Natural law (or common law as Althusius refers to it), which is a significant source of law in general, is set up by common right reason (*recta ratio communis*) in accordance with the general requirements of human society (c. 13). Positive law (or individual, principal law as Althusius refers to it) is derived from the *recta ratio specialis* according to the special requirements of local patterns or customs of life (c. 14). The latter, to be considered law at all, however, must conform to the first principles of natural law, but, at the same time, to remain positive law, it must differ from natural law in its ability

to adapt to new concrete circumstances. In chapters 13 and 14 respectively, which appear in the scholia translation, Althusius treats in some depth first what law is and what normative significance the law inscribed on the heart has for civil law (c. 13) and then discusses the various species of written and unwritten positive law (c. 14).

He next addresses *dominium* and *obligatio*, which as Gierke states, are in general distinguished as “real right” and “personal right.” Under *dominium* he treats various species of ownership, and extends his discussion to a possession of things (c. 18–21). But so-called real rights in the property of others can take various forms of servitude, which he analyzes in detail (c. 22–24); they can also be understood in terms of power relations, which he addresses in considerable depth (c. 25–33). It is important to be clear that Althusius classifies these issues under *dominium* because they partake of the nature of ownership. Under the general rubric of power (*potestas*), he treats various forms of liberty such as the subjective rights of reputation, dignity, chastity, and bodily integrity (c. 25–26). Under the topic of alien power, he analyzes private power (c. 27–31) and public power (c. 32–33). The final two chapters of the scholia translation, chapters 32 and 33 respectively, concern the general nature of public power in civil and ecclesiastical realms (c. 32) and significantly the limitations to public power and civil authority (c. 33). He concludes this section with a general treatment of the second species of subjective right: obligation (c. 34). This concludes Althusius’ discussion of the general part of all legal relations.

The special part, or Species Dicaeologicae, is divided into the Dicaeodotica and the Dicaeocritica. The Dicaeodotica concerns the distribution of rights among people, and is divided into the Dicaeodotica acquirens (acquisition) and amittens (obligation). The remaining sections of book 1 concern the topic of how rights are acquired. After stating general principles governing the acquisition of rights (c. 35), Althusius takes up the acquisition of ownership, where he also discusses the right of inheritance (c. 36–63). He next addresses various relationships of obligation through contracts or delicts. Following this, he then proceeds to give a full treatment of the creation and operation of contracts and their several species (c. 64–97). Book 1 ends with a treatment of delicts that is expanded into a complete system of criminal law (c. 98–146).

Book 2 of the *Dicaeologicae* is concerned with the loss of rights. It deals first with the extinction of rights in general (II.1–11), and is then followed by a discussion of the special modes in which ownership and possession can be

abrogated (c. 12–13). Next is a treatment of the modes by which obligations can be terminated, particularly with respect to their performance (c. 14–22). Finally, there is a brief discussion of the discharge of obligation with respect to delicts (c. 23).

The *Dicaeocritica* concerns the matter of rights in dispute and of their trial and adjudication. This is the subject of book 3, wherein Althusius provides a systematic treatment of the whole law of procedure, including the law of actions.

Given our debt to Gierke in general for reviving interest in Althusius and mine in particular for his schematic of the *Dicaeologicae*, it seems fitting to allow him a final opportunity to shed light on the significance of the syndic of Emden's whole body of law:

The reception of doctrines of public law in the system of civil law is not itself peculiar to Althusius. As the whole exegetic literature since the Gloss upon the *Corpus Iuris Civilis* had brought the study of questions of public law within the sphere of the civil law, this arrangement was preserved by the "methodists." Of these but few attempted to sunder public law from private law as a separate domain; on the contrary, this was regularly treated as coming within the bounds of private law and more especially the law of Persons. But as these "publicistic" admixtures had grown out of the external condition of the original texts, they remained all the more an incidental and occasional adjunct. On the other hand, Althusius, who in the *Jurisprudentia Romana* had done much like his predecessors, set to work in full earnest in the *Dicaeologica* to incorporate the whole body of public law into the Civilian system. Here indeed, as he asserted and maintained at all points the theories already developed in his *Politics*, he had no difficulty in distributing the relations of public law under the rubrics of private law. The result was a unified legal structure, erected wholly in the style of private law and yet covering the groundwork of public law, the like of which was hardly ever constructed before or since.⁷⁶

—Stephen J. Grabill

Notes

1. In the interest of brevity, I have largely followed the overview of Althusius' life found in Otto von Gierke's *The Development of Political Theory*, trans. Bernard Freyd (New York: Howard Fertig, 1966), 19–21 and in Frederick S. Carney, "Translator's Introduction," in *Politica: An Abridged Translation of Politics Methodically Set Forth and Illustrated with Sacred and Profane Examples*, ed. and trans. Frederick S. Carney (Indianapolis, Ind.: Liberty Fund, 1995), xi–xii.
 A longer, fuller treatment of his life can be found in Carl Joachim Friedrich's introduction to the *Politica Methodice Digesta of Johannes Althusius (Althaus)* (Cambridge, Mass.: Harvard University Press, 1932; New York: Arno Press, 1979), xxiii–xli; Thomas O. Hueglin, *Early Modern Concepts for a Late Modern World: Althusius on Community and Federalism* (Waterloo, Ont.: Wilfrid Laurier University Press, 1999), 29–41; and Corrado Malandrino, "Il *Syndikat* di Johannes Althusius a Emden: La ricerca," *Pensiero Politico* 28, no. 3 (1995): 359–83. This article endeavors to correct some of the weaknesses in Heinz Werner Antholz's *Die politische Wirksamkeit des Johannes Althusius in Emden* (Aurich: Abhandlungen und Vorträge zur Geschichte Ostfrieslands, 1955), the only major work on the subject.
2. Carney, "Translator's Introduction," xi.
3. *Ibid.*
4. The internationally esteemed legal historian Harold Berman makes a fascinating point about the dramatic change that occurred in the political role of the jurist during the sixteenth century. "Together with these rather obvious links between the new legal science and the new political order in Protestant principalities, there existed a more subtle link: the exaltation of the political role of the legal scholar. In pre-Reformation Europe as well, legal scholars had played an important role as advisors to popes, emperors, and kings. They also had sometimes been asked by judges to decide cases. Never before, however, had legal scholars been recruited as councilors and judges so systematically and on such a large scale as in the sixteenth-century German Protestant principalities. This was due in part, of course, to purely political factors; but it was also due in part to the character of the new legal science, which was so intellectually complex and intricate as to require professorial expertise to articulate and elucidate it." Harold J. Berman, *Law and Revolution, II: The Impact of the Protestant Reformations on the Western Legal Tradition* (Cambridge, Mass.: Harvard University Press, 2003), 128.
5. Althusius' time in Heidelberg reading and interacting with the Reformed faculty was formative on his intellectual development. According to Carney, "The churchly writings of John Calvin, Jerome Zanchius, Benedict Aretius, and Zachary

Ursinus are the major sources for Althusius' exposition of the ecclesiastical order in both the province and the commonwealth. Zanchius' extensive discussion of law in his *De redemptione* contributes more than anything else to Althusius' understanding of the relation of the Decalogue to natural law, and of both to the proper laws of various nations. Then there are special topics on which Althusius finds his theological colleagues to be helpful, such as Peter Martyr's discussion of war" (Carney, "Translator's Introduction," in *Politica*, xxvii). Zanchi taught at Heidelberg from the late 1560s to the mid-1570s, during which he published his massive treatise on law (*De redemptione*). For more on Zanchi's influence on Althusius, see Stephen J. Grabill, "Introduction to D. Hieronymous Zanchi's On the Law in General," *Journal of Markets and Morality* 6, no. 1 (Spring 2003): 309–16; and Grabill, *Rediscovering the Natural Law in Reformed Theological Ethics* (Grand Rapids, Mich.: Eerdmans, 2006), 132–42.

6. Carney, "Translator's Introduction," in *Politica*, xii.
7. Johannes Althusius, *Politics*, trans. Frederick S. Carney (Boston: Beacon Press, 1964). Liberty Fund reprinted the earlier translation and added a lengthy introduction by Carney, a foreword by Daniel Elazar, a chapter on the literary sources Althusius refers to in the translation, a note on the Liberty Fund edition, a collation of this translation with the 1614 edition, and a register of Althusius' writings.
8. Johannes Althusius, *Politik*, ed. Dieter Wyduckel, trans. Heinrich Janssen (Berlin: Duncker and Humblot, 2003).
9. The selections were translated from the second edition, revised, of the *Dicaeologicae*, which was published in Frankfurt in 1649 by the Heirs of Christophorus Corvinus. This edition of the *Dicaeologicae* was reprinted by Scientia Verlag (Aalen) in 1967.
10. Gierke, *The Development of Political Theory*, 16–18.
11. Johannes Althusius, "Preface to the 1614 edition," in *Politica*, ed. and trans. Frederick S. Carney (Indianapolis, Ind.: Liberty Fund, 1995), 14.
12. Berman, *Law and Revolution, II*, 124.
13. Harold J. Berman and Charles J. Reid Jr., "Roman Law in Europe and the *Jus Commune*: A Historical Overview with Emphasis on the New Legal Science of the Sixteenth Century," *Syracuse Journal of International Law and Commerce* 20 (Spring 1994): 26.
14. Berman and Reid, "Roman Law in Europe and the *Jus Commune*," 26.
15. Gierke, *The Development of Political Theory*, 21–22.

16. Otto Friedrich von Gierke taught law at the universities of Berlin, Breslau, and Heidelberg throughout his long and distinguished career. His chief works were *Das deutsche Genossenschaftsrecht*, 4 vols. (Berlin: Weidmann, 1868–1913) of which *Natural Law and the Theory of Society, 1500–1800*, trans. Ernest Barker (Cambridge: Cambridge University Press, 1950) is a translation of five subsections of the fourth volume; *Johannes Althusius und die Entwicklung der naturrechtlichen Staatstheorien: zugleich ein Beitrag zur Geschichte der Rechtssystematik*, 5th ed. (Aalen: Scientia, 1958), which was translated into English as *The Development of Political Theory* but first appeared as the third volume in the series above; and *Deutsches privatrecht*, 3 vols. (Leipzig: Duncker and Humblot, 1895–1917).
17. Carney, “Translator’s Introduction,” in *Politica*, ix.
18. Gierke, *Natural Law and the Theory of Society*, 70.
19. According to Gierke, “Althusius ... deduces his system in a rational way from a purely secular concept of society; for him biblical texts are merely examples, and the events of sacred as well as profane history serve as illustrations of the results which have first been reached by rational inference.” Gierke, *The Development of Political Theory*, 70, cf. 75. Unfortunately, Brian Tierney continues to read Althusius in the same vein as Gierke, see Tierney’s *Religion, Law, and the Growth of Constitutional Thought, 1150–1650* (Cambridge: Cambridge University Press, 1982), 71–79.
20. Friedrich was a professor of government at Harvard for many years during which he devoted a considerable portion of his scholarly attention to the work of Johannes Althusius. His chief works were Friedrich, “Althusius, Johannes,” in *Encyclopaedia of the Social Sciences*, vol. 2 (New York: The Macmillan Company, 1937), 13–14; Friedrich, “Introduction,” in *Politica Methodice Digesta of Johannes Althusius*, xv–cxviii; Friedrich, *Johannes Althusius und sein Werk im Rahmen der Entwicklung der Theorie von der Politik* (Berlin: Duncker and Humblot, 1975); and Friedrich, “Preface,” in *The Politics of Johannes Althusius*, trans. Frederick S. Carney (London: Eyre and Spottiswoode, 1965), vii–xii.
21. Carney, “Translator’s Introduction,” in *Politica*, ix.
22. Thus, writes Friedrich, “I believe that in order to comprehend adequately the place of Althusius in the history of thought, one must realize that he, like Hobbes, is attempting to develop the implications for a science of politics of the rigid determinism that the dogma of predestination meant in the natural order. How near he came to the elimination of a personal God is shown by the strange and oft repeated

sentence: ‘*Quod Deus est in mundo, lex est in societate.*’ God is here already an impersonal, normative force.” Friedrich, “Introduction,” lxxviii.

23. Friedrich, “Introduction,” lxxiii.
24. *Ibid.*, lxxxviii, lxxxiv–xciv.
25. *Ibid.*, lxxviii–lxxix.
26. *Ibid.*, xv.
27. A. J. Carlyle, *Political Liberty: A History of the Conception in the Middle Ages and Modern Times* (Oxford: Oxford University Press, 1941; London: Frank Cass and Company, Ltd., 1963), 5157.
28. A. J. and R. W. Carlyle, *A History of Mediaeval Political Theory in the West*, 6 vols. (Edinburgh and London: William Blackwood and Sons, Ltd., 1936), 6:357–63, 371–72, 394–95, 405–13, 498–501.
29. William Archibald Dunning, *A History of Political Theories from Luther to Montesquieu* (New York: The Macmillan Company, 1916), 61–67.
30. John Neville Figgis, *Studies of Political Thought: From Gerson to Grotius, 1414–1625* (Cambridge: Cambridge University Press, 1907), 175–85. Cf. John Neville Figgis, *The Divine Right of Kings*, 2d ed. (Cambridge: Cambridge University Press, 1922), 106–36, 219–55.
31. Contemporary political historian Quentin Skinner also reiterates Gierke’s estimate of Althusius as “the pivotal figure in the evolution of modern constitutionalism” and “as the first political philosopher who shook off ‘the whole theocratic conception of the State’” (341n1). However, like Gierke’s failure to account for Althusius’ use of Ramist logic in organizing the subject matter of the *Politica*, Skinner mistakenly concludes: “Althusius [had] the ambition to emancipate the study of ‘politics’ from the confines of theology and jurisprudence ...” (342) and, thus, “... outlined the principles of a new, secularized political science in his treatise entitled *Politics Methodically Set Forth*” (350). Quentin Skinner, *The Foundations of Modern Political Thought*, 2 vols. (Cambridge: Cambridge University Press, 1978), 2:341–50.
32. Alessandro Passerin d’Entrèves, “Giovanni Althusio e il problema metodologico nella storia della filosofia politica e giuridica,” *Rivista internazionale di filosofia del dritto* 14 (1934): 109–23.

33. D'Entrèves, "Giovanni Althusio," 115–16. For a response to this allegation and for a fuller treatment of the problem of so-called "Protestant voluntarism," see Grabill, *Rediscovering the Natural Law in Reformed Theological Ethics*, 54–69.
34. Pierre Mesnard, *L'essor de la philosophie politique de XVIe siècle* (Paris: J. Vrin, 1951).
35. Frederick S. Carney, "Associational Thought in Early Calvinism," in *Voluntary Associations: A Study of Groups in Free Societies*, ed. D. B. Robertson (Richmond, Va.: John Knox Press, 1966), 39–53; and Carney, "The Associational Theory of Johannes Althusius: A Study in Calvinist Constitutionalism" (Ph.D. diss., University of Chicago, 1960).
36. Stanley Parry, "The Political Science of Johannes Althusius" (Ph.D. diss., Yale University, 1953), 60–80, 189–201.
37. Ernst Reibstein, *Johannes Althusius als Fortsetzer der Schule von Salamanca: Untersuchungen zur Ideengeschichte des Recht-Staates und zur altprotestantischen Naturrechtslehr* (Karlsruhe: C. F. Müller, 1955).
38. Peter Joachen Winters, *Die "Politica" des Johannes Althusius und ihre zeitgenössischen Quellen: Zur Grundlegung der politischen Wissenschaft im 16. und im beginnenden 17. Jahrhundert* (Freiburg: Rombach, 1963).
39. Erik Wolf, *Das Problem der Naturrechtslehre: Versuch einer Orientierung* (Karlsruhe: C. F. Müller, 1964); and Wolf, *Grosse Rechtsdenker der deutschen Geistesgeschichte*, 4th ed. (Tübingen: J. C. B. Mohr, 1963).
40. Eckhard Feuerherdt, *Gesellschaftsvertrag und Naturrecht in der Staatslehre des Johannes Althusius* (Köln: R. Pulm, 1962).
41. Reibstein, *Johannes Althusius als Fortsetzer der Schule von Salamanca*, 13. For more on this altercation, see Friedrich, "Introduction," xxvii–xxix.
42. Winters, *Die "Politica" des Johannes Althusius und ihre zeitgenössischen Quellen*, 150–51.
43. As a recent addendum to the Reibstein-Winters exchange, Heinrich Janssen has investigated the way in which the Bible functioned as the foundation of Althusius' political theory, particularly with respect to his understanding of law and the relationship between church and state. Beyond stating that Althusius did not develop "a detailed and elaborate natural theology," Janssen argues parallel to Reibstein that Althusius' doctrine of natural law follows in the scholastic line of Aquinas, Covarruvias, and Vásquez and not in the early Enlightenment line of Grotius and

Pufendorf (95, 97). Heinrich Janssen, *Die Bibel als Grundlage der politischen Theorie des Johannes Althusius* (Frankfurt am Main: Peter Lang, 1992), 95–99.

See also the work of Helmut Hollenstein, “Schule und Erziehung bei Althusius, Calvin und Comenius in ihrer Bedeutung für die Gemeinschaftsbildung,” in *Jurisprudenz, Politische Theorie und Politische Theologie: Beiträge des Herborner Symposions zum 400. Jahrestag der Politica des Johannes Althusius 1603–2003*, ed. Frederick S. Carney, Heinz Schilling, and Dieter Wyduckel (Berlin: Duncker and Humblot, 2003), 7–22; Heinz Schilling, “Johannes Althusius und die Konfessionalisierung der Aussenpolitik—oder: Warum gibt es in der *Politica* keine Theorie der internationalen Beziehungen?” in *Jurisprudenz, Politische Theorie und Politische Theologie*, 47–69; Christoph Strohm, “Althusius’ Rechtslehre im Kontext des reformierten Protestantismus,” in *Jurisprudenz, Politische Theorie und Politische Theologie*, 71–102; and Merio Scattola, “Johannes Althusius und das Naturrecht des 16. Jahrhunderts,” in *Jurisprudenz, Politische Theorie und Politische Theologie*, 371–96.

44. P. S. Gerbrandy, *National and International Stability: Althusius, Grotius, Van Vollenhoven* (Cambridge, Mass.: Harvard University Press, 1944).
45. James W. Skillen, “The Development of Calvinistic Political Theory in the Netherlands, with Special Reference to the Thought of Herman Dooyeweerd” (Ph.D. diss., Duke University, 1974), 191–217; Skillen, “The Political Theory of Johannes Althusius,” *Philosophia Reformata* 39 (1974): 170–90; and more recently, Skillen, “From Covenant of Grace to Equitable Public Pluralism: The Dutch Calvinist Contribution,” *Calvin Theological Journal* 31, no. 1 (April 1996): 72–77.
46. Skillen, “From Covenant of Grace to Equitable Public Pluralism,” 72.
47. Herman Dooyeweerd, *A New Critique of Theoretical Thought*, 4 vols., trans. David H. Freeman and H. de Jongste (Jordan Station, Ontario: Paideia Press, 1984), 3:662, 662–63; also see Dooyeweerd, *De Strijd om het Souvereiniteitsbegrip in de Moderne Rechts- en Staatsleer* (Amsterdam: H. J. Paris, 1950), 7–8.
48. Friedrich, “Introduction,” lii–liii.
49. Skillen, “The Development of Calvinistic Political Theory in the Netherlands,” 201, 198–201; and Skillen, “The Political Theory of Johannes Althusius,” 178, 177–79.
50. Skillen, “The Political Theory of Johannes Althusius,” 172. For criticism of Dooyeweerd’s understanding of the nature-grace motif in Thomas Aquinas, which undergirds his antipathy toward scholasticism in general, see Arvin Vos, *Aquinas*,

Calvin, and Contemporary Protestant Thought: A Critique of Protestant Views on the Thought of Thomas Aquinas (Washington, D.C. and Grand Rapids, Mich.: Christian University Press and Eerdmans, 1985), 128–33, 148–52.

51. Cf. Robert M. Kingdon, “Althusius’ Use of Calvinist Sources in His *Politica*,” *Rechtstheorie* 16 (1997): 19–28; and Andries Raath and Shaun de Freitas, “Theologico-Political Federalism: The Office of Magistracy and the Legacy of Heinrich Bullinger (1504–1575),” *Westminster Theological Journal* 63 (2001): 285–304; Robert V. Friedeburg, “From Collective Representation to the Right to Individual Defence: James Steuart’s *Ius Populi Vindicatum* and the Use of Johannes Althusius’ *Politica* in Restoration Scotland,” *History of European Ideas* 24, no. 1 (1998): 19–42; John Lewis Marshall, “Natural Law and the Covenant: The Place of Natural Law in the Covenantal Framework of Samuel Rutherford’s *Lex, Rex*” (Ph.D. diss., Westminster Theological Seminary, 1995); and Grabill, *Rediscovering the Natural Law in Reformed Theological Ethics*.
52. Neo-Calvinist Gordon Spykman likewise following Dooyeweerd falls prey to exactly the same appraisal of Althusius as Skillen does. Like Skillen, Spykman credits Althusius with providing “the systematic climax of Calvinist social thought coming up out of the sixteenth-century Reformation, and with formulating the first clear statement of that complementary principle which in later Calvinist tradition came to be known as sphere sovereignty and sphere universality” (107). However, he contends that it is possible to criticize Althusian social philosophy on a number of dubious points. First, “It betrays remnants of an earlier scholastic notion of a certain hierarchy among social institutions” (107). Second, “It seems that legal norms are derived in part from natural-law theories” (107). Third, “A notion of popular sovereignty is present which leans toward a social contract theory of political authority” (107). Yet, despite these so-called defects, Spykman thinks that Althusius’ contribution to a pluralist social philosophy is considerable. Gordon Spykman, “Pluralism: Our Last Best Hope?” *Christian Scholar’s Review* 10, no. 2 (1981): 99–115. See also Spykman’s *Reformational Theology: A New Paradigm for Doing Dogmatics* (Grand Rapids, Mich.: Eerdmans, 1992), 20–25.

In contrast to Skillen and Spykman, neo-Calvinist social philosopher Henk Woldring presents a more accurate appraisal of the broad parameters of Althusius’ social philosophy, specifically with respect to his doctrine of natural law. Unlike Skillen and Spykman, Woldring does not filter Althusius’ understanding of natural law through Dooyeweerd’s antischolastic interpretive lens. While Woldring fails to place Althusius’ doctrine of natural law in the context of his Reformed contemporaries, he does exhibit a rudimentary understanding of the way in which Althusius conceived “natural law as universal principles of law, such as justice,

- humanity, reasonableness, and fairness, created by God in human nature, which can be clarified by the moral law of the Ten Commandments and by brotherly love.” Henk E. S. Woldring, “Multiform Responsibility and the Revitalization of Civil Society,” in *Religion, Pluralism, and Public Life: Abraham Kuyper’s Legacy for the Twenty-First Century*, ed. Luis E. Lugo (Grand Rapids, Mich.: Eerdmans, 2000), 178; and Woldring, “The Constitutional State in the Political Philosophy of Johannes Althusius,” *European Journal of Law and Economics* 5 (1998): 127–28.
53. Daniel J. Elazar, *Covenant Tradition in Politics*, vol. 1, *Covenant and Polity in Biblical Israel: Biblical Foundations and Jewish Expressions* (New Brunswick, N.J.: Transaction Publishers, 1995), 26.
54. Incidentally, Eric Voegelin stands alone among twentieth-century political philosophers and intellectual historians with his unilaterally negative assessment of Althusius for his use of the Ramist method: “The use of the Ramist method will aid us in fixing the rank of Althusius’ work—which is still overrated as a consequence of Otto von Gierke’s monograph. The *Politica* is by far the most solid work of the Calvinist monarchomachic group; . . . it is the work of an experienced practical lawyer who could digest his rich knowledge, with the aid of his ‘method,’ into a well-ordered book; but it is definitely not the work of a great political thinker” (56). One suspects, however, that Voegelin’s criticism relates more to his displeasure with Althusius’ successful integration of Reformed ecclesiology with juridical structure than it does to Althusius’ clear repudiation of Jean Bodin’s integration of Roman Catholic ecclesiology (*plenitudo potestatis*) to the issue of sovereignty in the commonwealth. Voegelin’s criticism of Althusius also seems to summarize and restate Gierke’s earlier criticism (cf. Gierke, *The Development of Political Theory*, 22–23). Eric Voegelin, *The Collected Works of Eric Voegelin*, vol. 23, *History of Political Ideas*, vol. 5, *Religion and the Rise of Modernity*, ed. James L. Wisner (Columbia, Mo.: University of Missouri Press, 1998), 55–59.
55. J. Wayne Baker and Charles S. McCoy, *Fountainhead of Federalism: Heinrich Bullinger and the Covenantal Tradition* (Louisville, Ky.: Westminster/John Knox Press, 1991), chap. 2, “The Development of the Federal Theological Tradition, 29–44; chap. 3, “Federal Political Philosophy: Mornay and Althusius,” 45–62.
56. Fabrizio Lomonaco, “Huguenot Critical Theory and ‘Ius Maiestatis’ in Huber and Althusius,” in *New Essays on the Political Thought of the Huguenots of the Refuge*, ed. John Christian Laursen (Leiden: E. J. Brill, 1995), 171–92.
57. Charles McCoy, “The Centrality of Covenant in the Political Philosophy of Johannes Althusius,” in *Politische Theorie des Johannes Althusius*, ed. Karl-Wilhelm Dahm, Werner Krawietz, and Dieter Wyduckel (Berlin: Duncker and

- Humblot, 1988), 187–99; and McCoy, “Der Bund als Grundmetapher in der *Politica* des Johannes Althusius,” in *Gottes Zukunft—Zukunft der Welt* (München: Chr. Kaiser Verlag, 1986), 332–44.
58. Baker and McCoy, *Fountainhead of Federalism*, 50.
 59. According to McCoy, “In the hands of Althusius, immersed as he is in the federalism of Herborn, the covenant as fundamental political principle encompasses the contractualism of Roman law and the centrality of politics for human living found in the Aristotelian and natural-law traditions.” McCoy, “The Centrality of Covenant in the Political Philosophy of Johannes Althusius,” 190.
 60. In this respect, Daniel Elazar’s four-volume *Covenant Tradition in Politics* series is his crowning achievement. Elazar, *Covenant and Polity in Biblical Israel: Biblical Foundations and Jewish Expressions*, vol. 1 (New Brunswick, N.J.: Transaction Publishers, 1995); Elazar, *Covenant and Commonwealth: From Christian Separation Through the Protestant Reformation*, vol. 2 (New Brunswick, N.J.: Transaction Publishers, 1996); Elazar, *Covenant and Constitutionalism: The Great Frontier and the Matrix of Federal Democracy*, vol. 3 (New Brunswick, N.J.: Transaction Publishers, 1998); and Elazar, *Covenant and Civil Society: The Constitutional Matrix of Modern Democracy*, vol. 4 (New Brunswick, N.J.: Transaction Publishers, 1998).
 61. Daniel J. Elazar, “Althusius’ Grand Design for a Federal Commonwealth,” in *Politica: An Abridged Translation of Politics Methodically Set Forth and Illustrated with Sacred and Profane Examples*, ed. and trans. Frederick S. Carney (Indianapolis, Ind.: Liberty Fund, 1995), xxxv. A little further down the page, Elazar summarizes Althusius’ principal contribution as follows: “Althusius’ *Politica* was the first book to present a comprehensive theory of federal republicanism rooted in a covenantal view of human society derived from, but not dependent on, a theological system. It presented a theory of polity-building based on the polity as a compound political association established by its citizens through their primary associations on the basis of consent rather than a reified state imposed by a ruler or an elite” (xxxv). Cf. Elazar, *Covenant and Polity in Biblical Israel*, vol. 1, 26; and Elazar, *Covenant and Civil Society*, vol. 4, 1–2, 20–21, 27–28.
 62. Thomas Hueglin, in contrast to Elazar, argues that while the American Federalists drew from the older European tradition of federalism, for example, in Montesquieu’s *The Spirit of Laws*—and, through Montesquieu’s use of historical examples there, Althusius’s theory of consociational federalism—“an argument can be made that the Federalists’ interpretation constituted a deliberate and radical break with [the older European] tradition” of federalism. Hueglin, “Federalism at

- the Crossroads: Old Meanings, New Significance,” *Canadian Journal of Political Science* 36, no. 2 (June 2003): 276, 275–94.
63. Michael Behnen, “Herrscherbild und Herrschaftstechnik in der ‘Politica’ des Johannes Althusius,” *Zeitschrift für historische Forschung* 11 (1984): 417–72.
 64. Alain de Benoist, “The First Federalist: Johannes Althusius,” *Krisis* 22 (March 1999): 2–34.
 65. Ken Endo, “The Principle of Subsidiarity: From Johannes Althusius to Jacques Delors,” *Hokkaido Law Review* 44, no. 6 (1994): 629–32, 553–652.
 66. Thomas Hueglin, “Taking Stock: Althusius After Four Hundred Years,” in *Jurisprudenz, Politische Theorie und Politische Theologie* (2003), 305–17; Hueglin, “Federalism at the Crossroads: Old Meanings, New Significance,” *Canadian Journal of Political Science* 36, no. 2 (June 2003): 275–94; Hueglin, “Covenant and Federalism in the Politics of Althusius,” in *The Covenant Connection: From Federal Theology to Modern Federalism*, ed. Daniel J. Elazar and John Kincaid (Lanham, Md.: Lexington Books, 2000), 31–54; Hueglin, *Early Modern Concepts for a Late Modern World*; Hueglin, “Have We Studied the Wrong Authors? On the Relevance of Johannes Althusius,” *Studies in Political Thought* 1, no. 1 (1992): 75–93; Hueglin, “Johannes Althusius: Medieval Constitutionalist or Modern Federalist?” *Publius: The Journal of Federalism* 9, no. 4 (Fall 1979): 9–41; and Hueglin, *Sozialer Föderalismus: Die politische Theorie des Johannes Althusius* (Berlin: Walter de Gruyter, 1991).
 67. Patrick Riley, “Three Seventeenth Century German Theorists of Federalism: Althusius, Hugo, and Leibniz,” *Publius: The Journal of Federalism* 6, no. 3 (Summer 1976): 7–41.
 68. Nicholas Aroney, “Formation, Representation and Amendment in Federal Constitutions,” *The American Journal of Comparative Law* 54 (Spring 2006): 277–336; and Aroney, “Althusius at the Antipodes: The *Politica* and Australian Federalism,” in *Jurisprudenz, Politische Theorie und Politische Theologie*, 529–46.
 69. Hueglin, “Have We Studied the Wrong Authors?” 89.
 70. Hueglin, *Early Modern Concepts for a Late Modern World*, 152. Cf. Endo, “The Principle of Subsidiarity,” 629–32. Recent publications sponsored by the Johannes Althusius Gesellschaft have investigated such topics as consensus and consociation in early modern federalism and the concept of subsidiarity in church, state, and society. The massive two-volume *Althusius-Bibliographie* appeared in 1973 as the first publication of the recently founded Johannes Althusius Gesellschaft,

now associated with the faculty of law at the Technical University of Dresden and renamed as the Society for Research on Early Modern Legal Theory and Constitutional History (<http://www.althusius.de>), and organizes all that was written by Althusius or about his life and work up to the date of its publication. The major publications of the Society from latest to earliest are as follows: Frederick S. Carney, Heinz Schilling, and Dieter Wyduckel, eds., *Jurisprudenz, politische Theorie und politische Theologie: Beiträge des Herborner Symposions zum 400. Jahrestag der Politica des Johannes Althusius 1603–2003* (Berlin: Duncker and Humblot, 2004); Emilio Bonfatti, Giuseppe Duso, and Merio Scattola, eds., *Politische Begriffe und historisches Umfeld in der Politica methodice digesta des Johannes Althusius* (Wiesbaden, 2002); Peter Blickle, Thomas Hüglin, and Dieter Wyduckel, eds., *Subsidiarität als rechtliches und politisches Ordnungsprinzip in Kirche, Staat und Gesellschaft: Genese, Geltungsgrundlagen und Perspektiven an der Schwelle des dritten Jahrtausends* (Berlin: Duncker and Humblot, 2002); Giuseppe Duso, Werner Krawietz, and Dieter Wyduckel, eds., *Konsens und Konsoziation in der Politischen Theorie des frühen Föderalismus* (Berlin: Duncker and Humblot, 1997); Karl-Wilhelm Dahm, Werner Krawietz, and Dieter Wyduckel, eds., *Politische Theorie des Johannes Althusius* (Berlin: Duncker and Humblot, 1988); and Dieter Wyduckel, *Althusius-Bibliographie: Bibliographie zur politischen Ideengeschichte und Staatslehre, zum Staatsrecht und zur Verfassungsgeschichte des 16. bis 18. Jahrhunderts*, 2 vols., ed. Hans Ulrich Scupin and Ulrich Scheuner (Berlin: Duncker and Humblot, 1973). For a review of this work, see Theo Veen, “Een Fundgrube voor de historische wetenschap: de *Althusius-Bibliografie*,” *Bijdragen en Mededelingen Betreffende de Geschiedenis der Nederlanden* 94, no. 1 (1979): 89–96.

71. Gierke, *The Development of Political Theory*, 54.
72. Ibid.
73. Berman, *Law and Revolution, II*, 125–26.
74. Ibid., 125. Berman’s assessment stands in stark contrast to Gierke’s, who writes: “And if on the whole this intricate and ingenious system gained no lasting success, it served at least, as its author hoped, to facilitate and clarify the study of law, and in fact several rearrangements first made by him became in course of time generally accepted.” Gierke, *The Development of Political Theory*, 55.
75. This overview of the *Dicaeologicae* is a summary of a longer, more detailed treatment by Gierke in *The Development of Political Theory*, 55–59.
76. Gierke, *The Development of Political Theory*, 57–58.