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The political science of Johannes Althusius

Parry, Stanley Joseph, Ph.D.

Yale University, 1953

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THE POLITICAL SCIENCE OF
JOHANNES ALTHUSIUS

by

Rev. Stanley Joseph Farry, C.S.C.

A Dissertation

Presented to the Faculty of the Graduate School
of Yale University in Candidacy for the Degree
of Doctor of Philosophy

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Summary

This dissertation is devoted to an analysis of the political science of Johannes Althusius as he develops it in his Politica Methodice Digesta. The analysis is divided into three parts. In the first part the central problem of the Politica and the context within which Althusius handles it are identified. In the second part the solution he offers for his problem is examined. And in the third part certain aspects of that solution are isolated for further examination both to deepen the interpretation of Althusius and to indicate his importance as regards the enduring problems of the science of politics.

In the first part of the analysis the idea is developed that political science for Althusius is the science of establishing and preserving social life. An analysis of his thought on this point reveals that the central problem in such a conception of the science is to discover the philosophical and empirical data upon which authority can be distributed and integrated in such a way as to reconcile the need for right social order with the equally pressing need for individual freedom. Of central importance in the solution to this problem is the question of the methodology proper to a science that operates most properly at the point where philosophical principle is related to empirical fact.

The second part of the analysis is devoted to an identification of the principles upon which Althusius expects to solve the problem he developed in accordance with his basic definitions and observations. Two processes are basic to that solution: popular sovereignty and elite rule. In both cases, it is held, the fundamental objective of the process is to offer avenues of participation to the politically relevant factors of group life. In this regard, the basic ideas are those of representation, access and participation. Through these operational factors Althusius attempts to implement the theories of consent and authority which express his basic philosophical conceptions of freedom and order.

Since it was held that a method of politics such as Althusius develops is not susceptible of strictly logical analysis because it is practical and verging on the prudential, the final part of our analysis is devoted to examining first Althusius' conception of political science and secondly his conception of pluralism. In both points Althusius makes contributions of permanent importance to the science of politics. The contribution in his conception of politics lies in his distinction between the science of ethics and a value oriented science of politics. The value in his conception of pluralism lies in his reconciliation of pluralism with state sovereignty.

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PART I

THE FRAME OF REFERENCE

Chapter I

THE BASIS OF INTERPRETATION

Between the years 1603 and 1614 a German Calvinist by the name of Johannes Althusius elaborated, in a work thrice revised during eight editions, a systematic organization of political science. On the studied opinion of Otto von Gierke, this work was of such a quality as to justify the judgment:

All the more are we obliged to count our Althusius among the masters and assign him a place in the history of political science far above the crowd of apprentices and journeymen who took part in building the structure.... And in conclusion one thing may be emphasized which has stood out more and more in the course of this study: this man, excelling all others in his school of thought in the intensity of his sense of right, and equaling them in his zeal for liberty, had a doctrine of his own, which, if it prepared the way for the destructive political theory culminating in Rousseau, yet in many respects laid a foundation for the constructive theory of the Constitutional State.¹

1. The Development of Political Theory, tr. Bernard Freyd (N.Y., 1939), p. 331. See also, John N. Figgis, Studies of Political Theory From Gerson to Grotius, 2nd. ed. (Cambridge, 1931), p. 200: "His work (Althusius') is with the exception of Bodin's treatise, the most important of all works for the scientific student." See also p. 194 where Figgis calls Althusius the chief exponent of the principles of the Netherlands' revolt.

And it evoked from the same authority the judgment that Althusius stands at the watershed of Medieval and Modern political thought. Little is known of the life of Althusius; his biography has yet to be written.² But the little known suffices to fix him in the shifting allegiances of his turbulent time. He was on occasion, Professor of Jurisprudence, Advisor to Princes, their enemy, and finally Syndic of the town of Emden in Frisia, the town that had a box seat for the Netherlands' Revolt. In the following work we do not intend to retrace and correct the steps of Gierke, although it is hoped that this study will suggest the need for that. Indeed, there is little desire to make any attempt to fix Althusius' place in a "development" of political theory, or to interpret him "in the light of" his times. The problem proposed for solution here is to discover precisely what Althusius thought on the subject of political science. We are brought therefore, without prelude, to the text in which that thought is developed: The Politica Methodice Digesta, and to the task of identifying the central

2. For the known facts, see, The Politica Methodice Digesta of Johannes Althusius, ed. C. J. Friedrich, Harvard Political Classics, Vol. II (Cambridge, Mass. 1932), "Introduction," pp. xxiii, lxiii.

problem of that text.³

The task of analysing and criticising the thought of Johannes Althusius is made difficult both by the general problem of discovering the real thought of any profound thinker and by the particular problem of discovering the real center of gravity in a work having the systematic characteristics of the Politica.⁴ Further, the identification of the central problem in the thought of any writer is a matter of difficulty in part because of the tendency of the reader to inject his own mind and pre-conceptions into the thought of the author, and in part because the author himself sometimes fails to identify his problem

3. This approach to the meaning of a writer through the identification of his central problem has been influenced by the writing of Leo Strauss, especially his "On a New Interpretation of Plato's Political Philosophy," Soc. Res., XIII (1946) where he insists that one must criticise a writer from the point of view of the real problem with which he wrestled, and not from some point of view of the reader. Exemplifications of this approach may be found in his "On Classical Political Philosophy," Soc. Res., XII (1945) and in his "On the Intention of Rousseau," Soc. Res., XIV (1947). This approach also assumes the conception of political science put forward by Strauss, and by such writers as David Easton, "The Decline of Modern Political Theory," J. of Pol., XIII (1951); Mulford Q. Sibley, "Apology for Utopia," J. of Pol., II (1940); J. R. Pennock, "Political Science and Political Philosophy," APSR, XLV (1951), and less clearly by George H. Sabine, "What is a Political Theory," J. of Pol., I (1939).

4. Pierre Mesnard, L'Essor de la Philosophie Politique au XVI^e Sicle (Paris, 1951) pp. 576-577 observes that Althusius organizes his ideas in a logical order about a central theme

explicitly and clearly, or even because he has mistaken it completely. Especially in studying a writer of another age, there is always the danger of introducing into his thought those subtle but far reaching distortions of meaning that result from reading him in one's own climate of opinion rather than in his, and from weighing the relative importance of various parts of his thought in the light of a modern rather than a contemporary formulation of the political problem. In the case of Althusius, this difficulty of identification is all the greater because his concentration on the task of systematizing the science as a whole resulted in a failure to discuss in any formal way its basic problem. Moreover, we find that the harmonious logic of his thought structure has been distorted by the disproportionate amount of space given over to controverting ideas at issue in his own time but not in ours. These distortions tend to fix the reader's attention on this or that idea rather than on the completed and integrated system. Only by considering the system as a whole, together with, of course, the integrating ideas within it can one hope to discover the unifying concept behind the thought. With the thoroughness of a medieval Summa (indeed the book could easily have been entitled a Summa Politica), the Politica attempts to organize and integrate the science of politics. To this end the author ranges through the entire

history of the science from Plato to Bodin, taking from each what he regards as true and giving it what he deems its proper place in the orderly development of a corpus of political thought.⁵ He is led, consequently, to attempt to integrate the thought of Plato and Aristotle, of Aquinas and Machiavelli, that of Calvin and that of Bodin. He is led to discuss the contractarianism later adopted by the individualists, and the organic society theory adopted by the authoritarians. He feels called upon to set forth realistic rules for the action of the magistrates, as also the outlines of the ideal institutional structure of society. He offers a constitutional theory regarding the limitation of government, and, along with it, a realistic psychological

5. Politica Methodice Digesta (hereafter referred to simply by chapter and line numbers), "Preface" p. 1: "I have tried, most illustrious and learned doctors... to arrange in an appropriate order the many political principles which have been handed down by various writers, and to discover whether one can follow in these matters a systematic presentation according to the rules of the logicians." And on p. 2 he says: "The political principles and examples I have incorporated in this work have been taken, as is indicated in each case, in great part from the political scientists whom I have mentioned earlier. And thus the reader has in a summary fashion the things I reject, the things I find lacking in them and those I approve." Althusius' work, with the exception of a partial translation of the Politica into German, has never been translated from the original latin. The quotations made in this work represent my own translation, one which friends in the Medieval Institute of the University of Notre Dame have been kind enough to compare with the original for accuracy though not for literary quality.

analysis of the pre-legal basis of all authority.⁶ Vis-a-vis this multitude of ideas, Gierke has rightly assured us that the Politica is not a mere eclectic hodge podge, but the orderly work of a first-rate political scientist. The unity of the work does, nevertheless, escape the reader until he succeeds in isolating the norm that has determined the selection and use of the principles set forth, as also the relative importance assigned to each of them. Until this norm has been identified, that is to say, the architectonics of the book is lost in its mass of detail.

Some such considerations as these seem to account for the erroneous interpretations offered by Gierke and Friedrich, the two men who have done substantial work on the Politica.⁷

6. Eric Wolf, Grosse Rechtsdenker der Deutschen Geistesgeschichte, 2 aufl. (Tubingen, 1944), p. 85, notes this linking together of varied ideas in the Politica: "So schlingen sich in eigenartiger Verkettung religiöse Dogmatik, rationalistische Logik und reale politische Erfahrungen oder Wunschbilder bei ihm ineinander."

7. Other writers who have mentioned Althusius in a more than passing fashion are: P. S. Gerbrandy, National and International Stability (London, 1944), Pierre Mesnard, L'Essor, see note 4 above, Eric Wolf, Grosse Rechtsdenker, see note 6 above, Wolf has also published a partial translation of the Politica entitled, Johannes Althusius, Grundbegriffe der Politik (Frankfurt Am Main, 1948). Friedrich in his "Introduction" to his edition of the text of the Politica, cites the sources where something more than a passing reference to Althusius may be found. Gough, Mogi and Figgis give the most extensive treatments found outside the authors cited above. Gierke's work may be found in his Natural Law and the Theory of Society, tr. E. Barker, 2 vols. (Cambridge, 1934) and in his The Development of Political Theory.

Friedrich disagrees with Gierke in essential matters, and the present essay sets itself the daring task of urging a more correct interpretation upon both of them.

Otto von Gierke's study of Althusius led him to the conclusion that the Politica is "primarily a methodical treatment of the idea of popular sovereignty as outlined by the author in the preface to the first edition."⁸

And he says:

The author (Althusius) adopts throughout the views of those publicists who had arisen chiefly during the recent civil wars in France, who had drawn from the principle of popular sovereignty the revolutionary consequence of a right of active resistance against rulers who violate their contracts. But what had previously been set forth in pamphlets and polemical works with a concrete aim, he clothed in the vestiture of abstract academic theory. He laid the ground work of his theory in a broader and more rigorous fashion than anyone before him; he above all expounded the absolute inalienability of the sovereign rights of the people, as well as the nature of the underlying social contract in terms which are reproduced with often a striking similarity in Jean Jacques Rousseau.

This interpretation of Althusius is akin to that set forth in the present work in many important respects. Both treat the idea of sovereignty as a central element

8. Gierke, The Development, p. 33.

9. Ibid., p. 16. See also his Natural Law, I, 37.

in the problem. Gierke, however, mistakenly identifies it as Althusius' central preoccupation, and regards the Politica as primarily a work devoted to the defense and interpretation of the principle of popular sovereignty. If we were to analyse in full the reasoning that led Gierke to this position our final result would be an essay on the central preoccupation of Gierke, which is wide of our purpose. We shall, therefore, content ourselves with observing that his interpretation flows as a matter of course from the method of his approach to Althusius, which caused him to place Althusius' thought in a frame of reference of which no hint is to be found in his book. Gierke read Althusius, that is to say, primarily as a member of the Natural Law School of the sixteenth century.¹⁰ The basic fallacy in his interpretation lies in his assumption that the problem of sovereignty, which split the school in question, was the basic problem for each member of that school. This assumption is, let us concede at once, justified to some extent by the many pages Althusius devotes to the discussion of sovereignty.¹¹ It is quite

10. See his Natural Law ch. 1

11. Especially in Althusius' two "Prefaces." But a close reading of the relevant passages reveals that the importance given to the idea of sovereignty is due to (1) its position as a controverted issue, and (2) the relation of sovereignty to group unity. Politica, pp. 5,8.

clear that the idea of sovereignty and of its possession by the people are constitutive elements in the basic problem to which Althusius addresses himself. That it does not, however exhaust that problem appears when we ask Althusius why the fact and nature of sovereignty are essential parts of the subject matter of political science. The answer to this question reveals that despite the number of pages devoted to the subject of popular sovereignty this concept does not lie at the heart of his thought.¹² It is, rather, one of the facta, one of the objective conditions which, taken with other and equally important facta, are the essential "givens" for the problem of politics, this latter being basically that of creating the conditions within which all the said facta are assigned their proper value.

But more significant than this logical "nod" in Gierke is the influence exercised on his reading of Althusius by his concept of the Genossenschaft society.¹³ He divided

12. Ludwig Freund, "Power and the Democratic Process," Soc. Res., XV (1948), points out that the decision concerning the basic activity of politics will determine the science of politics. His criticism of the idea that power is the object of political science uncovers the supreme importance of precision in determining what the basic idea of the political scientist is.

13. Developed in his Political Theories of the Middle Ages, tr. F.W. Maitland (Cambridge, 1900) and in his Natural Law.

group theory into two kinds: the organic Genossenschaft theory, which teaches the reality of the Group Person, and the individualistic theory or idea of the legal Contractarian State, which denies any reality to the group qua group.¹⁴

Since Althusius clearly does not teach the real person theory, so dear to Gierke, the latter concluded that he taught the theory of the legal state, and so read him.¹⁵

14. See Barker's "Introduction" to Gierke's Natural Law, pp. ix ff.

15. As Barker remarks, Ibid., p. xii: "Always concerned with the conception of the Group, and especially with that form of the Group which he calls the Fellowship (Genossenschaft) and always anxious to discover the essence of Group life, the source and nature of group-authority, and the significance of group-personality, he has brought his own categories and problems to the study of his material, he has attempted to elicit its meaning in terms of these categories and in answer to these problems; and he has thus imprinted the form of his own scheme and system of thought upon the matter of his study. The danger of such a method is that it tends to make the theories of the past square with the demands of a particular system of the present. The criticism in which it issues is external rather than immanent; and every writer, placed in a Procrustean frame, is adjusted to its plan and sized by its dimensions. But every age is apt to measure previous ages by its own ideas... Gierke was in the tradition of romanticism... he brought to his work conceptions of 'State-personality', of its Traeger or bearer, of its organs, and of its (and their) capacity for being a 'Subject' or owner of rights." This criticism of Gierke's approach to the entire natural law school is equally applicable to his approach to Althusius, a member of that School.

Gierke says, Development, p. 163: "And his idea of the social contract makes him take the view that ultimately the people, like any other 'universitas' is nothing but a 'consociata multitudo', and aggregate of 'homines conjuncti, consociati et cohaerentes', a multitude connected by various mutual legal relations and in this conjection regarded as a unity." Italics added.

This reading is responsible for the fundamental orientation, even for the chapter headings, of his The Development of Political Theory, whose basis of interpretation is expressed on the opening pages:

This (German influence on political theory) holds true even for the middle ages, whose political theories, in a manner not yet fully appreciated, laid the groundwork of the modern idea of the State by fusing the reproduced ideas of antiquity with various elements taken from the medieval system of thought, whose organic unity was thereby dissolved.¹⁶

It is precisely this dissolution of the unity of medieval thought that disturbed Gierke, because it prevented the emergence of the real person theory of the group. And

16. Development, p. 15. In his Natural Law, the opening part of the work is devoted to a criticism of the Natural Law school, of which Althusius was a member, because its theory does not result in a person-group theory of the group, but merely in a collective theory of group. In his Political Theories, pp. 22 ff. he examines the qualities of medieval thought that make such a development possible. The main difficulty was, p. 29: "As in Antiquity, so also in the Middle Ages, the idea of organic society failed to issue in the legal idea of Personality - the single Personality of the group.... There it is that Medieval doctrine...could not permanently hinder the progress of a mode of thought which regards the State as a mechanism constructed of Atoms." It is as a part of this development that Gierke reads Althusius. In the same work, he says, p. 73: "Thus the path to the idea of 'State-Sovereignty' was barred for medieval theory, and already there were planted in that theory the germs of those later systems of 'Nature-Right' - the system of the Ruler-Sovereignty, the system of Popular Sovereignty...which endeavored to construe the 'Right-Subjectivity' of the State now in a centralistic, now in an atomistic, but always in a purely mechanical fashion."

there is a touch of tragedy in the fact that his rigid division of social theory into real person and individualistic prevented him from finding in Althusius, who in point of fact occupies a third position,¹⁷ a step toward his own cherished ideas. For although Althusius does not teach the "real person" theory of society, he does base social unity on fellowship. Yet since Gierke's view of the possibilities precludes a third position, he reads Althusius in terms of the individualistic legal relation

17. For a description of the third position, see Barker's "Introduction" to Natural Law, pp. ix ff. For statements by Althusius, see Politica, ii, 11-12: "The common advantage is that in which each and every individual participates as a member of one body: examples are the common law, the common treasury and business, and the common duties. Because of this symbiotic law, as we call it, it happens that the consociation often appears as one person, and is considered to be one person. ...But it makes a great difference whether an act is performed by the individuals as individuals, or by the individuals as a united whole, and whether the goods are those of individuals taken singly or taken as a united whole." Althusius consistently retains this distinction between individual as individual and individual as member of the whole. This prevents him from merging the individual completely with the group. In v, 9, he says of the city: "It is called a simulated person (persona representata) men considered as belonging to the whole, not as individuals. Whence by the name of person the reality of the whole is not indicated, although when legitimately convoked and organized it appears as a person." and, iv, 27: "Whence it (the city) is often considered as a simulated, fictitious person (persona ficta representata)." Althusius' idea of the social being does not differ essentially from that of R. M. MacIver's in his Community, (N.Y., 1928) Bk. II, ch., ii. or from Heinrich Rommen's, in his The State in Catholic Thought, (St. Louis, 1945), chs. ii and iv.

theory.¹⁸ It is this misunderstanding that demonstrably underlies Gierke's misinterpretation of Althusius at almost every point.

When we turn our attention to Carl J. Friedrich, the editor of the Harvard Classics edition of the Politica, we find that he, like Gierke, identifies a central element in the thought of Althusius, and, indeed, identifies the basic ideas Althusius proposes. Despite the achievement of pointing out the centrality of the concept of symbiosis in the thought of Althusius, it seems that the Introduction Friedrich wrote to the Politica does not succeed in identifying the precise problem about which these ideas cluster. The reason for this failure is, as with Gierke, to be found in the attitude Friedrich brings to the reading of Althusius. He reads him not to find out what he said, not, that is to say, formally, but rather to make him cast light on some modern problems. Thus his criticism of Gierke's reading is directed more against the questions Gierke asked of Althusius than it is against the interpretation Gierke made on the basis of the questions he asked. He seems, in view of this, to accept Gierke's

18. The legal relations interpretation of Althusius is most evident in the chapters in The Development that are devoted to the "Social Contract" and the "Legal State."

method of interpretation.¹⁹

Friedrich's distortion of certain central concepts in Althusius' system derive from his reading Althusius as though the latter had written in a "liberal" climate of opinion--a context both alien and repugnant to the thought of Althusius. Friedrich, it is true, does identify both sovereignty and symbiosis as central ideas

19. Thus in the "Introduction" to his text of the Politica, p. xvii, he says: "Gierke approached the work of Althusius in terms of the theory of the state in so far as it is based upon the idea of natural law. This was a fruitful approach and it was one thoroughly satisfactory to the second half of the nineteenth century. But times have changed. New and challenging ideas have been put forward since 1880.... They demand a re-examination of Althusius in terms quite uninteresting to Gierke.... We stand today in the midst of a constitutional legalized state. This obliges us to re-examine the foundations upon which these ideas have arisen." This approach, obviously, may be valuable from the standpoint of development of one's own ideas, but it leads inevitably to a distortion of the ideas of the author read. Strauss points out "On a New Interpretation of Plato," Soc. Res. XIII, p. 333, that to read a man like Plato (add also Althusius) in order to find a solution to a modern problem is to take the writer completely out of his context. Strauss' condemnation of Wild for reading Plato in the spirit of the Bible applies to Friedrich for reading Althusius in the same spirit.

Our criticism here is with regard to Friedrich's approach to the Politica. With regard to the content of Friedrich's interpretation, it is inevitable that this original difference will result in extensive differences of interpretation. These will be noted when they occur. The frequency with which such differences occur is a direct result of the logic with which Friedrich applies his norms to the Politica. In this regard the judgment of F. W. Coker in his review of Friedrich's edition of the text, seems to be rather extreme. Like Gierke, Friedrich applies a set of interpretative norms to the Politica with great logic. See AHR, XXXVIII (1933), pp. 789-790.

in the systemization of the Politica; but he misinterprets the use made of symbiosis in relation to the problems of sovereignty, because he is reading Althusius as though the latter were engaged in creating a modern "descriptive science of facts."²⁰ Thus he concludes that "an understanding of the conditions upon which this 'fact' (of ultimate power in a community) depends may be gained only by a non-juristic, historical and inductive science based upon observations is the conviction upon which Althusius' systematic edifice rests."²¹ Here admittedly Friedrich is close to the heart of the Politica. At one point, indeed, he recognizes that Althusius is trying "to construct the politically organized community in terms of a fellowship or brotherhood of those sharing a common life."²² But he never follows this insight through to its logical conclusions with respect to sovereignty. Friedrich's final conclusion is that Althusius uses the concept of symbiosis to

20. "Introduction," pp., lx, lxiii-lxiv. Allen Gewirth, Marsilius of Padua, The Defensor Pacis (N.Y., 1951), I, 9-10, and J. W. Allen, "Marsilio of Padua and Mediaeval Secularism," The Social and Political Ideas of Some Great Mediaeval Thinkers, F. J. C. Hearshaw, ed. (London, 1923), p. 172, are almost harsh on the question of classifying a writer as "modern" or "ancient."

21. "Introduction," p. lx

22. *Ibid.*, p. 1

summarize the conditions under which power exists.²³ He suggests indeed, that it is precisely because of this that Althusius must be regarded as a pioneer. But the main evidence Friedrich cites for this proposition is that the sort of thing which he is speaking of is known to have gotten started between 1550 and 1650.²⁴ The thesis of this paper is that Althusius analyses the nature of symbiosis in order to clarify the purposes to be served by authority and in order to discover the political processes necessary for the efficient exercise of that authority. The source of the divergence between the two interpretations is to be found in different premises concerning Althusius'

23. Ibid., p. lxvii: "We have now to ask what the significance of this word (symbiosis) is, and how it comes to command such a central position in the thought of our author. It would seem that Althusius believed that the idea of a natural living together, of a natural community, contains the answer to the question: what constitutes power?... His answer is: power in its various forms of potentia, potestas and auctoritas is founded upon the existence of a community living together by nature (consociatio symbiotica) -- This proposition links Althusius with the best sociological thought of today for it contains a recognition of the fact that political institutions are, in the last analysis, manifestations of a process of life." The recurrent theme of Althusius' modernity is characteristic of Friedrich's approach.

24. Ibid., p. xv: "But the scientific investigation of human experience bearing upon the question how power is gained and lost in human society and the systematic digest and correlation of these findings is a rather recent undertaking." Friedrich seems to interpret Althusius as being pre-occupied with explaining the fact of power. While for Althusius, the concern seems to be given the fact, what is to be done with it and how is it to be organized to insure its proper functioning for the purposes assigned it.

intention. Friedrich, in other words, sees in Althusius a typically "modern" concern with the actualities of political life, and an attempt to organize and systematize the observed data of social life--with a view to describing that life as it actually exists, or at most as attempting to explain the existence and nature of power. We read him as a writer in the Aristotelian-Medieval tradition attempting to identify the enduring principles on which political and associational life ought to be based if the "good life" is to be realized, and in his empirical work offering an account of what has come to be called an "ideal state" rather than a description of actual states. Friedrich's interpretation leaves Althusius in the realm of the speculative, ours puts him in the realm of the practical.

The fact that Friedrich is injecting a modern climate of opinion into the Politica is concealed to some extent by his reading the modern mind into the early 17th century, and then reading Althusius in that context. Such a procedure clearly exposes the critic to two possibilities of misinterpretation: (1) that based on the assumption that the 17th century has all the characteristics of the 20th, and (2) that which supposes these characteristics to be found in Althusius because they are found in the period. Friedrich, as a result, makes the same mistake as Gierke, although in a less obvious manner, their different

conclusions being due, demonstrably, to the different pre-occupations of each and the consequent selection of different ideas to read into the context. Witness, as an illustration of the practice here in question, the argument that Althusius is a determinist because Calvinism denies free will and Althusius is a Calvinist.²⁵ We are also told that Althusius has a mechanistic basis for his thought because the mechanistic interpretation of law and institutions began to appear at this time.²⁶ Finally, Friedrich concludes that Althusius

25. "Introduction," pp. lxxix-lxx: "Althusius does not know and cannot know a free will.... When Althusius talks about the state, the body politic, as a 'consociatio symbiotica', he thinks of it as a vital phenomenon, as a natural phenomenon which leaves no choice to the individual. The notion that the people could choose in this matter is simply inconceivable from Althusius' point of view." Two pieces of evidence are offered for this interpretation. 1) that Althusius is a Calvinist, and 2) the example of the establishment of the collegia. Presumably this example is a clear case, yet it is nothing more than a statement that the enlarging boundary of social relations required, or literally "forced" men to establish cities and towns. Gierke sees the point more clearly, Development, p. 35: "Necessity leads to association. Association itself is a product of tacit or explicit consent." See also, Mesnard, L'Essor, p. 584. Althusius himself distinguishes between things that are "necessitatis" and those that are "voluntatis." See, xviii, 16; xix, 85. The very idea of pactum involves freedom. Gierke, Natural Law and the Theory of Society, I, 39. states the function of will and the influence of necessity in the natural law school to which Althusius belongs. See Politica, v, 71, for an illustration of Althusius' use of "necessitas." Here the meaning is that the city is necessary because it is a means for defense and commerce.

26. "Introduction." p. lxviii.

taught a doctrine of state absolutism.²⁷

With these conclusions, and many others in the Introduction, the present essay takes issue, basing itself upon a different view as to the central problem of the Politica and the way Althusius sets about solving it. It seemed necessary to dwell to this extent upon the defects in the two major interpretations of Althusius from the standpoint of the present treatise precisely because both are supported with such impressive scholarship. The errors of both seem to have arisen from an interpretation of parts of the Politica in the light of some problem other than that which Althusius envisaged.²⁸

We take it as a fundamental of interpretation that to discover the principle of synthesis in a venture in political theory one must concentrate on the logic of its structure in an effort to locate the real problem toward which all the ideas put forward are oriented and which, when taken in the integration imposed upon them, they

27. Gerbrandy, National and International Stability, pp. 14-18, notes this opinion of Friedrich's as expressed on p. liii of his "Introduction," and dissents from it, pointing out that Althusius' whole concern was to get authority into the hands of the people.

28. Strauss observes, "On a New Interpretation," Soc. Res. XIII, 334, to do this means that the basis of selection will be modern predication, not what the author wrote. In a tightly written book all parts are interrelated and the critic must not pick and choose as he pleases.

solve.²⁹ We find in any consistent writer a number of

29. From this it should be evident that we deem the problem of identifying the central problem to be essentially a problem in logic rather than in historical research. And here we are in agreement with Strauss, loc. cit. Althusius is read on his own terms, not as a step in a development of thought of which he had no awareness, inasmuch as he could not know what would be thought after him. He is not read, moreover, primarily in relation to his own period, since he does not present himself as writing exclusively for it. He claims to give the truth about political life. On this point see Easton's analysis of the historicist approach to analysis, "The Decline of Modern Political Theory," J. of Pol., XIII, 36-45, (1951). In our interpretation we use, on occasion, Althusius' relation to his own period as a means of throwing light on the problem he discusses. Before this can be done, however, one must show from the text itself, what that problem is. Once it has been identified, it is permissible to go from the problem of the text to the problem of the period. But one cannot establish what the book is talking about, by identifying the problem that exists in the period. On this point there is special need for a balanced judgment. J. W. Allen, Political Thought in the 16th Century, 2nd ed. (London, 1941), "Introduction," and Allen Gewirth, Marsilius of Padua, Vol. I, ch. 1 both seek to give such a judgment. It is accepted here. But the work of Allen and Gewirth had been preceded by a large amount of study on their subjects, consequently, the advertence to the historical context could be more extensive. In the case of Althusius, however, one has virtually virgin territory. Here it seemed best to shift emphasis to the text alone. Where historical references have seemed necessary they have been made. But the objective has not been to establish Althusius' place in the evolution of ideas. This can be done only after someone has established precisely what Althusius thought. Charles H. McIlwain, Growth of Political Thought in the West (Cambridge, Mass., 1932) p. 307, observes that: "Most of the mistakes in interpreting this interesting political treatise (The Defensor Pacis) are the result of reading into it a meaning which was never there." We hope to view Althusius as Gewirth did Marsilius, op. cit. p. 11: "The doctrines will here be viewed as Marsilius himself viewed them as constituting a systematic and coherent political philosophy which, whether ultimately true or false, good or bad, deals with the perennial issues of human politics." P. D'Entrèves, Medieval Contributions to Political Thought (Oxford, 1939) p. 45 agrees with this approach. Figgis,

basic ideas, each of which constitutes a fountainhead for developing a series of implications which are arrived at relating the concept to different aspects of reality and then comparing them with one another.³⁰ The importance of identifying these lies in the fact that the writer's central problem is that of integrating them--by orienting them to some fundamental concept. Thus all hinges on identifying the fundamental concept, which is the most difficult task the reader-critic has to perform. For, again, in any work of notable stature, there are ideas with which the author is struggling, ideas over which he has not yet achieved perfect control, and is, rather, attempting to bring into the full light of understanding. These ideas are expressed in the work, but for the most part their

Political Aspects of St. Augustine's City of God (N. Y., 1921), pp. 64-65, is of the same mind. Friedrich himself, op. cit., p. xlii notes that ideas are modified by the system of thought within which they occur. Ernst Cassirer's comparison of Platonic and Augustinian thought may be taken as an example of the application of this principle, see Myth of the State (New Haven, 1946), pp. 78 ff.

30. Friedrich correctly identifies the method of a systematic thinker: "Introduction," p. lvii: "The genius of great systematic thinkers consists in linking the various component elements together by finding their common denominator; in taking the little stones and fitting them into a variegated mosaic." Althusius expresses his method as follows: Politica p. 2: "in the building of the tabernacle in the ancient Jewish Church, not everyone brought things of equal value. Some brought stones, others wood...a collection of widely disparate and unequal gifts, yet each must be praised even the least. For which of these were unnecessary for the building and joining together of the temple." The implication of the paragraph is, evidently, that Althusius has a principle of organization in his thought.

implications have not been formally and verbally stated. They nevertheless determine the entire course of thought in the book. Like a network of roots, they lie beneath the surface of discourse, but direct it and give it life and meaning. Each stalk of thought, each principle the book develops, is in some way an explication of this subterranean and pervasive idea, which is the real idea of the book and the essential contribution the author has to make.

The principal problem of interpretation these considerations give rise to is that of how far we may go in attributing to an author ideas that are merely implicit in his work. Evidently we cannot do so on the bare grounds that these ideas are logically involved in his thought. Attribution of an idea presupposes on the part of the writer some awareness, though not necessarily a full explication, of it. We can go further and say that attribution of latent or implicit ideas is warranted only when we can demonstrate that they exercise discernible influence throughout the work. Where the influence of an idea is thus pervasive we may assume that the author is struggling with it, almost grasps it but cannot adequately express it because of the limitations the vocabulary of his age imposes on him.³¹ We conclude

31. Maitland, in his "Introduction" to Gierke's Political Theories, p. xxiii, comments on the problem of vocabulary, which, he argues, led thinkers to use the term "contract"

then, that the relative importance of each principle developed in a book like the Politica is determined by the role it plays in the ultimate integration of the book around some central concept, and it is to be assessed in terms of the degree of light it throws upon that concept. The amount of space given to its development, for example, is not decisive. It would have been impossible to write on politics in the early seventeenth century without devoting a good deal of space to, e.g., the nature of sovereignty, and the question of who is sovereign. Althusius does devote considerable space to it, but this does not alter the patent fact that the concept of sovereignty is not the central and unifying concept in the Politica. It is, rather, merely one of several explicit ideas used to state and draw out the basic idea of symbiosis and the implications of that idea.

In conclusion, Friedrich's interpretation seems to be erroneous because it flows directly from his conception of the kind of thinking Althusius was engaged in as he wrote the Politica, about which conception it is hardly too much

as the only one available for their purposes in the Middle Ages. In this connection it is important to notice that Althusius had to coin the term "Symbiosis" in order to describe the kind of society he was talking about. J.W. Allen, "Marsilius of Padua," op. cit., p. 173 observes that the difficulty with concepts and terminology in Marsilius is due in large part to the rigidity of Medieval latin. The same, I think, obtains in the case of Althusius.

to say that Friedrich reads the Politica as if he had written it himself.³² The first step toward a clear picture of the thought of the Politica, therefore, is to determine the basic idea and problem about which the parts of the work are constructed. The second step is to determine precisely what kind of thinking went into the work of elaborating the various parts into one harmonious system of political theory. When this is done, one will be able to isolate the precise polarities that exist among the parts of Althusius' organization of the science.

The starting point from which to take the first step is to be found in Althusius' conception of Political Science.

Politics is the science of uniting men for the purpose of establishing developing and preserving social life among them. Whence it is called symbiotike (the science of those things pertaining to the common life). Therefore the objective of politics is consociation, in which, by an express or tacit pact, the symbiotici mutually obligate themselves to share with one another the things useful and necessary for the intercourse and fellowship proper to social life.³³

32. On the pre-occupation with power, it is significant that Friedrich's own work, Constitutional Government and Democracy, rev. ed. (Boston, 1950) attempts to construct and explain institutions on the basis of the fundamental theoretical concept "power."

33. Politica, i, 1-2. See also Preface, p. 4, and on p.9: "I claim it (the content of the decalogue) as proper to politics only in so far as it inspires the spirit of symbiotic life, gives form and shape to it and preserves it." See also iii, 42: "the subject matter of the latter namely political science, is the pious and just symbiosis." This idea is expanded in i, 26, 31; iii, 42 and xxi, 41.

This conception is a strict continuation of the Medieval approach to politics. For the definition of the science is based on a restatement of the Medieval argument for the nature and function of authority.³⁴ "In all things," said Aquinas, "which are ordered toward an end wherein this or that course may be adopted, some directive principle is needed through which the due end may be reached by the most direct route."³⁵ The centuries long Regnum-Sacerdotium controversy, inasmuch as it centered upon the principle that there can be but one ultimate authority if the unity of social life is to be preserved, assumes as obvious the principle that the object of authority is the unity of social life.³⁶ Althusius simply applies this conception in his definition of politics. Social life is the necessary means to the realization of man's deepest need: the realization of his own potentialities:

The end sought by the political, symbiotic man is a holy, just, pleasing and happy community

34. Ives Simon, Philosophy of Democratic Government (Chicago, 1951), ch. 1 has, perhaps, given this particular argument its definitive form.

35. On Kingship, tr. Gerald B. Phelan (Toronto, 1949), Bk. I, ch. 1, 3. See also, his Summa Theologiae, Leonine Text (Rome, 1948) I-II, 19, 10 for the complete expression of the argument.

36. See Allan Gewirth, Marsilius of Padua, I, 92 ff. for an examination of this idea. See also Anton Herman-Chroust, "The Corporate Idea and the Body Politic in the Middle Ages," The Rev. of Pol., IX (1947).

lacking in nothing that is either necessary or useful for life. For this kind of life, indeed, no man is of himself autarkes or sufficiently and adequately endowed by nature.... Therefore, as long as he lives to himself and does not join the society of men, he cannot live fittingly and well in such a great lack of so many necessary and useful things. And since therefore a remedy and aid is shown him in the symbiotic life, if he wishes to live fittingly and well, indeed, if he wishes to live at all, he is led and almost driven to this life where he is invited to the exercise and practice of virtue, which is possible only in a communal group.³⁷

Once social life, in the sense of the life of common co-operative action, exists there rises the need for authority.

"Without it there can be no home nor city, nor tribe, neither can mankind exist, nor the entire nature of things....

In order to preserve social life, it is necessary that one member command the others for the advantage and safety of each and all."³⁸ This need appears primarily as a result of the need for coordination in the actions of the members of the group:

And then the diversity of this world is so great and so admirable that unless it were organized by a symmetry achieved through subordination and tempered by definite laws of subjection and government, it would be destroyed in a short time by its own confusion... A most pleasant and fitting harmony arises out of the condition of rich and poor, or working and sedentary men, and of the variety of different states of life; and if society is brought to agreement, a more

37. i, 3-4, See also i 26.

38. i, 12-13, 34.

durable, happy, excellent and almost divine harmony is achieved.³⁹

Since authority exists to preserve the social order, then political science is the science that organizes authority so that it can achieve this purpose. The approach is purely political and fixes attention upon the processes, institutions and scope necessary for authority if it is to achieve this purpose. How, asks politics, are men to be associated in the political order if authority is to be used to establish and preserve social life?⁴⁰

According to Althusius, political life, thus also the problem of politics, is present at that moment when three or more people attempt to achieve a just purpose by common

39. 1, 35. See Friedrich, "Introduction," lxiii. At lxiv he observes that for Althusius, "Politics is concerned with the problem of human relations."

40. 111, 42: "Thus economics and politics differ entirely as regards subject matter and end. The subject matter of the former is familial goods. Its end is the acquisition of those things that are necessary for food and clothing. The subject matter of the latter, namely political science, is the pious and just symbiosis. Its end is the government and conservation of consociation and the symbiotic life." Eric Wolf, Grosse Rechtsdenker, p. 13: "Die entstehung eines zusammenlebens zu fuerdern, ist der Sinn der Politik." Gierke, Development, p. 33: "The aim of politics is to study the best means of instituting and conserving the life of human society.... Thus it deals with one of the essential factors in the genesis of law." Gerbrandy, National...Stability, pp. 6, 23, agrees with this interpretation of the Politica. For Aristotle's view, which Althusius follows, see his Politics, Bk. III, ch. ix, 1280b, and ch. xii, 1291a, also Bk. VII, ch. ii, 1324a.

action. The science of politics comes into existence as of that moment when men become reflectively aware of the significance of associative life as a necessary means for the realization of their purposes.

Thus he begins to think about the means, whereby such a communal group, from which he expects so much utility and fruit, may be developed and preserved. Concerning this we shall, with the grace of God, speak in the following pages.⁴¹

The development of the science represents, then, man's attempt to establish a rational control over his own human environment on the premise that such control is necessary for its existence. The basic condition, therefore, out of which both authority and political science emerge is that of necessary cooperation. Political science may be viewed, therefore, as the science of organizing authority. And this definition has a number of important implications in the context of Althusius' thought. First it supposes that political science studies human action in so far as in the pursuit of certain values, summarized in the Politica as the vita pia et iusta, the action of each individual necessarily gets involved in a cooperative common action with his fellow citizens. Secondly, it supposes that political science is concerned with this cooperative action

41. i, 4.

only so far as it raises the problem of concerted action. And finally it supposes that since authoritative decision is the only way of getting concerted action, the problem with which politics is formally concerned is that of the possessors of this authority. Like every other major theorist, therefore, the question with which Althusius starts is: who should rule. Now the answer Althusius gives is determined, as it is in every other major theorist, first of all by his conception of what rule is for. Since rule is for unity's sake, the specific question the Politica attempts to answer is: under what conditions of political organization will men integrate their actions in pursuit of the good life? This question as Althusius puts it, has a number of aspects. First there is the subjective and the objective aspect. From the subjective standpoint the question becomes: under what social and political circumstances will the members of a group be willing to make the mutual contributions necessary for achieving the common good? From the objective standpoint, granting the existence of such conditions, the question now becomes: what objective institutional arrangements are necessary in order to make their will operative and effective. Secondly, there is the question not simply of achieving integration and co-operation, but in addition of insuring that the integration is so ordered as to insure the achievement of the values in

view of which cooperation was necessary in the first place. In answering these questions Althusius develops the theories of popular sovereignty and of leadership, i.e., the constitutional distribution of authority, which he thinks will insure both integration and right integration.

The first major determination of the kind of thinking that went into the Politica derives from this conception of political science. It is essentially a practical science about the organization and processes necessary to achieve a defined purpose or value. Althusius is quite clear that the political scientist is not a ruler.⁴² Yet he does not accept the distinction, for instance, of Weber, whereby the ruler is entrusted with the task of organizing human purposes into a viable order and the scientist with that of accumulating data about the relation of facts.⁴³

42. Preface, p. 5: "For the political scientist properly teaches what and which are the principles of sovereignty, and investigates and determines what is essential for the constitution of a Republic." The further step is, xxi, 7: "Only political science cures all these inconveniences (deriving from habits of man); from it one must learn how and at what times he (the ruler) should rule the helm of the ship of state." But ultimately science must give way to political prudence. xxi, 8: "the governor will consider the deeds of past years...what was done well or ill, what succeeded.... And in judging individual persons, how they lived in the part of their life now transversed..."

43. "Politics as a Vocation" and "Science as a Vocation," in From Max Weber, tr. and ed. H. H. Gerth and C. W. Mills (N. Y. 1946).

The concern of the scientist is also with purposes and values. And the scientist has as his function, the delineation of a political order that will make given human purposes viable. His approach is not that of A. D. Lindsay who accepts the values of any given society and criticises institutions in terms of them.⁴⁴ Above all, he rejects the historical approach which simply explains given purposes in terms of their historical context.⁴⁵ Finally, he does not conceive of his function as being that of solving actual problems, or even that of doing the empirical research necessary for solving them. For science cannot organize prudence which deals with the particular in its particularity. This the governor must do.⁴⁶

To grasp the mode of practicality in Althusius' thought, it must be noted that although it is in the practical

44. The Modern Democratic State (London, 1943), pp. 27-40. It is quite possible that if Lindsay had not so thoroughly approved of the operative ideal he studied, he would have defined his science more clearly in terms of abstract values.

45. As v.g. Dunning and, at times, Sabine. On the historicist approach see Strauss, "On a New Interpretation," loc. cit. and especially, David Easton, "The Decline of Modern Political Theory," J. of Pol., XIII (1951) and Mulford Q. Sibley, "Apology for Utopia," J. of Pol., II (1940).

46. For an analysis of practical science in the tradition Althusius follows, see Aristotle, Posterior Analytics, Bk. I, ch. vi, 33; Metaphysics, Bk. VI, ch. 2, Nich. Ethics, Bk. I, ch. 3. See also Aquinas, Summa Theologiae, II-II 47 ff. and the essay by D. Noble, O.P. in Somma Théologique, "La Prudence," "Renseignements Techniques" (Paris, 1925).

as distinct from the theoretical or contemplative order of thought, still it is by no means practical in the sense of grappling in a "realistic" way with the problems of the day. Althusius is offering an answer to certain problems, but he offers it in the capacity of the scientist whose conclusions must have a universal validity, independent of time and place.⁴⁷ One detects in the Politica no such inflammatory call to action as that in Paine's Common Sense, nor are the author's energies devoted to special pleading in favor of a contemplated or accomplished action as in the Vindiciae Contra Tyrannos.⁴⁸ If one examines the formal

47. XXXIX, 85: "For the science of politics ought to be general, concerning those things which apply always and everywhere and can be adapted to all situations, even to special and particular times, places, or people. This despite the fact that divers and separate kingdoms always enjoy their own laws, different in certain elements from others." For Althusius a political theory is not, as Sabine seems to suggest, an answer to a crisis that has universality because the crisis recurs in history. See "What is a Political Theory," J. of Pol. I (1939). Rather the universality of the theory is based on its abstraction from particularity. R. A. Dahl, "The Science of Public Administration: Three Problems," Pub. Adm. Rev. VII (1947) uncovers the difficulties involved in trying to handle the facts of an historical society in a scientific way.

48. Figgis, Studies, p. 201: "His (Althusius') book is emphatically not a livre de circonstance, and is perhaps for that reason charged (and I think rightly) by Gierke, with a certain insipidity of tone. It has not the eloquence or the appeal of the Vindiciae Contra Tyrannos, and is less readable." In the same general period, Hooker translated a specific debate into a question of basic political theory. See P. D'Entrèves, Medieval Contributions, pp. 89, 105.

and conscious effort of the book, it becomes evident that the author attempts, not altogether successfully to be sure, to abstract completely from the actualities he was observing. His argumentation is developed from the nature of things and from basic political principles, not from the posture of events in his own time. And the necessities he detects in political life derive from essences and purposes, not from the pressure of events. His solutions are indeed offered as solutions for his own period, but equally for every other period as well. They are not put forward as a shrewd and realistic estimate of the possibilities of an existing situation, but rather as the objectives that must be reached everywhere if men wish to establish a stable and free social life.⁴⁹ The Politica was written out of a deep awareness of the actualities of the contemporary scene--an awareness so deep, for example, as to

49. Jacques Maritain, Les Degrés du Savoir, 4^e ed. (Paris, 1946) and Science And Wisdom, Part II, "Reflection on Moral Philosophy" (London, 1940) has some enlightening contributions to make regarding this concept of a practical science that does not handle actualities in their existential contingency. Althusius himself observes, xxxix, 85: "but I do not think special teaching necessary concerning the individual political situation, despite the disagreement of other neoterici. For the science of politics ought to be general concerning those things which apply always and everywhere and can be adapted to all situations, even to special and particular places, times or people."

enable the author to see that the problem of the state was the central one of the period. And where the actual corresponds with the Althusian ideal, as in the cases of the family, guild, city and province, Althusius does not always deem it necessary to distinguish between the one and the other. The formal orientation of his thought is, nevertheless, not toward the actual order of Germanic life. As a generalized work in political science, the book states the problems latent in that order, but within the context of a completed science of politics.⁵⁰ When Gerbrandy and Friedrich insist upon a relation between the Politica and the political struggle of Althusius' time, they are undoubtedly speaking of something that is actually there.⁵¹

50. Figgis, Studies, pp. 191-201, gives a good indication of the kind of influence the actualities of the time exerted on Althusius' thought. Figgis' view that Althusius analysed the implications of the Netherlands' revolt for the instruction of Germany, is not in opposition to the opinion defended here. For Figgis holds that Althusius did not so much describe what actually happened in the Netherlands as identify the political principles involved in that people's solution to their problems. The thought is on the level of political principle not on that of historical deeds.

51. Gerbrandy, National, p. 24: "It (the Politica) is an attempt to give a leading impulse toward the formation of new territorial states in western Germany." At p. 25 he holds that Althusius is defending the Parliamentary system against the absolute prince. It is noteworthy, however, that Althusius does not insist on the territorial state being composed of contiguous territory. Friedrich, "Introduction," p. xviii, seems to be aware of the fact that Althusius abstracts from the burning issues of the day and attempts to state the issues of political life as such. There is a suggestion,

But this tells us nothing about the formal purpose of the book. Gierke is much nearer to a correct statement of the position when he says: "the author (Althusius) had worked out his views by a purely theoretical method with no practical partisan aim."⁵² If the word "partisan" is stressed here, Gierke is correctly stating the relation between the Politica and the actualities of 1602-44. For, while Althusius indeed had a practical aim, it was not that of a partisan defense of City against Prince or vice-

however, that such an abstraction is incompatible with a practical science. Nowhere in Friedrich, Gierke, or Gerbrandy do we find any awareness of the fact that a theoretical method, or a concern with logical analysis is compatible with the existence of a practical science. Easton "Decline of Modern Political Theory," loc. cit. p. 50, notes that a practical science must necessarily contain a philosophical, definitional element if it is to be practical in the sense used here.

52. Gierke, Development, pp. 20-21; at p. 16 he calls the Politica "abstract, academic theory." It should be noted that the distinction between "purely theoretical method" and "practical partisan aim," is not an exhaustive one. Gierke himself grasped a third position in his Natural Law, I, 35, where he says of the Natural Law School: "In opposition to positive jurisprudence, which still continued to show a conservative trend, the natural law theory of the State was radical to the very core of its being. Unhistorical in the foundations on which it was built, it was also directed, in its efforts and results not to the purpose of scientific explanation of the past but to that of the exposition and justification of a new future which was to be called into existence." This is what Althusius was doing in the Politica. There is a practical aim that is not partisan precisely because it rejects all the available alternatives of the time as being self-defeating from the standpoint of the true goal of political life. Such rejection cuts a writer off from the actualities of his time.

versa. In his own career at Emden he fought for the City against the Prince. But action at Emden was limited by the existing alternatives, namely two: one could support either the Prince or the City. While in the Politica he chooses a third position, which was not, properly speaking, an alternative in existing conditions: he proposes that both City and Prince be assigned their proper function in political life.

The Politica, then, attempts to state the real problem of all political life on a universally valid level, an incalculable distance above the struggle between the greed of the Prince and the blindness of the City.⁵⁴ With regard to the forces in conflict, the Politica offers a position that can be called "unrealistic" on the grounds that it abstracts from immediate possibilities as regards its own realization. But with regard to the essential political problem of how to establish and preserve a free social life, it is--and this is all it claims to be--an intensely realistic piece of work. Its mode of conceptualization is

53. Friedrich, "Introduction," p. xxxiv.

54. See Eli F. Heckscher, Mercantilism, tr. M. Shapiro, 2 vols. (London, 1935) especially vol. 1 for a description of the greed of the cities, and see Charles H. McIlwain's "Introduction" to The Political Writings of James I. Harvard Political Classics, Vol. I (Cambridge, Mass. 1918) and J. W. Allen, English Political Thought, 1603-1660. Vol. I (London, 1938) for a description of the purposes and intentions of the prince.

intrinsically practical in that it concentrates on action and its necessities rather than on the simple contemplation of essences.⁵⁵ The problem it solves is that set forth

55. Dante, De Monarchia, tr. Aurelia Henry (N.Y., 1904), Bk. I, ch. ii, identifies the nature of a practical science as Althusius envisaged it. "Be it known, therefore, that certain things exist which are not at all subject to our control, and which we can merely speculate upon, but cannot cause to be or to do; such are mathematics, physics, divinity. On the other hand, certain things exist which are subject to our control, and which matter not only for speculation, but for execution. In these things the action is not performed for the sake of the speculation, but the latter for the sake of the former, because in them action is the end. Since the matter under consideration is governmental...and since everything governmental is subject to our control, it is clear that our present theme is primarily adapted for action rather than for speculation." To this we can add the distinction Aquinas draws, Summa Theologiae, I-II, 3, 5: "Contemplatio maxime quaeritur propter seipsam, Actus autem intellectus practici non quaeritur propter seipsum, sed propter actionem. Ipsae etiam actiones ordinantur ad aliquem finem." The strategic concept is that the science of politics is concerned with governmental activity. Maritain spells this idea out in his Les Degrés du Savoir, p. 619: "L'ordre pratique s'applique à connaître non plus seulement pour connaître mais pour agir, et à acquérir d'un objet qui est quelque chose de pratique (un acte à accomplir) un savoir qui, procédant de façon pratique quant à ses finalités propres et quant aux conditions de l'objet, reste encore cependant quant à l'équipement général ou fondamental de la connaissance, de mode speculatif ou explicatif, et envisage l'univers lui-même de l'agir et des valeurs opératives au point de vue des raisons d'être et des structures intelligibles qui lui sont immanentes." The speculative element does not pervade the entire science. By its nature, Maritain notes, practical science tends to move from the level of speculation into the level of actuality (p. 622). Thus the characteristic of practical thought is not to be found in an exclusive interest in the contingent order but rather in an interest in that order insofar as it must be modified and ordered to achieve speculatively defined goals.

in its own pages in terms of goals to be achieved. And the practicality of the book further reveals itself in the fact that these goals are defined apart from current political actualities but not apart from basic and enduring realities, and that the action ordered to their achievement is directed on the basis of alleged enduring patterns of human behavior rather than on contingent arrangements and current political pressures.⁵⁶

This is not to say, however, that the book has no pragmatic purpose relative to its time, or that awareness of that purpose will not cast light upon the ideas the author expresses. Still less is it to say that one need not know the climate of opinion within which the Politica was written, the preconceptions of the age, the meanings of the terms used, and the other intellectual peculiarities

56. Gierke, Development, p. 170, notes that the academic character of the Politica probably saved it from confiscation. It seems probable that it would have been imprudent for a balanced work like the Politica to contain a practical application to the current situation, since it would have outraged both City and Prince. We may say of Althusius and the 17th century what G. D. H. Cole says of Rousseau and the 18th, "In the 18th century it was...safe to generalize and unsafe to particularize." The Social Contract and Discourses, ed. Ernst Rhys, Everyman's Library, p. vii. This historical situation, however, cannot be offered as the adequate reason why Althusius restricted his thought to the level of scientific generalization. The history of his life shows that our author was willing to suffer for his ideas if that became necessary. This conception of the function of the political scientist explains the character of his work.

of the period.⁵⁷ Althusius' pre-occupation with the State form of political life, for example, is clearly a result of his awareness of his times. Moreover, it would seem that there is in the work itself a latent and indirect appeal to action, or one might say an expectation that action will follow from the work. For there seems to be in the work a set of instructions to an elite as to their duties and functions in a well ordered state. That this is so is evident from a number of considerations. First, there is the patent fact that Althusius not only accepted but advanced arguments in favor of rule by an elite on all levels of political life.⁵⁸ Secondly, there is the further fact that his work is consciously, almost painfully scientific, and by no means polemical in character: and

57. Allen Gewirth, Marsilius, p. 10 ff. and Allen, Political Thought, Preface, states the relations between text and historical context in a balanced way. One must agree with Sabine, "What is a Political Theory," loc. cit. p. 3, that: "Political theories are secreted...in the interstices of political and social crisis," by minds that have the "sensitivity and the intellectual penetration to be aware of crisis."

58. Althusius uses the principle of functionalism in applying the distinction between ruler and ruled. The elite constitute a natural aristocracy: i, 37-38. vii, 17 ff. who are the "men of the middle rank," vii, 37. These should rule. And this concept is placed in a Platonic functional context vii, 13. We hope to show in chapters V and VI below that the integration of popular and elite functions is one of the major achievements of Althusius' synthesis.

we may argue, following Burnham,⁵⁹ that since a scientific work cannot be directed to the mass of the people, who is unable as it is to comprehend it, it must have been written for the instruction of the few. The minor premise in this argument, namely, that the people cannot grasp a scientific argument in politics because their political action is not governed by strict rationality, was stated no less clearly by Althusius than by Burnham.⁶⁰ Next, there is the juxtaposition of the three ideas, (1) that the elite should exercise government authority, (2) that government authority must be used to achieve the ideal of a symbiotic life, and (3) that the people, acting as a group, although able to overthrow a tyrannical ruler,

59. Burnham, The Machiavellians, Defenders of Freedom (N.Y., 1943), p. 261: "The machiavellian analysis, confirmed and reconfirmed by the evidence of history, shows that the masses simply do not think scientifically about political and social aims; and that even if they did, the technical and administrative means for implementing their scientific thought would necessarily be lacking." See also, Plato, The Statesman, #202, #320, #328. The people's part in political life, according to Althusius, is simply to declare their own mind and judgment about the just and the good, a function that requires little or no reflective thought.

60. For Althusius' assertion that the people do not act from strict rationality, see Chapters XXIII-XXV. This judgment, it should be noted, is offered on a strictly observational basis, not on an a priori theory of romanticism or voluntarism. He agrees that the science of governing is like the science of medicine or navigation (two figures he uses extensively). Only those who know the science should govern. It is notable, however, that Althusius presses Burnham's point only on the state level. On the level of

cannot of themselves establish the lineaments of the State society in their completeness. Taken together, these ideas lead to the conclusion that the preservation of the good society is the function of a governing elite, ultimately of the supreme magistrate and his administrators, to whom therefore this work on scientific politics is addressed.

The call to action, however, is implicit in the whole tenor of his thought, revealing itself in the inherent orientation of the science rather than in this or that exhortatory passage. The reader is offered neither a set of abstract principles about rights, nor a set of concrete and immediately applicable rules. He is offered a set of institutions which are presented as inherently necessary for the realization of certain values which, it is claimed, no man can reject as irrelevant. We have suggested that the most evident point of appeal to action is contained in the instructions to the elite. Althusius is too good an Aristotelian not to know that prudence is a virtue which by definition is immersed in the order of action.⁶¹

local government he is willing to give the people a more direct hand in the exercise of authority. Moreover, he modifies the theory of the rule of the best with a popular sovereignty theory that insists that the ultimate decision must always rest with the people.

61. Both Friedrich and Wolf refer to the fact that Althusius studied Aristotle extensively in his student days.

In this regard there is an interesting error in Althusius' thought. He brings his work to a close with the observation, "Nor do I wish to establish the kinds of Polity, their institution, growth, extension and conservation. For the same principles apply to the increasing, enlarging, and conserving and founding of a polity. And it is conserved and enlarged by the same arts whereby it is founded as our definition makes sufficiently clear, (cf. Chapter 1)."⁶² Althusius, evidently, considers himself to have been dealing with the problem of founding civil society. As we will indicate, because of his conception of a constitutive sovereignty in the people, he does not meet the difficulty M. B. Foster identifies in the Greek thinkers: that of bringing the state into existence.⁶³ Nevertheless, he does not face up to the fact that on his own showing a group cannot act without leadership. For he never answers the question: who gives the impetus to and channels the original decision of the group that establishes civil society. It would seem that his analysis of the elite function, although carried forward on the assumption that civil society exists, is nevertheless understood to apply to the situation in which the constitutive

62. xxxix, 86. The reference to chapter 1 is part of the text.

63. The Political Philosophies of Plato and Hegel (London, 1935), chapter 1.

act is exercised. Therefore, it seems to us, that the section of the Politica devoted to prudentia politica and an analysis of the nature of the people,⁶⁴ must also be understood as giving advice to the elite on the question of establishing as well as preserving symbiosis.

The Politica, however, could never trigger a revolution, although it could easily become a text book for reconstruction. Perhaps one could justly summarize the Politica as an attempt to establish in the state, the area of political life in which the functions proper to both city and prince could be reconciled, to show, by an analysis of political organization and purpose, that far from being necessarily antagonistic they are inherently complementary and interdependent.

In order to develop his solution to the problem he perceived, Althusius engaged in an ab ovo review of the purpose and organization of the political process. For to fix the function of the state he first needed a context of political thought within which to weigh and analyse this new thing. What is it? How valid are its claims to existence? Can these claims be separated from those of the prince, or are the claims of the two mutually involved with one another in

64. xxi-xxiv. Prudentia politica is the "ratio" of government, xxi, 6. It defines the course of action that must be taken, in view of human behavior patterns, in order to achieve the goals assigned to government by the more speculative levels of political science.

the very nature of things? To put the question differently, what is sovereignty, why is it necessary, and where does it reside? Reflective men of the period saw the conflicts on this level of thought, and not simply on the more practical level of diplomacy and conflict. And they attempted the profound task of analysing the nature of political and social life in order to find out whether a place could be made for this new form of organization whose utility constituted so pressing an argument for its admission to the social life of man, but whose actuality in the form of the Princely Absolutistic State offered so many threats to the traditional ways of political life.

One may speculate about the psychological considerations and the unexpressed purposes that influenced the thought of such men. But the fact is that their thought confronts us with a claim to universal validity. It offers a complete and fully rounded explanation of the State, its nature and its functions. If Hobbes, for instance, was a timid man, that fact tells us little about what he thought: it may be that he was timid because of what he thought, not that he thought what he did because he was timid.⁶⁵ For whatever

65. As Lindsay remarks, The Modern Democratic State, p. 81: "His (Hobbes') tale of woe is the tragedy of the far-sighted, speculative, rational and unbelieving mind;" and p. 82: "He was a true prophet in his diagnosis of the despairing state of independent selfish individuals all striving for safety; in his perception of the inadequacy of contract and all political machinery under such conditions." Yet we must

one may think of his system, it confronts us as a completed thing, based on a developed philosophy and a psychology. One can neither understand nor refute him by saying that he was a timid man who wrote in a period of violent disorder. That disorder may have turned his attention to certain aspects of political life, and no doubt it gave a certain luminosity to the concepts of order and law, but his ultimate position is derived from a fully expounded system of philosophy, not from a blind desire to get order. What is true of Hobbes is equally true of Althusius, whose writing bears much the same relation to the actualities of his time. For he wrote on a level that abstracted from the actualities of his age, or to put it more accurately, on a level of thought on which those actualities had been transmuted into generalized and speculative realities within the confines of a rounded science of politics.

Unless one grasps the precise mode of practicality in Politica, the architectonics of the thought remain hidden, and the work emerges as a haphazard affair lacking logical unity and based on a misapprehension of the facts of the time. It is significant that Eric Wolf, in a partial translation of the Politica purporting to give the

remember that in Hobbes' psychology, men by nature had to be this way. His concern for order and his defense of absolute power flows directly from his conception of human nature, not from any personal timidity that subtly throws his emotional predilections on the side of authority as against liberty.

Grundbegriffe der Politik, devotes only about one tenth of his translation to the last two thirds of the Politica.

The question immediately arises: have the numerous chapters on the governing activity of the magistrate no significance, or essential importance, with regard to the central thesis of the book? Wolf's approach seems to have been influenced, in particular, by that of Friedrich and Gierke, which stresses the forms of society. Friedrich identifies the idea of symbiosis as central. If this concept is considered merely as an idea projected on the level of pure speculation, the last twenty chapters have no particular connection with the first nineteen and should have been printed in a separate book. But as soon as one understands that symbiosis is conceived of and analysed only in so far as its existence constitutes both the goal of political action and the framework in which it occurs, the final chapters of the book take their rightful place as rules of action governing and directing the magistrate in the performance of his tasks of establishing and fostering the social conditions necessary for the existence of the social and political orders.

Precisely because he rejected the actual historical situation, as the forum within which to project his thought, Althusius had to define and describe the situation relative to which his thinking did go forward. The need for such

a "relevant situation" is inherent in a practical, value oriented science of politics.⁶⁶ For any attempted organization of human action assumes significance and can be critically evaluated only by being referred to defined goals.⁶⁷ Organization and processes are inseparably linked to purpose. Only if one accepts the purposes and values operative in the existing order, can thought about structure progress by way of critical estimate of the existing structure of authority, or by way of creative reconstruction without explicit reference to the social situation or values. Easton points out⁶⁸ that this value fixing aspect is so inherently

66. That Althusius is describing an ideal state not an historical one is evident also from the fact that, having indicated a desirable structural arrangement, he takes his examples without distinction from contemporary forms, from the ancient Jewish state, and the political life of ancient Greece and Rome. He is not saying that the structure he describes exists today and may also be found in ancient times. He is saying that the structure in question is illustrated in ancient and in modern times. The structure itself is outside time and place and is adaptable to all conditions of men within the limits of a symbiotic form of social life.

67. See Mulford G. Sibley, "Apology for Utopia," J. of Pol., II, p. 65: "It is literally true, then, to say that some kind of Utopia is essential in dealing with 'practical' institutions -- in the sense that Utopia implies a 'subjective' interpretation of what is valuable in the universe."

68. "Decline of Modern Political Theory," J. of Pol., XIII. To leave one's values unstated confuses thought. To take two immediately available examples of writing in which unrealistic institutional recommendations are made precisely because the author did not advert to the social context within which the institutions are to operate: Robert F. Finletter, Can

involved in political theory of the type Althusius engages in that even one with a relativistic philosophy of value still must relate his institutional, empirical system to a defined set of values which the system proposed will make viable. But even apart from this relation between value and fact, the Althusian insistence that science must deal only with what is true always and everywhere precludes the referral of thought directly to a concrete historical situation. And so, if the contingent world of facts is to be dealt with these facts must be organized into a model value-structure integration which becomes the point of reference for thought. In this matter, three formally distinct ideas must be carefully kept separate. First, the idea of the values sought by authority. This may be called the value point of reference. Secondly, since societies are defined and distinguished by the ends or

Representative Government Do the Job (New York, 1945) which proposes a political organization without reference to the social conditions necessary for it. He seems to think that the present organization of Congress has no relation to the present organization of the American society. The legislative organization he proposes clearly envisages some other society than the American. E. Pendleton Herring, Presidential Leadership (New York, 1940) supposes that a nation can be united to produce a president and simultaneously disunited to produce a Congress. In each case the writer confuses the social situation he envisages with the actual one he observes. So that while proposing political, institutional reforms for a specific, existing society, each tends in fact to suggest social reforms as well.

values they seek, there is the idea of the social situation resulting from social union for the values defined. This may be called the relevant situation, and consists in a projection of the kind of society which in view of human nature must exist if the defined values are to be accepted as the values of the group. Thirdly, there is the concept of the "Ideal State" which is nothing more than a picture of the relevant situation politically organized to realize the values that distinguish it from the other social situations. Laski's idea that the Ideal State is a "yardstick" to measure existing states deeply distorts the concept.⁶⁹ There is not one Ideal State.⁷⁰ There are as many Ideal

69. Laski, The State in Theory and Practice (N.Y., 1935), pp. 31-35, 64. It might be observed that Laski's criticism of the idealist approach as not having solved "the essential problem of the relation between the ideal and the real," is based on the assumption that it is the function of the political scientist to judge the real in its particularity. Althusius would leave this as a basic problem for the governor.

70. For Althusius and Plato there is. But this is because both agree that there is but one value objective with which the political scientist is concerned. Althusius says, xxxix, 83: "And these are the subjects I thought should be discussed concerning political science. I cannot be induced to treat under separate headings (as all political scientists do) the causes that lead to the destruction of consociation or the overthrow of the republic.... But to formulate principles concerning imperfections, defects and blemishes of the consociation or concerning an evil symbiotic union is entirely foreign to this science of politics which we have described. For that would be to establish two political sciences, one devoted to the good symbiotic union, the other to the evil. And to them would correspond two contrary ends of the science." Plato defines his values in his Republic, Bk. I.

States as there are conceivable value systems.⁷¹ The Ideal State is not relative to other States, but to a value system. It becomes the basis for "measuring" actual States only after it has been ascertained that the latter have both the value system and the situation considered relevant for the institutions of the Ideal State.⁷² Such an enterprise as the construction of an Ideal has passed out of favor in our time and the type of practicality on which this approach is based has been condemned as "idealistic"

71. The accident of history which led Aristotle to refer to Plato's state as Ideal, (i.e. as impracticable because it supposed an impossible organizational factor: the philosopher king) evidently has resulted in the term being reserved for its pragmatic implications alone. In fact, Aristotle and Althusius would equate "Ideal" with "correct values." Yet it is evident that Aristotle was willing, where Althusius was not, to consider the structure of the state with reference to values less than ideal. So that, using the term in a different context, it can be said that the structure of institutions designated as "mixed" by Aristotle, could be called the "ideal" structure for a society in which there were two or more value systems in competition.

72. Thus the Ideal State, using the term in Althusius' context, can be made a "measuring rod" only for groups that possess the value objectives and the social integration Althusius presupposes in his discussion of institutions. Since every State and period has its "ideals," Delisle Burns, Political Ideals, 4th ed. (N.Y., 1929), it would be easy to convert Lindsay's definition of political science simply identifying the "operative ideal" as the value system in terms of which the scientist will now construct institutions. These latter would then become the "yardstick" for examining the institutions of the given State. Unfortunately Lindsay so plunges politics into history as to confuse the question of the relation between the judgment of the scientist and the judgment of the governor.

and "impractical."⁷³ Behind the condemnation lies a pre-conception, namely, that political science must deal only with actualities; a necessary conclusion in an epistemology that denies reality to everything but contingent being.⁷⁴ Consequently the modern political scientist, when he has not withdrawn into the historical study of political thought, frequently has plunged directly into the chartless seas of

73. In a confused period of thought, such as our own, the ideal and the actual are equated without apology or explanation. The consequence is that facts are assigned supreme value while, paradoxically, thought goes forward in terms of a highly artificial conception of actualities. The result is an extremely unreal approach to political life. See Eric Voeglin, The New Science of Politics (Chicago, 1952). Perhaps the approach by way of the ideal construct is the most realistic approach possible, since in it the thinker avoids the self-deception of regarding his constructs as facts in the existential order. Figgis, Studies, p. 206, objects to the unrealistic thinking in modern political science: "What is needed now-a-days is that as against an abstract and unreal theory of State omnipotence on the one hand, and an atomistic and artificial view of individual independence on the other, the facts of the world with its innumerable bonds of association and the naturalness of social authority should be generally recognized, and become the basis of our laws, as it is of our life."

Althusius' entire attempt to construct the "Ideal State" is nothing more than an attempt to identify the real facta upon which political life is based.

74. W.Y. Elliott, The Pragmatic Revolt in Politics (N.Y., 1928) offers an interesting study calculated to raise the question of the extent to which a fact-value political theory can be based on the philosophy of pragmatism. It is noteworthy that Elliott interprets the pragmatic revolt as a revolt against the rationalism that produced the constitutional state.

contingent political life. In the latter case he has attempted, with no express norm or standard to guide him, to chart a path across its trackless and chaotic reaches. The basic postulate on which such a science is erected is that there are no essences or stable objective realities in political life and that the norm of organization and activity must be derived from activity itself. As Quincy Wright put it: "There can be no doubt that science has considered concrete observations as more real than any generalizations. Its philosophy is nominalism and relativism. In this respect science resembles politics. Both are relativistic and pragmatic."⁷⁵ Althusius' approach is the direct contrary of this and is based on the conviction that the first task of politics is to establish the nature and purpose of social life, and, using that as a basis, to propose directives for political organization and process.⁷⁶ He knows the history of thought in his science and makes extensive inductions

75. "Political Science and World Stabilization," APSR, XLIV (1950), p. 5. In Althusius there is none of the epistemological despair and resultant metaphysical vacuity found in Mr. Wright. It is amusing to observe how this approach, illustrated by Wright's article, inevitably selects conflict as the salient point in social life, i.e. in the life of union. Again, this position may be traced to an epistemology that destroys the foundation of objective truth, and can base action on nothing but subjective preference. Weaver, Ideas Have Consequences (Chicago, 1948) analyses the historical results of this view, and Rommen, The State in Catholic Thought, analyses its logical consequences.

76. This idea is evident in xxxix, 83.

from the actualities of human behavior. But such information is given significance and order in terms of a precise definition of the political situation which is recognizably what has since come to be called the philosophical definition of the State.

Althusius' approach to this problem is dominated by the two ideas that purpose determines process in political life and that there is an efficient form for every process. Lindsay, who shares this conviction, differs from Althusius in that he rejects the philosophical approach, holding that the scientist must begin by determining the purpose that actually dominates in the given group, and criticize institutions in terms of it.⁷⁷ Althusius approaches the problem the other way around, holding that the scientist must first define the purposes with which the science is concerned and then construct institutions capable of serving them. Behind this approach lies the position that political science is

77. The Modern Democratic State. Lindsay does not ask what the State ought to be considered absolutely, but only with reference to a given "operative ideal." The attempt to describe the ideal state, Lindsay argues (p.36) results in there being but one recognized type of state -- which is contrary to the facts. He would therefore unite the attempt to describe the ideal state not with the ideal simply but with the association's ideal of itself (p.40). Althusius would object to this point of view in that he denies that the political scientist is concerned with organizations different from those he describes. The problem, ultimately, is one of defining the object of the science. Politics is a science of union, but this idea involves, for Althusius, the description of the goals in terms of which union is achieved.

concerned only with one kind of group purpose: the achievement of the good life, defined generally as the life of virtue. Moreover, this approach insists that only one kind of group organization can achieve this purpose: symbiotic organization.⁷⁸ His discussion is not focused on this or that historical group but on this type of group. Epistemologically, he assumes that the essential characteristics of group purpose and its effects on the nature of the group can be separated from the accidental modalities that any given group necessarily acquires in the course of its history. And it is this epistemological realism that makes his approach possible. His "ideal" state is not a wishful construct of what he would like to see, but an analysis of the organization and processes a group must possess if it is organized for the purpose of achieving the good life.⁷⁹ The necessity arises out of the domination of purpose over action, and out of demonstrable relations between process and structure. His analysis is based on what Maritain calls

78. That part of the "operative ideal" which would require a given society to establish a democratic, aristocratic or monarchic form of government (in Althusius this means form of executive) appears to Althusius as too deeply involved in historical contingency to be susceptible of scientific treatment. This, although the scientist may still formulate rules of action for each type or form. See xxxix, "On the Forms of Supreme Magistrate."

79. xxxix, 84 indicates his close contact with reality. See xxxviii, 123: "It is not our purpose to construct a republic and Platonic polity, or one such as Thomas More constructed in his Utopia, but one which can exist in this ocean of human affairs and the infirmity of human nature."

"les articulations ontologiques qui concernent l'action," on the nature of things. His formal concern is with political structure and process. But to determine these he first has to define the purpose that constitutes the end of the action elaborated by them. The end he proposes is drawn from reality and presented as an objective analysis of the purpose of political life.

Thus Althusius is led to build his science about a relevant situation which he calls symbiotic: group life organized on the basis of a cooperative pursuit of the vita pia et justa. Positing this situation and the values it supposes he prescribes a system of political institutions that in their aggregate constitute an ideal state. This structure and the thought behind it have validity only in the situation he envisages, since they are based on an analysis of the intrinsic needs of that situation. Other situations, insofar as he deals with them, are treated as distortions of that situation, and are brought into the argument only to analyse the relations between the institutions prescribed and the situation for which they are prescribed. This concentration of attention on one type of situation is consistent with his entire conception of political science, whose function, on his showing, is that of organizing the knowledge

necessary for the task of preserving symbiotic life.⁸⁰

The situation he describes as symbiotic is not offered merely as a desirable one with the suggestion that some other period might find another form of social life more desirable, but as the necessary one wherever men wish to live

80. xxxix, 83: " And these were the subjects I thought should be discussed concerning political science. I cannot be induced to treat under separate headings (as all political scientists do) the causes that lead to the destruction of consociation or the overthrow of the republic. For as a straight line gives an idea of a crooked one, as a virtue does the same for vice, so also a properly and legitimately established consociation shows us what a defective, corrupt and evil one would be. Nevertheless, I do not think it outside the science of politics to spell out and subjoin as a scholion to each kind of association the vices contrary to it, and to illustrate principles thereby, as I have done in the pertinent sections. But to formulate principles concerning imperfection, defects and blemishes of consociation or concerning an evil symbiotic union is entirely foreign to the science of politics that we have described." Althusius hews close to the purpose Aristotle proposes in his Politics, Bk. II, ch. i, 1269b: "Our purpose is to consider what form of political association is the ideal for those who can count upon the material conditions of their life being as nearly as possible, just what they would themselves wish." Wolf, Grosse Rechtsdenker, p. 181 gives a fair judgment concerning the relations between the state Althusius describes and the actual state: "In diesen theoretischen Staatsaufbau versuchte nun Althusius die geschichtliche Erscheinung des Reiches einzugliedern, das er nur noch as nationales Regnum gelten liess.... Wenn Althusius im Uebringen das Deutsche Reich ueberhaupt mit seinem Schema vom wahren Staat vergleichen kann, so zeigt dies einmal, dass ihm nicht nur die Frage der Staatsform in engeren Sinne gleichgueltig erschien." And he observes at p. 184: "Althusius war, wie wir schon sahen, mehr Dogmatiker als Empiriker...."

together as men in pursuit of a common good.⁸¹ And the basic institutions and processes he prescribes as well as the scope of authority he proposes are not offered as one possible complex among many, but as the basic outline required in the nature of thing for symbiotic life. In keeping with this abstraction from time and circumstances, he offers only the basic form, one which must be adapted to various societies according to their habits and customs.

Althusius' rejection of More's Utopia and Plato's Republic does not contradict our interpretation of his concentration on the "ideal." "It is not our purpose to create a Platonic Republic and Polity, or the type Thomas More created in his Utopia, but one which can exist in this ocean of human affairs and the infirmity of our nature."⁸²

81. Gierke grasped this point very clearly with regard to the thinkers of the entire Natural Law School. See, Natural Law and the Theory of Society, I, 39: "It is astonishing to find this theory of pure Natural Law made to cover all the fundamental relations involved, and to decide all the fundamental questions raised, in the whole life of the state. Yet its adherents were unanimous that the transition from the state of nature exclusively controlled by Natural Law, to the conditions of political life, had always been made in obedience to immutable natural rules, and that the union of men in political society, and the erection of a political authority had always taken place in virtue of the same eternal principles. The first product of positive law, and the first occasion for the play of human will, which they consented to admit was merely the choice of a particular form of government." See Ibid., II, 234, n. 29, for the organization of the state and the locus of authority as determined, according to the school, by natural law.

82. xxxviii, 123.

For this rejection is based on his conviction that the particular forms they envisaged do not take into account the total social reality, not on the "realistic" position that such an enterprise in and of itself lacks significance.⁸³ One way to put it is that Althusius' ideal state is Plato's "second best" state.⁸⁴ And if Althusius does not call it second best, this is precisely because he deems Plato's best

83. The quotation above, incidentally, occurs in a context in which Althusius is objecting to those writers who do not give the Ephors the functions he assigns to them in the state, but rather admit complete power in the Magistrate. His basic objection is that this arrangement simply does not take into consideration the reality of human equality which denies the possibility of a Magistrate different in kind from the people and so possessing authority by right. His objection spells out that of Aristotle, namely that there is no philosopher king in the real world.

84. Statesman, 296, and 310. In the Politica, Althusius refers to the state of Plato as "fictus status politiae Platonicus," and says that it could not exist in the true world. The Althusian Magistrate performs the same function as Plato's Statesman. The difference is that Althusius holds the existence of law as necessary not because there is no philosopher king, but because popular sovereignty derives from the nature of things. Althusius' thought is based on a Stoic-Christian insight into the equality of men. See ix, 1-7, for the position that popular sovereignty derives from the nature of things, rather than from some positive and contingent provision of law. So that this difference in the idea of what the ideal state is reduces itself to the question of how one goes about establishing the principles on which that state is constructed. A further objection to Plato is found in his concentration on the state as the only social organization. Althusius' method is to understand the state in its origins from sub-groups. See xxxix, 84, where he argues that the sub-groups must be known before the state. Althusius thus agrees with Aristotle that one gets the clearest view of the state by viewing it in relation to its origins in the family. Compare Aristotle, Politics, Bk. I, ch. ii, with Althusius, Politica, xxxix, 84, and lli, 42.

a pure construct not based on all the observable facts of social life. The chief difference between the two is found in the fact that while Plato, in the Republic, distributes authority and determines structure on the principle of inequality alone, Althusius insists that the realities of the equality of men and the prior existence of sub-groups within the state must also be taken into account. Far from disagreeing with Plato's basic method, it is the one he uses. The whole idea behind the construction of the ideal state and the definition of the politically relevant situation, as found in Plato and Althusius, lies in the conception of society as the area within which the moral life of man develops and expresses itself, and in the conception that this quality of social life determines the processes that occur in it.⁸⁵ Neither Plato nor Althusius offer an absolute process and social organization in the sense of one that may be applied indifferently to any group organized for any purpose. They would be the first to agree that an army, for example, would find their prescriptions for organization

85. Althusius' objections to Plato are confined to the Republic. He nowhere demonstrably objects to the position expounded in the Laws, where the organization of the state is based on a wider range of realities. Althusius' basic similarity to Plato and his opposition to any relativistic interpretation of the state appears most clearly in the conviction that there is a natural and necessary form for both society and the state. While the outlines of this form are sufficiently fluid to permit of adaptation to different customs, at some point deviation from it destroys society.

and decision-making hopelessly inadequate. They limit their system to a single kind of group, recognizing that since the purpose of a given kind or type of group necessarily determines the character of the processes that go forward within it, each kind of group needs to be considered separately. The problem of politics, that is to say, is distinct from that of any other science or expertise ordered to the determination of processes in group activity.

This value-fact span of thought reveals the final quality in the kinds of thinking found in the Politica. Precisely because he had to relate facts to values, Althusius had to advance his science on both the philosophical and empirical levels of thought.⁸⁶ The values, of course, derive from philosophical and even theological reflection. And here two types of values must be distinguished. The first is purely ethical and religious, concerned with identifying the content of the vita pia et iusta, the final end of social life. It is questionable whether this type of value thought belongs to politics.⁸⁷ There is, however, a second

86. On the general question of the relations between facts and values in political theory, see Ernst Barker, The Study of Political Science and Its Relation to Cognate Sciences (Cambridge, 1928), pp. 39 ff. See also, Easton, "The Decline of Modern Political Theory," J. of Pol. XIII, Sabine, "What is a Political Theory," J. of Pol. I, and Sibley, "Apology for Utopia," J. of Pol. II.

87. By definition of the science it does not. Althusius is a pure Aristotelian in his advance from ethics to politics. His ethical thought is found in the treatise, Civillis

set of values that are clearly "political" insofar as they are the effects authority must engender if it is to preserve social life. As will be shown they are two in number, freedom and order. In addition to these, the science also establishes the "nature" of the political means of achieving such values: authority, law, equality, sovereignty and the like. Thus in his "political metaphysics" Althusius identifies the nature of the basic objectives of authority and the nature of the means necessarily involved in achieving them.

Having defined the metaphysical structure within which the science operates, Althusius enters upon the empirical task of identifying the operational context within which authority must operate.⁸⁸ The first stage of the empirical level is that of political "engineering." Here the philosophical level of thought is relevant, since institutions are valued only in proportion as they implement the values

Conversationis libri duo, methodice Digesti, et exemplis sacris et profanis passim illustrati. The *Politica* begins with the observation Aristotle makes at the end of the *Ethics*, X, viii, 1179b, and again at the beginning of the *Politics*, I, 1, 1253a, that social life is necessary for virtue, and that political science is concerned with the preservation of that life. Both, however, get this idea involved in the ethical definition of government as the leading of natures to their proper goals.

88. It is here that Althusius engages in the "descriptive science of fact" which Friedrich makes the totality of Althusius' science.

defined.⁸⁹ But the study of institutional implications itself goes forward in abstraction from the values and is influenced solely by the facts of the actual operation of various political systems.⁹⁰ Although value oriented, this is a value-free area of science. It is the area of a comparative study of structures. Involved in this study, but much more in evidence in another aspect of the empirical level of thought, is the study of the fundamental action patterns of homo politicus.⁹¹ Here Althusius is concerned with generalizations of predictive value concerning man's attitude toward authority. In both cases, Althusius is concerned with empirical data insofar as they are relevant to the problem of organizing the exercise of authority for the purposes states. What distinguishes the political

89. See Roland Pennock, "Political Science and Political Philosophy," APSR, XLV (1951), on the relation between values and empirical research in politics. Systematic politics in recent times gives some hope that the two aspects of "theory" and "science" may be re-united. Pennock's suggestions are verified in the system Althusius constructs.

90. Here Althusius thinks as the sociologist who as Baker Brownell observes, The Human Community (N.Y., 1950), p. 5, "abstracts the social fact from values, to present going events as somehow a dynamic process without the dynamics of value."

91. In this regard Louis Hartz' observation that the thinkers of the American Colonies considered man a "knave" only in the political sphere, not in his more intimate social relations, can also be made of Althusius. He speaks only of the homo politicus. See Hartz, "American Political Thought and the American Revolution," APSR, XLVI (1952), p. 324.

scientist from the practitioners of allied sciences such as jurisprudence is the former's pre-occupation with the real relations that constitute symbiotic life.⁹² Althusius' concern here is with friendship, consensus, purposes and action patterns, not with the law or the ethically desirable. Law and good action are impossible without social life. The problem he seeks to solve is that of establishing a community acting to achieve the good life through mutual cooperation.⁹³ The empirical aspect of this problem is to discover the conditions within which the individual can relate his purposes to those of the group; in other words, the conditions within which the harmonization of action and interest is possible. The processes and institutions he describes are ordered to this end.

92. See Friedrich, "Introduction," P. lxiii.

93. Politica, p.5: "And if the lawyer were to develop political principles, namely how a consociation should be constituted, and having been constituted, conserved, which form of republic is better, what form of it is more stable and less subject to dangers and changes... he would be teaching things alien to his profession." Also, i, 31: "The subject matter of politics is the principles concerning the sharing of certain goods, tasks and the rights which each, according to his power and what is just and good, gives to the symbiosis and common welfare of social life." Friedrich, "Introduction," p. lxxv: "But Althusius was interpreting the State as the community organized for cooperation toward the attainment of common purposes. The natural conditions of such communal life are the subject matter of politics, its legal consequences (*jura majestatis*) belong to jurisprudence;" also, p. lxiv: "Politics is concerned with the problem of human relations." See also, Gerbrandy, National and International Stability, p.23.

For the political scientist properly teaches what and which are the principles of sovereignty, and investigates and determines what is essential for the constitution of a Republic.⁹⁴

And the action patterns he analyses are precisely those that either hinder or help this ability. With the objective of law -- harmony, he is deeply concerned. But with the content of law he has little concern, assigning that to the province of jurisprudence, ethics, philosophy and ultimately to the will of the people guided by the wisdom of the ruler.

Since Althusius does not divide his treatise into two parts entitled Political Philosophy and Political Sociology,⁹⁵ it is of extreme importance to discover the level of discourse on which he is speaking at any given moment. Alertness is especially important in this matter because it is at times extremely difficult to determine when Althusius is saying "ought to" and when he is saying the descriptive "is", for he analyses most of his major concepts on both levels of thought. For example, the people "ought to be" sovereign. But on the other hand this "ought to be" involves more than a morally desirable thing. For the people, if they are not sovereign, are not a people. Consent also is an "ought" in the sense that it is a process that makes

94. Politica, p.5.

95. His habitual method is to make a statement relative to some aspect of the organizational problem, and then offer the empirical and theoretical evidence and reflections behind it.

freedom viable. But in the empirical analysis of the concepts obedientia and auctoritas it becomes evident that consent is also an inevitable element in all law. This type of difficulty seems to be inherent in the Ideal State approach. It would seem that the morally desirable becomes necessary by definition when the thinker restricts his thought to a defined situation. And the basic distinction between the two "oughts" becomes that between the necessity involved in the definition of a term such as symbiosis on an empirical level and the necessity involved in the relationship of organizational means to values.⁹⁶

The political structure Althusius constructs is based on what he calls facta,⁹⁷ the correct translation of which may be identified in turn as both "facts" with its empirical

96. The very definition of values can take the form of an empirical description of the content of the vita pia et iusta, i.e. in terms of material wealth, education and virtues. The relevant situation, as will become evident, is from one point of view the concretization of the values whose sum equals the "good life." Aristotle, Politics, VII, 1 ff, engages in this sort of definition.

97. See the discussion of the distinction between jurisprudence and politics, Politica, pp. 3-5, 9. At p. 9: "The political scientist is concerned with the fact and sources of sovereignty. Concerning the right which arises from these the lawyer discourses." This, I take it, means that the political scientist is concerned with the origin and organization of authority, while the lawyer, philosopher and theologian, each in his own way, is concerned with the content of the law. See Ernst Barker's "Introduction" to Natural Law, pp. xxxiii ff, for a commentary on this distinction.

implications⁹⁸ and Maritain's articulations ontologiques with its metaphysical implications,⁹⁹ Perhaps the term "realities" best conveys the general meaning of facta as Althusius uses the term. For Althusius, facta are the realities as unaffected by man through law, the realities of the pre-legal area of political life.¹⁰⁰ They include not only

98. As expressed by F.M. Watkins, The State as a Concept in Political Science (N.Y., 1934), p. 61: "Now it is the proper function of political science to show the effects of those elements of brute fact which are involved in the practical realization of values and political philosophy." Friedrich's interpretation of Althusius' empirical activity is found in his "Introduction," pp. lx, lxiv. H. Slessor, The Middle Ages in the West, A Study of European Unity (London, n.d.), p. 177, expresses the same idea. E. Barker's "Introduction" to Gierke's Natural Law, p. xxiii, observes that the state itself is a "fact." R.G. Collingwood, The New Leviathan (Oxford, 1942), p. 257, describes the idea of "social fact". Since, however, Althusius relates his facts to defined values, he does not offer what Laski calls: "a neutral description of fact applicable to any state of which we have knowledge." The State in Theory and Practice (N.Y., 1935), p. 17.

99. Lindsay, Modern Democratic State, p. 39, distinguishes "observational" fact, i.e., empirical, from "reflective" fact, i.e., that acquired by "reflection on the nature of the facts." This latter answers "metaphysical questions about the nature of the things and facts." Rommen, The State, p. 51, calls those "principles innate in his (man's) very being" the "primary facts."

100. iii, 42, praecepta or principles are included among the facta of the science. i, 22-39 and ii, 9, give a good idea of the kind of empirical subject matter the science deals with. E. Wolf, Grosse Rechtsdenker, p. 174: "Infolge der Eigentuemlichkeit der ramistischen Darstellungsart erscheint nun aber die Politik des Althusius keinesweges in der Form eines Erfahrungsberichts oder einer vergleichenden Staatenkunde, vielmehr als systematische gegliederte Soziallehre, die aus einem obersten Prinzip folgerichtig hergeleitet wird. Dies Grundprinzip ist die Idee der consociatio symbiotica."

observable realities induced from facts, but also principles such as that of the purpose of social life. It is of fundamental importance to remember that the empirical data are organized within the context of a philosophical tradition unaffected by nominalism or relativism, a tradition that asserts the existence of a real basis for general and abstract ideas in the nature of things. Whether one accepts that philosophy or not, one must read Althusius within its confines. To censure his epistemology will distort his ideas.

The intricate relationship between the essential and existential levels of thought in Althusius, between philosophical and empirical thought, and between values and facts can be exemplified clearly in his two concepts of sovereignty and leadership.

The need for authority, as we said, derives from the need for a consciously imposed order in the affairs of the community. As Althusius considers the need for law, he turns his attention to the question of the social qualities necessary for the elaboration of such law and the establishment of a political order. Here one finds a circular element in Althusius' analysis, one which faithfully reflects the interacting causality found in social and political life. Before laws can be passed there must, on Althusius' showing, be a society, for law is an expression of the will of the people and cannot exist unless a people exist prior to

it.¹⁰¹ Yet without law there can be no society. "Just as a man cannot live without mutual society, so no society can be sure or lasting without law."¹⁰² Furthermore, the institutions through which society expresses its will cannot function effectively unless they rest on a people sufficiently organized to express a common will and mind. These insights constantly force Althusius' attention back to the basic social union upon which authority -- and social life itself -- depend. The thought of the Politica concerning institutions focuses, therefore, first of all on the problem of determining the social conditions, the type of human integration apart from all institutions, that is necessary for a political process that rests immediately on a cooperative partnership in law and government. Institutions, however important they may be, are not primary. For one of Althusius' basic insights is that institutions need determinate social conditions in order to be operative at all,¹⁰³ that institutions,

101. In both Prefaces and throughout the work, sovereignty is referred to as an essential bond of society. There can be no society without a sovereign people. ix, 1-7 is the basic statement.

102 x, 8. Althusius argues frequently that society cannot exist if each member judges and determines his own action apart from the other members of the society. i, 35-37, is a typical statement. See also, v, 5; xxi, 18: "When the laws are taken away the human society we call symbiotic is changed into the life of animals."

103. i, 12: "But if there is the same agreement and will between those who command (magistrates) and those who obey

however perfect they may be as regards their functional implications, are useless in a society that is not properly integrated on the human, psychological and pre-legal level.¹⁰⁴ He arrives at the proper institutions for his values by considering the institutional forms necessary to enable a sovereign people (i.e., a people in partnership of law) to establish laws that all accept. And he clearly believes that

their life is made happy and blessed." The same idea appears at i, 36-39. See ii, 9, for a general statement to the effect that cooperative action of any kind is impossible without harmony and concord. xxv, 2 ff., the authority of the magistrate is nothing more than the good will of the subjects. By his insistence on common habits, customs, etc., Althusius reveals his awareness that law cannot be passed by a people unless they have a fundamental union and basis of agreement.

104. See xxxvii, 65-59, where he argues that the state must be concerned with preserving harmony among the three estates, since without this harmony the state cannot function. But vii, 29: "It should be observed that diversity of opinion should not be entirely done away with. For a moderate difference of opinion is useful provided all those who disagree unite on one object: the safety of the republic." The federal structure will not work unless love and benevolence are present: "And as the members of a body are united by sinews and arteries, and from that union draw a common life, so the provincial society must be united by the common bond of love and benevolence toward the republic, and must be conserved and defended by a common foresight and solicitude." At i, 36, in discussing the relation of the government to the people, he says: "In a republic the union and society of those who command and those who obey is like the most sweet and lovely chord that comes from lutes of different pitch when the high, middle and low are tuned in harmony." i, 12: "For all government is summed up in command and obedience. But if there is the same agreement and will between those who command and those who obey, their life is made happy and blessed." Also, i, 36: "And if society is brought to agreement, a more durable, happy, excellent and almost divine harmony is achieved."

conclusions cannot be reached in this area without consulting human psychology. Thus we shall find him insisting first on the central value of harmony or concordia, which consists of fraternity, consensus and an acceptance of a common goal, and through which men are able to agree about law. Secondly, he insists on pluralism, which enables man to isolate the successive levels of cooperative activity on which such agreement can be reached.

The process of law making is not exhausted by that of popular sovereignty. The elaboration of basic law through popular sovereignty processes does not, in other words, assure the continued order and existence of society, although clearly enough, it contributes to that end by establishing its basic ratio. But the very factors that tend to undermine fraternity and consensus, tend also to undermine the popular process, and thus law itself which qua agreement depends on a prior fraternity and consensus. There is need, therefore, for a governing agency whose function is to preserve these basic qualities.¹⁰⁵

105. Government preserves social union. See xviii, 7-16 and xxiii, 14: "Thus the magistrate ought to learn the disposition of the people and know how he can harmonize their passions and desires, and lead them to obedience to the laws." Althusius' idea is that society, if it is to preserve itself, must establish a government that draws upon expert knowledge as well as popular will. The arguments for the existence of government can be reduced to two (1) the medieval argument so clearly developed by Dante, and (2) the modern argument, excellently developed by Simon, Philosophy, ch. 1, from the impossibility of corporate agreement on a practical judgment.

Now if the ruler is to discharge his function of preserving the basic unities in the society as well as that of directing action in conformity with the general goal of social life, he must possess the virtue of political prudence. To this end the political scientist organizes the empirical data about behavior patterns. Here Althusius reaches the limits of his science -- the point where it shades off into the art of governing. Ultimately, that is to say, the establishment and preservation of these basic conditions, requiring as it does the handling of particular, contingent circumstances, belongs to the art of governing rather than to the science of politics.¹⁰⁶ The scientist, however, has a contribution to make in this regard, namely that of instructing the ruler on the basic patterns of political action,¹⁰⁷ of organizing the prudencia politica the ruler must have in order to discharge his duty. This becomes a matter

106. With regard to the problem of generalizing about contingent circumstances, Althusius says, Politica, p. 6: "Who can formulate general principles that are necessarily and reciprocally valid about a subject matter so varied and indeterminate? Yet these things must be known by the political scientist, and one cannot omit from the science those things which the governor of a republic ought to know and which form him and make him fit to rule."

107. Althusius is concerned with: "the end sought by political, symbiotic man," i, 3. He draws an extended picture of the observable action patterns of this homo politicus in xxiii-xxv. The level of generalization is evident in the phrase: "It is almost a law instilled by nature," xxiii, 31.

of advising the ruler about the predictable reactions of the homo politicus vis-a-vis a given course of action on the part of the ruler, and of mapping a generalized plan of action that will, on the basis of predictable reactions, result in the preservation of symbiotic life.

Althusius mentions as one of the difficulties of his science, precisely this need to establish principles concerning the way men act.¹⁰⁸ Here, however, he runs up against the difficulty that, as he puts it, men do not always and everywhere act in the same way, or, more precisely, that the condition of men changes from society to society so that no one set of behavior patterns is generally applicable.

We might remark here Althusius' statement of his difficulty to note that it indicates a lack of clarity as to the nature of the enterprise on which he was engaged as he wrote the sections on prudentia politica.¹⁰⁹ Althusius fails to see that his instructions to the Magistrate are valid exclusively for the situation he is describing, and that it

108. See the Politica, p. 6: "There is another difficulty not less pressing than the first, namely that I have been forced to propose certain theorems about contingent circumstances, although they are extraneous to the science of politics.... For I described the fact and the quality in political life of the nature, disposition, influence and mores of the people, the prince, the nobles and other subjects. There are, and one often finds, people who change their disposition and habits."

109. The confusion in Althusius is evident from the fact that he says (1) the rules are extraneous to the science, (2) they must be known by the political scientist.

rests, on his own showing, with the magistrate to decide whether the real situation and the prototype situation coincide in such a fashion as to warrant the use of the prescribed rules of action. Nor does Althusius clearly see that he is offering two different kinds of instructions: (1) those about choosing advisors and overseeing administration, and (2) those concerning the relations that exist between the people and their rulers. Where (1) are concerned, the difficulty he mentions is indeed present. The instructions presuppose certain habit patterns, and these, being acquired, may indeed vary from society to society, so that the instructions are applicable only where the habit pattern obtains. Where (2) are concerned, on the other hand, he must attempt to uncover the natural and permanent elements of motivation that will determine the people's reaction to the ruler's action.¹¹⁰ The instructions he gives on the basis of this analysis depend far less on his postulated situation because they flow from the permanent springs of human psychology rather than from the folkways and mores of individual

110. Althusius distinguishes two sources for the habit patterns of the people. The difficulties he mentions, with regard to generalization about these patterns, derive from his lack of awareness of the differences between them. (a) He identifies a nature and disposition that comes from climatic, geographic and age circumstances, xxiii, 1-14: "Then as customs of different regions are often different, and the people have different desires and opinions, so people born in each have different dispositions and a

societies. Althusius, our thesis is, wrestles here with an unnecessary difficulty: he did not fully grasp the distinction that was shaping his own thought.

In advising the Magistrate, however, Althusius must, like Machiavelli, deal with the basic motivations underlying man's political behavior, and the pattern of action or reaction those motivations produce in given situations.ⁱⁱⁱ Here his pre-occupation is psychological rather than metaphysical, and his approach is inductive and positivistic in the most modern sense. His observations lead not to ethical

different order of customs and therefore cannot meet together without some kind of antipathy." And (b) he identifies a nature and temperament of the people in general, in a way that seems to abstract from local variations. That is, he identifies a completely different series of habit patterns that arise from something that is "innate, natural and perpetual." See xxiii, 21 ff and xxiv. In all these circumstances he seems to be speaking of the homo politicus, that is of man living in society for the purpose of the just life. And most of his analysis is concerned with the reactions of men to the exercise of authority.

iii. Politics is concerned with organizing the knowledge necessary to rule well. iii, 42: "From the former (politics) which is purely political comes the knowledge of governing and administering the family." (State can be added) Preface, p. 6: "Yet these things must be known by the political scientist (for they concern) those things which the governor of the republic ought to know and which form him and make him fit to rule." In working out this section of politics, Althusius, in a rough and fairly common sense rather than scientific way, does the kind of thinking found in v.g. Catlin, Science and Method of Politics (N.Y., 1927). That is he searches for rules on the basis of which one can predict the actions of man, not for the Gallup poll type of knowledge gained by sampling methods.

conclusions, i.e. to norms of action, but to descriptive judgments concerning motivation and to suggestions as to the means of activating and directing those motivations to proper ends.¹¹²

A major source of difficulty in determining the levels of discourse derives from the conception of "facts," which permits the imperatives of the essential order to impinge upon imperatives of the existential order.¹¹³ Yet this very tension between the imperatives of the two levels makes careful identification of each especially necessary. Without it, Althusius will be convicted of inconsistency when he is in fact carefully defining areas of polarity between conflicting imperatives.

The character of these tensions can be exemplified, again, in his handling of the two concepts: sovereignty and leadership. As for sovereignty, he defines it on the essential level in terms of its intrinsic limitation to

112. xxxi, these ends are achieved by the preservation of order and concordia. Mingled with the suggestions for the preservation of order one finds indications of what must be done to preserve temperance, fraternity and discipline. An interesting illustration of this may be found in chapters xxxiv-xxxv, on the regulation of warlike activities. Althusius uses a Machiavellian argument for the existence of armies, i.e. they can be used to train the citizens in temperance, discipline and public spirit.

113. See Simon, Philosophy, pp. 21, 116, for a commentary on the idea that the existential order has imperatives that affect action apart from the consideration of the nature of things.

definite political ends.¹¹⁴ On the existential level, however, he recognizes that if an authority is to be sovereign it cannot have any external limitations placed on it and can have no superior controlling it. Its decisions must be final, beyond appeal and binding on all citizens.¹¹⁵

114. Althusius establishes the limitation of authority in principle in his argument for limited authority in the *Magistrate*, xix, 9 ff. He rejects absolute power for the *Magistrate* by appealing to principles that negate its existence anywhere. Even God Himself has no power to do evil, xxi, 26. An unjust law does not bind; one must obey God rather than man, xviii, 106. The limited jurisdiction of state authority derives also from the fact that its jurisdiction extends only to a part of the total area of authority, ix, 9. Sovereignty, in short, is universal and supreme not because it is absolute but because it has no power superior to it. Althusius' conception of sovereignty corresponds to the Medieval idea of dominium. See Charles McIlwain, The Growth of Political Thought, p. 355, for a description of this idea. With regard to the *Magistrate's* authority, see ix, 20, where Althusius rejects Bodin's conception on grounds related to the nature of authority. See xxxix, 8 for a clear statement: "For it is not proper to the nature of authority to be able to command anything, or to do anything, but that only which is in accordance with nature and right reason."

115. Althusius recognizes that any authority from which there is no appeal is in fact unlimited. It is this insight that pre-occupied Friedrich, "Introduction," p. xevi. Althusius does not ask what would happen if the sovereign group were to pass unjust laws. To this question he could answer only that, given his conditions of organization, if it did so no one would know because by definition everyone would regard them as just. Thus, subjectively, the group is always right. The concept of revolting against sovereign authority, i.e. against the will of the people, does not make sense to Althusius. If the people are united and properly organized, the laws will always express the mind of the people. It is only against the *Magistrate*, the agent of the people that revolt is deemed a possibility. And in providing for such revolt Althusius is motivated by the observation associated with the name of Rousseau: that the government may develop a will of its own different from that of the people.

This condition is not merely factual; it is, given the existential order, inherently necessary. Two necessities, each deriving from considerations of an aspect of political life, thus come into conflict and create a problem for the architect of political processes and institutions. What political system will provide a sovereign authority that will exercise limited authority without having limitations imposed on it from without.¹¹⁶ Precisely the same tension between different levels of thought is to be found in his analysis of the function of the supreme magistrate. The tension here is, indeed, more complex since the very existence of the magistrate has been established as necessary through arguments relating to both the essential and existential

116. This problem is implicit in all of Althusius' arrangements for decision making on the level of basic legislation. There is, first of all, provision for representation of every interest in society, based upon a mirror-of-society conception of the Diet. Althusius even uses the term. See xxxiii, 1, where he calls the Diet a "compendium et epitome regni." xvii, 60: "The reasons for these assemblies are (1) it is just that what touches all should also be done by all; and that which requires the facilities, powers, aid and blood of all, should also be done with the common consent of the same." The provisions for majority rule indicate that the majority will carry the day only on questions that affect all equally and in their corporate capacity, which evidently indicates a wish to protect the minority from prejudicial legislation. This wish is revealed in the reasons he gives for the magistrate having advisors from the three estates: he must avoid decisions based on a particular interest, xxvi, 33. The kind of limitation Althusius is interested in is the limitation of the power to follow private interests at the expense of the common good, and of the sovereign power to absorb all the functions of political life.

orders. On the existential level, he shows that there limits beyond which group self-determination cannot go. First, the group cannot execute the laws. And secondly, it cannot determine law for the particular case, both because of the limited knowledge of the average man¹¹⁷ and because groups cannot reach agreement concerning particular cases.¹¹⁸ This necessitates the existence of a magisterial authority whose activity can now be defined on the philosophical level under the rubric: rule of the best. The basic position is that the ruler deemed necessary in view of existential factors, can perform a function deemed necessary in view of the nature of symbiosis. The theoretically established purpose of authority requires the existence of rulers possessed of a scientific knowledge of the nature of symbiosis and of the means necessary to preserve it. In discharging his function, it becomes necessary for the magistrate to

117. The magistrate is the man of specialized knowledge -- the doctor, the navigator -- of the society. What the ordinary man lacks is the ability to see the application of a general norm to a particular case, xviii, 7 ff. Aithusius has the Platonic idea of the capabilities of various levels of men. The best, those who should rule, are precisely those who have superior ability, vii, 13 ff.

118. xviii, 16: "The utility and necessity of the universal consociation suggest the constitution and election of the officials and governors of the republic. For this complex and multitude of various and diverse affairs, which the society of so many cities and provinces involves, cannot be properly cared for and governed by the citizens singly or as a whole.... No one can obey a multitude when it disagrees with itself and is influenced by different opinions."

legislate in an area in which the people are, by definition, not competent to reach decisions. Even here, however, the principle of consent, basic to the idea of popular sovereignty, must apply. And the problem that emerges is how to get consent, deemed necessary in view of the nature of symbiotic life and law, from a people who (1) have had no part in, or at most have exercised a remote influence upon, determining the law of the magistrate, and (2) yet have no obligation to obey a law which as a group they do not approve.

We conclude, then, by way of summarizing this lengthy discussion of the kinds of thinking that went into the Politica, that it contains a balanced, philosophical-empirical attempt to establish the objectives that should be sought by authority together with the processes necessary for realizing them. This purpose dictates the logical structure of the book which falls into two parts: (1) the identification of the values involved in political life, and (2) the organization of the empirical data pertinent to the realization of these values. This second activity has two parts: (1) the determination of the objectively necessary psychological and institutional integration necessary for symbiotic life, and (2) the determination -- in view of the observable action patterns of man -- of the means authority must use to preserve both the social bond and the political institutions in existence. The ultimate tensions are found in the fact

that for Althusius, the facta relevant to his study occur on both the essential and the existential levels of existence. Therefore, if the book be read in either practical or theoretical, philosophical or empirical terms exclusively, it will be mis-interpreted. It must be read for what it puts itself forward as being, namely a completed practical science -- a science that proceeds from the nature of things political to conclusions about how they should operate and what processes and institutions are needed in order for them to do so. The fact is that the Politica offers neither knowledge of what is nor knowledge of what ought to be, but rather, in the main, a scientific analysis of the way -- accepting men as they are and laws as they might be -- of achieving what ought to be.¹¹⁹

119. As Rousseau puts it in the opening lines of his Social Contract: "I mean to enquire if, in the civil order, there can be any sure and legitimate rule of administration, men being taken as they are and laws as they might be. In this inquiry I shall endeavour always to unite what right sanctions with what is prescribed by interest, in order that justice and utility may in no case be divided."

Chapter II
THE PROBLEM OF FREEDOM AND ORDER

In a science organized in the fashion just described, it becomes evident that the fundamental problem in it must be identified within the context of a value implementing process. The real problem Althusius faces is not that of defining and analysing, but that of putting together the result of definition and analysis. Yet the substance of the problem cannot be seen until one identifies the defined values which determine the structure of the empirically organized political system. So the first question becomes: what values does Althusius seek to implement? In a sense the major part of this work is devoted to answering that question. For one way of discovering the answer is to discover the value orientation built into the very processes and institutions organized in the Politica. It seems desirable, however, at this point, to orient and give meaning to our analysis of structure and process by indicating as briefly as possible the values toward which these elements of the ideal state are directed.

It is evident that on the level of maximum generality the very definition of the science of politics indicates both the value sought -- social life -- and the means necessary to realize it -- the organization and exercise of authority. But the definition also suggests that at least the objective sought must be defined in a much more specific way before the problem is set up for empirical solution. Social life, symbiosis, must evidently have a certain definite quality about it which authority must establish before the question of organization assumes any significance. The strategic question to be asked of Althusius, therefore, is: what are the qualities of social life that are politically significant. For these are the ones authority must preserve. It is significant that for men like Hobbes and Bodin, men whose pre-occupation was with the need for order alone, the problem of the possessor of authority was not vital. It is necessary only that there be a sovereign who can insure order and security. On this point Althusius would agree with Rousseau that other things beside order are of maximum importance.¹ The very organization of processes in the Politica makes this evident.

The first step in isolating the values Althusius seeks

1. The Social Contract, Bk. I, ch. iv: "Tranquillity is found also in dungeons; but is that enough to make them desirable places to live in?"

is taken by determining Althusius' conception of social life more closely. Here we discover that the first characteristic he identifies is that of communicatio: the mutual sharing of the things necessary for the good life. The need for order and consequently the need for authority derives primarily from the need for integrating this activity of sharing. Deeper, however, and more profoundly constitutive of social union is the fundamental communio or fellowship in mind and will that makes communicatio possible.² Althusius accepts completely the Ciceronian definition of a people as "an assemblage of people in large numbers associated in agreement with respect to justice and a partnership for the common good."³ For Althusius, the adequate definition of consociatio politica is:

We conclude from the things said thus far, that the efficient cause of political consociation is the agreement and pact of the citizens who do the sharing. The form indeed is that of consociation established through mutual contribution and communication. By means of these latter, political men (*homines politici*) establish, develop, prolong and conserve the fellowship of human life through a *koinonian* of the things useful and necessary for this social life. The end of politics is the enjoyment of a fitting, useful and happy life, and the common

2. The evidence for this analysis is given in detail in Part II, ch. iii, below. The opening chapter of the Politica, entitled "The Elements of Politics" (*De Generalibus affectionibus Politicæ*) outlines these ideas.

3. De Re Publica, tr. C.W. Keyes, The Loeb Classical Library (London, 1928), Bk. I, ch. xxv.

welfare.... The end also is the conservation of human society, the end of which is to enjoy a life in which men can serve God in peace and without error. The subject matter of politics is the principles concerning the sharing of certain goods, works and rights which each, according to his power and to what is just and good contributes to the symbiosin and common welfare of social life. 4

Communicatio, which Althusius sometimes displaces with the term communio is defined as follows:

The mutual sharing (or koinonpaxia, as I call it) involves the goods, works and common rights by which the divers and manifold need of each and every symbioticus is satisfied, and the autarkia, kai Bontheia tou Biou -- self-sufficiency of human society -- is achieved, or social life established and perpetuated. Whence Cicero said: 'a people is an assemblage of men united by agreement as to right and the mutual sharing of useful things'. 5

Authority, therefore, if it is to preserve social life must preserve both fellowship and mutual sharing, communio and communicatio. From this point of view, therefore, these are the values ultimately sought by the science of politics.⁶ But authority does not create these values. Indeed, they pre-exist authority at least in the logical order. Authority's function is to preserve them by preserving the modalities

4. i, 29.

5. i, 7.

6. In Part II, chs. vi-vii below, the influence of these values is analysed.

of order and freedom in human relations, modalities that make it possible for the substantive elements to perdure in existence.⁷ Thus the values that establish the norm for the purposeful organization of empirical realities, while they include both substantive and modal elements, are primarily the latter: freedom and order. In succeeding chapters we hope to show how Althusius wrestles with the problem of achieving these in each of the institutions he examines. At this point it will be more useful to examine this concept of freedom and to identify the various levels of thought on which he handles it.

Basic to Althusius' approach to freedom is his idea that it is a quality necessary for social life. Or to state the premise more exactly, freedom is a quality action achieves in and through social order. This view is a logical consequence of the original premise that man is a social animal by his nature. Since this is so, any quality of man must be defined in the context of the total reality that constitutes his life.⁸ Because this social approach

7. Both tyranny and anarchy destroy social life, i.e., the life of fellowship. For the need for order, see xviii, 18-22; xxi, 6, 18. For the need for freedom, see xxxviii, "On Tyranny and its Cures." Althusius cannot conceive of the group itself becoming a tyrant, because by that fact it ceases to be a group, and so not relevant to the discourse.

8. The approach of Althusius is identical with that of Thomas Aquinas. See the analysis of Aquinas' conception of law and freedom in Somme Theologique, "La Loi," I-II, 90-97, tr. M.J. Laversin, O.P. (Paris, 1935) in his

may at first seem to produce an empirical definition of freedom, and so to beg the question of implementing it in the existential order, it is necessary to insist that the definition is entirely philosophical. It must be remembered that philosophical thought is not indifferent to contingent fact. The epistemology Althusius accepts supposes that a knowledge of the nature of things is gotten from a philosophical reflection on the observable facts.

Althusius defines freedom in his treatise on law entitled, Dicaeologicae libri tres.⁹ Liberty is identified as "potestas sui ipsius," and is defined:

Potestas sui ipsius, uti vocatur, est jus et auctoritas licita faciendi pro arbitrio, nimirum sibi imperandi et obtemperandi. 10

commentary Laversin says, p. 279: "L'autonomie de la volonté individuelle ne peut se comprendre que par un abstraction, c'est-à-dire en considérant notre pouvoir d'agir indépendamment de notre être et de nos conditions réelles d'existence."

9. Full title: Dicaeologicae libri tres, totum et universum jus, quo utimur methodice complectentes. The final edition, which was the first complete one, was published at Herborn, 1617. Gierke, Development, ch. iii, gives a brief summary of the jurisprudence it contains. As regards the use of the Dicaeologicae to interpret the meaning of the Politica Althusius himself tells us to do so. Gierke, Ibid., p. 59, notes: "For the demonstrations and further discussions of all the propositions of public law received in the Dicaeologicae, Althusius regularly refers to his text book of politics." In the Politica, Althusius tells us to refer to the Dicaeologicae for his study of the idea of freedom.

10. Dicaeologicae, xxv, 5.

This potestas is of two kinds (1) over one's body and (2) over one's soul. The former is that "qua jure civili usus membrorum corporis liber conceditur."¹¹ Althusius calls this "libertas naturalis" in the same section in which he says "jure civili...conceditur." The idea that these two elements could be in conflict on the level of definition never occurs to him, precisely because the civil order is the natural one.¹² The second kind of liberty, spiritual, is defined:

Libertas animi est, qua quaecumque jure naturali sunt concessa, quis etiam velle atque de iis libere disponere potest, nisi in specie quid prohibeatur.... Vocatur...libertas judicandi, colendi, eligendi, et usus animi liberrimus, nullius imperio, praescripto, metu, coactioneve impeditus. Alibi dicitur integritas et sanitas iudicii et voluntatis....

Jus libertatis personam concernens, est jus habendi et dimittendi sui ipsius, ut non cogatur parere nisi cui vult, facere possit quae velit, ibi esse ubi vult et esse potest a nullo pendere et usum voluntatis et iudicii liberrimum habere.¹³

11. Ibid., xxv, 7. In the Politica, i, 14, Althusius tells us that civil authority extends over both the body and soul of the subjects.

12. While unlike Locke, Althusius does not envisage a pre-civil social order subject to the law of nature alone, he does give these two definitions of liberty, natural and civil, and he does suggest that the latter is the completion of the former. See Locke's Second Treatise on Civil Government, chs. iv, vii for definitions of liberty that involve the idea of law. In interpreting Locke we follow Willmoore Kendall, John Locke and the Doctrine of Majority Rule, Univ. of Illinois Studies in the Social Sciences (Urbana, 1941), pp. 63-67.

13. Dicaeologicae, xxv, 8, 10.

Now this kind of liberty is not incompatible with subjection to civil authority since Althusius suggests that it exists in its perfect form only in civil society:

Plena libertas, seu status hominis perfectus est, qui jure civitatis, familiae, et ingenuitatis continetur.... Unde homo no solum liber, sed etiam ingenuus de familia, et civis Romanus dicitur, et jus habet utendi, fruendi, omnibus quae jure domini alicuius competunt homini libero, familiae et civibus Reipublicae. Quae dicitur legitima, vera, plena, perfecta, Romana libertas, maximum et civile personae caput, et civilis hominis vita, consistens in jure civitatis Romanae, familiae et ingenuitatis.¹⁴

Thus, Althusius' fundamental definition of liberty involves the idea of law, and consequently order, as an integral part of the definition. The reasoning behind such an integration may be seen more clearly by considering a difficulty Althusius was willing to face up to. The question arises whether one can assume that an inherent natural law limitation of freedom involves a positive law limitation of it, even when positive law is defined in the natural law tradition. For positive law is man made law and involves the subjection of man to man. And the fact is that a man subject to civil authority does not enjoy the potestas sui ipsius he would have enjoyed had he lived in a social "state of nature." The paradox that "plena libertas... est, qui jure civitatis conceditur," must be looked into.

14. Ibid., xxv, 15.

Civil authority must be identified as a "potestas in alium competens" at least when one considers the individual as subject to law. Now, "Haec (potestas in alium competens) est dominatio cum jure alii imperandi et necessitate obtemperandi, qua quis potestati alterius et jure, seu dominatione alienae subjecitur."¹⁵ It is either private or public. Private is concerned with private good, and Althusius holds it to be incompatible with "potestas sui ipsius."

Hac ergo aliena potestate (privata), sui ipsius potestas, hoc est facultas et voluntas aliquid faciendi, vel omittendi, seu corporis et animi libertas minuitur, aut prorsus tollitur et jus dominandi et personam aliam et huius bona tribuitur.

This statement of incompatibility between the two types of "potestas" seems to place Althusius in the individualist category as far as his conception of the relations between freedom and authority is concerned. But it must be remembered that the authority here spoken of is private. Its characteristic feature is found in its object: "Privata potestas est, quae privatim dominantis privati utilitatem et onus respicit."¹⁷ And all Althusius says is that to be subject to the private good of another is incompatible

15. Dicaeologicae, xxvii, 1.

16. Ibid., xxvii, 2-5.

17. Ibid., xxvii, 5.

with freedom.¹⁸ The implications of the insertion of the terms law and civil society into the definition of liberty are spelled out when one turns to the definition of "potestas aliena publica." This is the kind, "qua data est alicui a corpore consociationis, cum territorio, ad negotia res et personas corporis consociati currandum et administrandum."¹⁹ There is no suggestion of incompatibility between liberty and public authority. Evidently Althusius thinks that liberty is compatible with authority when the latter is ordered to the common good of the group of which the subject is a part. Indeed, Althusius is quite clear that law is as much a pre-requisite for freedom as it is for order. "For we are servants of the law in order that we may be free."²⁰

The definitional harmony of the ideas liberty and

18. The definition of slavery is precisely this: to be subject to the private good of another. See Aristotle's treatment of slavery, Politics, Bk. I, ch. iv, 1253b. In the Politica, tyranny is simply rule for the private good of the ruler. And since the legislature determines what the public good is, rule contrary to the will of the people's representatives is tyrannical. See xxxviii, "On Tyranny and Its Cures."

19. Dicaeologicae, xxxii, 1. It should be noted that familial authority is not to be equated with private. Those subject to parental authority lack "potestas sui ipsius" simply because they are immature, not because they are subject to authority.

20. xxxviii, 130, also xxi, 17. On this point see Jacques Maritain, Les Droits de l'Homme et la Loi Naturelle (N.Y., 1942) pp. 50 ff., "La Conquête de la Liberté."

authority is achieved on the basis of a philosophy of nature and natural law as the objective, inherent determining factor in action.²¹ The decisive consideration here is that although liberty is a value, i.e., an objective, of political organization, it is not an objective of human action, rather it is a pre-requisite of that action. In all his references to liberty, Althusius is quite clear that he is speaking of it only insofar as its existence is necessary for right action. "It must be thought that we cannot do anything contrary to the piety of the first and the justice of the second table of the law. For to be able to violate the laws is not a sign of power but of impotence. A man shows himself to be impotent by the very fact that he is not able to do what he should have done."²² "Excessive liberty is not liberty but licentiousness."²³ The norm for distinguishing liberty from licentiousness is found in the nature of man, the implications of which are summarised in the ten commandments. These are "like fences, walls and

21. See Jacques Maritain, *Les Degrés*, pp. 51 ff., for an analysis of this idea that one must obey not only one's self, but also the good.

22. xviii, 38; xxxviii, 72: "For God is not thought less powerful because he cannot sin. Nor is a man thought less healthy because doctors advise him and urge him to avoid intemperance, and forbid him to eat poisonous foods."

23. xxiv, 21; xxv, 4. The idea is expressed repeatedly within the context of the argument that without law license prevails and so the destruction of society.

sentinels; they are the boundaries of our life showing us the way marked out for achieving wisdom, happiness and tranquillity in human society."²⁴ On the other hand, since human authority and law are valid and obligatory only insofar as they reflect the inherent obligations of nature, it follows that the limits of freedom are precisely those marked out by law.²⁵ It follows from this that authority itself is inherently limited by the same limitation that affects liberty.²⁶ Law, therefore, does not supervene upon an original freedom and limit it. Man does not surrender part of his liberty in order to protect and preserve the rest. Whatever liberty he is able to achieve, he does so by reason of the order he can establish in his relations with his fellow men. "For to what end the union of a countless multitude within the walls of a city if no rule is established.... If one could lawfully do anything he was able to do, if it were right to do whatever an unbridled will commanded, to go wherever a raging lust drew one...how could this group preserve its status for even a short time."²⁷

24. xxi, 18; xviii, 106.

25. xxi, 17-20. See Laversin, Somme Théologique, pp. 290 ff. At p. 303 he observes: "La loi est la conception idéale de l'ordre: elle est ainsi le modèle et l'expression du droit."

26. xix, 11; xxviii, 129, and especially ix, 21 ff., where Althusius attacks Bodin's theory of unlimited sovereignty.

27. xxi, 6.

This definitional harmony on the highest level of political philosophy is further reflected in the social interpretation of the act of determination itself. The individualistic interpretation of the political problem has as its focus point the fact that self-determination considered in itself is set over against determination by law. And it has sought to solve the problem this view poses by delineating the areas proper to each. Althusius' symbiotic view of man establishes a totally different problem for solution. For him, self-determination is itself a social act. Because of the social nature of man, the process of human living, which is necessarily free if it is to be human, cannot be interpreted so as to be at odds with the social processes that necessarily follow upon human life. The principle Dante leans upon so heavily in his De Monarchia is basic to Althusius: nature cannot contradict herself. And since the existence of authority is necessarily involved in the social life of self-determining agents, it follows that self-determination must involve in some way a mutuality with one's fellow men.²⁸ And man can determine himself

28. It must be remembered that authority is necessary not simply because of social life. The social life of ants does not beget a need for authority. The formal argument for this power is based on the fact that the integration of action involved in social life must be achieved by self-determining agents. Thus it is the very power of freedom that requires authority. See Simon, Philosophy, ch. 1, for the development of the idea.

only insofar as he determines himself in fellowship with the members of his group. We hope to show that this social view of the process of self-determination, although implicit in Althusius, is clearly pre-supposed in his construction of the popular sovereignty process.

This conception of freedom and authority, of self-determination and determination by law, it is evident, sets up, on the definitional level, the specific problem Althusius must solve. And it determines to a large extent the general area within which the organizational solution must be found. The individualistic formulation of the problem with its implied tension between mutually exclusive demands of law and of freedom is excluded from the outset, as are the tensions implied in the concept of a "natural right" that excludes in an absolute way any modification by authority. Althusius speaks not at all about substantive rights. The few he mentions are those considered necessary for the processes he constructs or in a few cases, things which in modern terminology would be called privileges.²⁹ The only right

29. See Gerbrandy, National...Stability, p. 18. But Gierke, Development, pp. 81, 102, 107, 161, 302, evidently thinks Althusius taught a rights against authority theory. Gierke here seems to read passages where Althusius provided for protection against government as though they had reference to the sovereign authority. In the Politica, freedom of speech is a procedural element in discussion, x, 6; xxiv, 25; xxxiii, 15, 64-66. There is a right of appeal, xvi, 8-9, 18, and a right to a hearing, xxix, 30. All rights should be

that concerns him is man's right to live in an ordered, human society. Until this right is safeguarded by authority, not even the right to life has significance. And this right is implemented by the extension, not by the restriction of law.

If one could disregard the alleged individualistic premises of the formulation, it would be helpful to quote Rousseau's formulation of the political problem: "the problem is to find a form of (political) association which will defend and protect with the whole common force the person and goods of each associate, and in which each, while uniting himself with all, may still obey himself alone, and remain as free as before. This is the fundamental problem of which the Social Contract provides the solution."³⁰ And one might add, with the safeguards mentioned, that this is a large part of the problem the Politica proposes. For the basic process Althusius proposes is that of popular sovereignty. And the basic objective of this process is to establish a

proportionately equal, xxix, 30. The basic right is to social life, v, 5: "A polity, in general, is the right and power of sharing and participating in the things... contributed to the life of the established body by its united members."

30. Social Contract, Bk. I, ch. vi. In Althusius one finds the idea of an "incredible consensus and amity" whereby each member of the group cooperates for the aid, counsel and defense of every other member. See especially xvi, "On the Protection of the Universal Consociation," also, i, 32.

system within which the imperatives of the objective order will be applied only insofar as the whole group is able to recognize them.³¹ This is the point of chapter iv, below.

But the problem of implementing the values freedom and order is immensely more complicated in the Politica than it is in the Social Contract. The latter envisages the problem on one level only: that of achieving conformity between the mind of the individual and that of the law through a process based on popular participation. In addition to this aspect of the problem, Althusius struggles with the problem of insuring that at the same time the decision reached by the popular process will be in maximum conformity to the objective good.³² To meet this demand, he had to integrate a leadership as well as a popular process into his distribution of authority. It is essential to the idea of freedom that determination be in accordance with the demands of nature, i.e., according to the natural law. Free action, therefore, must always be virtuous action. And slavery is realized by more ways than by subjection to the private interests of another; it is just as bad to be subject to

31. Both the "recognitions" of T.H. Green with its overtones of conscious reasoning, and the "prejudices" of Burke with its overtones of tradition and custom are congenial to Althusius' thought; v.g. xxxvii, 115, the group determines the rights its component members have.

32. The evidence for this interpretation is given below, chs. vi-vii.

one's own passions. Rousseau professes acceptance of natural law. But his system is ordered to the Greek idea of the stable and unchanging achievement of a perfect order. Althusius is fundamentally Christian in his orientation. And while he seeks the perfect system, he supposes that part of the perfection of the system will consist in its provisions for the unlimited perfection and perfecting of man.³³ Althusius, therefore, could not settle for the straight popular sovereignty approach of Rousseau, because the goodness of the decision is as essential as its self-determined origin. But neither could he, because of his valuation of self-determination, develop a straight rule of the best theory with an Hegelian bow to self-determination. He could not accept a facile "real will" theory and justify determination ab extrinseco, when it is for the good, on the grounds that authority in such a case is simply inducing the individual to do what he would want to do if he knew better, or to do what he really wants to do.³⁴ Althusius

33. The difference is profound, see Martin Foss, The Idea of Perfection in the Western World (Princeton, 1946). Foss' reflection on the influence of the Christian idea of infinity on the concept of perfection suggests an application to the political search for the perfect state.

34. Coercion of course is exercised by the government. Althusius repeatedly points out that the magistrate may coerce the multitude to the ways of virtue and the commandments. But it must be remembered that the magistrate's authority is limited by the popular will. See x, 11; xix, 25; xxv, 4. At xxi, 31, after analysing natural law, Althusius

was perfectly aware that although this kind of thinking provides for determination to the good, it does not necessarily provide for virtuous action, virtue being always a consequence of actual self-determination to the action performed. If man is to be free according to this conception of freedom, he must have the power to act according to his own conception of the good, and still have the assurance that his action is in accord with what is objectively good.

The injection of substantive elements of the good into the concept of freedom introduces a certain confusion into Althusius' conception of political science which will be discussed later. It must be noted here, however, that this approach effectively specifies the question of social order.³⁵ This identification of morality and the social order seems inherently necessary in those theorists whose view of man leads them to the conclusion that morality is

says: "Therefore it is necessary that a proper law appear through which men who are motivated neither by a love of virtue nor a hatred of vice may be coerced by the fear of the penalty which this law imposes on violators of common law." But this chapter begins: "There follows now a discussion of the administration of the magistrate whose (power) is received in the condition in which it is given...."

35. Leo Strauss, The Political Philosophy of Hobbes: Its Basis and Its Genesis, tr. Elsa M. Sinclair (Chicago, 1936) observes the same situation in Hobbes, p. 1: "the question of man's right life which is at the same time the question of the right order of society."

possible only in a social context. It invariably produces in them, although with widely different meanings, the idea that the law makes men good. Thinkers as far apart as Plato and Machiavelli, Aristotle and Hobbes have this common element. We have already indicated that for Althusius, the political scientist studies one kind of group and one value objective. Of them he says with Plato, "if this is right every other is wrong."³⁶ Consequently, he is interested in a freedom that is identified as much by the objective toward which the voluntary act is ordered as by the modality of determination in it. The value freedom, therefore, includes within its scope the totality of virtue. Or, with equal truth one could say, the value order includes within itself the elements of rightness that constitute the righteous life for man.³⁷ To govern, therefore, "as Thomas says...is to lead that which is governed to its proper end by suitable means."³⁸

³⁶ Republic, Bk. V, 449

³⁷. Easton, "The Decline of Modern Political Theory," J. of Pol., XIII, 48, speaks of the "enterprise of defining the situation in evaluational terms." Althusius does this in describing symbiotic life. See Chapter III below. Aristotle points out the relationship between substantive values and political process, Politics, Bk. VII, ch. 1, 1323a: "Before we can undertake properly the investigation of our next theme -- the nature of the ideal constitution -- it is necessary for us to determine the nature of the most desirable way of life. As long as that is obscure the nature of the ideal constitution must also remain obscure."

³⁸. i, 13. The reference is to Aquinas, On Kingship, Bk. II, ch. iii.

In view of this definition of freedom, it cannot be said that Althusius' problem is simply that of establishing a "non-coercive" state. What is gained in brevity by such a formula is more than lost in precision. For a complete statement of his problem must include not only that of establishing processes that make the will of the people the determinant of the law, but also -- and simultaneously -- that of establishing processes concerned with the positive life of virtue. The phrase "problem of the coercive state" has come to designate the problem of establishing a state that "interferes" as little as possible with the individual. This is the idea of Mill and Spencer.³⁹ Basic to their approach is the idea that the state can contribute nothing positive to moral life.⁴⁰ By Althusius' definition, however, the state must be as much concerned with man's mind and religion as it is with his roads and business. Because he seeks a positive ethical state he cannot content himself with one in which each citizen follows his own conscience wherever it may lead, running up against interference only

39. See Ernst Barker's observations on Spencer, Political Thought in England 1848 to 1914, rev. 2nd. ed. (London, 1947). L.T. Hobhouse's analysis of Mill in Liberalism is illustrative. For his criticism is not that Mill's basic venture is wrong but that he did not find the proper norm for the dividing line between freedom and authority.

40. Althusius rejects this solution because it produces calculated chaos. See x, 8; xviii, 22; xix, 23; xxi, 17.

where social order is threatened. This demands, first, that he face up to the problem of reconciling two subjective apprehensions of the good: that of the individual and that of the group. Then, having introduced also the factor of objective good, he must establish a process which tends to maximize conformity between subjective apprehension and the objective truth. In the Politica, freedom in all its meanings is realized by the wisdom of the people under the rule of the best. And the problem of the political scientist is not that of determining objective content but that of constructing processes.

The cause of tension in Althusius' attempt to implement these values is found in an epistemology that prevents a solution simply on the basis of a common agreement on the subjective level alone, and in a definition of freedom that will not permit a philosopher king solution to the problem of achieving the objectively good.⁴¹ An objectivistic epistemology must recognize that things are known only through

41. Though Althusius does not discuss his epistemology, an epistemology is demonstrably implicit in his writing. See Gierke, Natural Law, I, 59, n. 1, where the epistemology basic to Althusius' school of thought is analysed. As for the Politica, the following indications are pertinent: (1) the general Platonism of Althusius which leads him to spend his energy discovering the objective facta that determine political life. See Irving Babbitt, Rousseau and Romanticism (Boston, 1919), for the implications of the classical idea of norms and limitations. (2) Althusius' argument for a rule based on knowledge, and (3) the idea that law is reason rather than will.

the instrumentality of ideas.⁴² There thus exists the constant possibility that our apprehension of things may not correspond to the ontological truth about them. And this urges upon the conscientious thinker the need for safeguards against erroneous judgments. Such safeguards, however, never really remove this danger which lies at the bottom of every coherent system of political thought. And the thinker's decision as to how to handle it is a major determinant of the character of his thought.⁴³ Some thinkers, deciding that we can never be sure about truth, develop a theory in which each man saves himself according to his own apprehension of truth.⁴⁴ Consistently applied, this theory produces a laissez faire conception of the state. Others, deciding that such a theory possesses intrinsic contradictions, take refuge in relativism. They hold that the attempt to establish a state on the basis of a single interpretation of values raises difficulties indeed (since we can never be certain we have the truth),

42. A readily accessible discussion of this epistemological problem may be found in Maritain, Les Degrés du Savoir.

43. The complexity of the practical judgment about what is good for man introduces more problems than does the theoretical judgment about what is true. See Aristotle's discussion in his Nich. Ethics. Bk. I, ch. iii, and Simons' in Philosophy of Democratic Government, ch. i.

44. This is the straight liberal position which even Mill could not apply consistently. See his essay On Liberty.

but that it is nevertheless necessary for the sake of social order and freedom, that all the members of the society agree that a definite set of propositions is true.⁴⁵ The position, that is to say, moves from philosophical relativism to the demand that society nevertheless be organized on the presupposition that certain propositions will be treated as absolutely true and made the basis for corporate and individual action.⁴⁶ Others abandon the problem of conformity to the objective and ontological demands of reality as insoluble, and imply that it is not a pressing problem for the political scientist qua political scientist

The position seems to have been characteristic of the late Stoics. Indeed, it seems to be characteristic of any period in which epistemological problems remain notoriously unsolved. The position of relativism should not be confused with the approach of Aristotle. In the Politics, it is true, Aristotle undoubtedly is willing to accept society as it is and construct a constitution for it. This is not an acceptance of a philosophy about truth, but the acceptance of a factual situation. Aristotle is quite clear that there is an objectively best state. Althusius respects a position such as this. Yet he does not think it the function of the political scientist to handle any situation except the symbiotic one, xxxix, 83.

45. Sebastian De Grazia's Political Community, a Study of Anomie (Chicago, 1948), is an excellent socio-psychological analysis of the reasons why the community must hold communally a set of basic truths that explain the universe to its members.

46. Rousseau avoids the problem of objectivity by observing that his community will always be as right as it can be, i.e. will produce the best decisions it is capable of. Hegel avoids the problem by holding that his community will always be right.

because problems of freedom and order can be solved without solving it. Althusius' theory is elaborated solely from an insight into the organizational and psychological conditions necessary for free life in a society that exercises positive directive authority over the actions of its members. He is convinced that the problem of conformity to the norms of ontological reality is a pressing one both for the individual and for the law. And, while the political scientist cannot, as political scientist, determine what those norms are in the ethical order, he must take both their existence and their significance into account when organizing political processes. This conviction is implicit in his consistent natural law approach to the decision making process. If, he argues, man does not have the truth about what is just and good, he will not become a virtuous man; nor can symbiotic life exist for long in the absence of such knowledge, since the qualities that make for the good man also produce the healthy society.⁴⁷ Subjective

47. Behind the figures of the magistrate as doctor and navigator, which Althusius uses frequently, lies the conviction that the conditions of health in society and the purpose of authority are not determined by purely subjective considerations. The attempt to establish the ideal state postulates the idea of an objectively necessary set of social circumstances in order to have social life at all. The unhealthy society is one that suffers from defects in these necessary conditions. Chapters xxx and xxxi of the Politica call attention to the basic diseases of social life. They suggest that an unhealthy society is one in which certain virtues are lacking, notably those of temperance and self-discipline, and in which some

error, even when the agent acts in good faith, produces social disorder. Wherefore social authority must know the truth without which it cannot discharge the function of preserving social life. The problem of the political scientist is to discover processes and institutions that will at one and the same time enable the mind of each individual, the general mind of society and the mind of the most competent to shape the content of the laws.

The processes, therefore, the Politica offers are calculated to lead society along the path of objective truth and at the same time to foster and preserve the general subjective harmony that at once constitutes social life and insures self-determination. This organizational objective appears quite clearly when Althusius begins to wrestle on the empirical level with the basic question: who shall rule? Cornford's description of the question as Plato asks it is equally valid for Althusius, as it is for any political theorist who moves from the same epistemological premise and the same concept of the nature of man and the purpose of society:

In such terms the author...confronts the modern

standard of the good is accepted other than that of the perfectly virtuous man, v.g. money or power. The consequence of such defects, as Althusius insists in every chapter of the book, is discord and conflict, which threaten the life of society. Latent in Althusius' approach to the problems of social structure is the further idea that the wrong organization of authority would itself constitute an unhealthy society.

reader with the ultimate problem of politics: how can the state be so ordered as to place effective control in the hands of men who understand that you cannot make either an individual or society happy by making them richer or more powerful than their neighbors?⁴⁸

The problem is formulated on the level of definition and philosophical analysis; but in order to solve it Althusius moves to the level of social analysis of the existential order. There he finds, once again, existential imperatives that set up tensions between the two levels of reality.

There are two types of answer to the question Althusius poses. First there is the type given by Plato in the Republic. It postulates a contrary to fact existential order in which there exists a man, the philosopher king, who knows the good with certitude and possesses the political art of governing so necessary to lead men to it without compelling them. Secondly, there is the type given by Plato in the Laws. It turns to the existential order, and seeks, through analysis, a formula that will satisfy the requirements

48. The Republic of Plato, tr. Francis M. Cornford (N.Y., 1945), "Introduction," p. xxix. Althusius approaches the question from the point of view of the duty to contribute to society in return for its benefits. The argument is that those should rule who are best equipped to do so, vii, 17 ff.; xix, 23. The approach is, in fine, basically functional: each type of man makes his proper contribution to social life. Every man has a share in society, and thus also has a share in lawmaking. Governing, however, is properly the contribution of a natural aristocracy. For this type of rule of the best, the basic requirement is knowledge of the good plus ability to translate such knowledge into law within the limits of popular sovereignty.

appropriate to the context within which the question emerges on the level of theory. It is this type of answer that Althusius offers. He rejects the answer of the philosopher king on the same grounds as Plato and Aristotle, namely, that the philosopher king does not exist. Yet while his analysis of the existential order leads him to the conclusion that ultimately the people should rule,⁴⁹ nevertheless the same existential order also leads him to the conclusion that the people cannot rule successfully without a ruler over them.⁵⁰

The entire institutional system Althusius devises for his state consequently, represents an attempt to reconcile a line of speculation that leads inevitably to the conclusion of popular sovereignty with another line of thought that

49. For the argument that the people are sovereign, see ix, "On Sovereignty." See also xix, 15-16, where the argument is that the people can exist without a magistrate, and ix, 18-24, where we are told that all men are equal and subject to no rule except by their consent.

50. For the argument for the rule of the best, see xviii, 7-16. The people cannot rule themselves after the group has reached a certain size. This obliges them to appoint rulers. The men appointed should possess the talent necessary for rule, vii, 18 ff. We find in Althusius a close approximation to Rousseau's principle that the people determine only the most general laws of the community, while the government is responsible for particular applications of the law. Thus, he holds, ix and xxviii, that the people exercise control over the general law and the statutory law that determines the "rationem et formam juste agendi et vivendi," and, xxi, that the magistrate's function is to apply and adapt this law to particular circumstances.

leads with equal inevitability to the conclusion that government is a function of the man expert in the knowledge of the good and the ways of human nature. The monarchomachic and popular sovereignty interpretation of Althusius completely overlooks the fact that Althusius' government conforms to the Platonic conception, i.e., it is a function of the statesman. He develops the argument for the rule of the best with no less force than that for the rule of the people. And these two principles, frequently deemed antagonistic, are reconciled in a social and political system that is put forward not only as a means of reconciling two theoretical aspects of freedom and authority, but also as the only system that admits -- and makes provision for -- the implications of social and political institutions and psychology. Althusius is not attempting to prove simply that the people should govern themselves. He is attempting, granting that this is necessary, to establish the circumstances in which it becomes possible. His conclusion is that the people can rule directly only in the more simple communities. When a group reaches the size of the city, it must charge a Senate with part of the task of government.⁵¹ On the state level it must

51. v, 51-54: "because...the people could come to meeting only with difficulty in such a large group of men, necessity itself gave the care of the republic (city) to the senate, the people being unable to rule themselves."

appoint a Diet and entrust to it the exercise of all authority. Even its right to revolt, it must exercise through the Diet or the "natural leaders."⁵² Althusius is not arguing that the rule of the magistrate is hostile to that of the people. Rather he argues that it is necessary and inevitable, but must be made responsible to them. There are things the people cannot do because of mechanical and technical limitations.

Correct or not, this answer to the political problem is not based on mere improvisation or guess work on Althusius' part. Rather it is backed up by careful and detailed social and political analysis which modern knowledge by no means entitles us to brush aside.⁵³ His ideal polity, involving as it does elements of popular sovereignty, pluralism and functional representation is carefully constructed to fit the totality of facts in a way no pure theory could possibly do. Equality and inequality, sovereign state and intense pluralism are parts of the truth about reality.

52. The doctrine on revolution is that of the Vindiciae contra Tyrannos. See H.J. Laski's Introduction to A Defense of Liberty Against Tyranny, tr. J. Brutus (London, 1924), pp. xviii, xxxviii.

53. Despite advances in the techniques of empirical research our knowledge of man insofar as it is significant for politics still tends to be of the common sense variety. See Easton, "The Decline of Modern Political Theory," J. of Pol. XIII, 51 and Pennock, "Political Science and Political Philosophy," AFSR, XLV, who think empirical research could be made more relevant to the problem of politics.

Althusius formulates his central problem on the level of political philosophy and within the confines of a natural law theory of society. And he solves it on the level of political science, i.e., of social analysis and institutional criticism. He is aware that political problems, while they originate on the level of political philosophy, must be solved in the existential order, i.e., by consulting the inherent demands of reality rather than by depending on a blind "adjustment" of political forces. His political thinking goes forward in terms of exclusive attention to the nature of things and their inherent demands. But at a certain point it turns to a single-minded attempt to read out of the facts of social and political life, arrangements consonant with his philosophical conclusions. This does not, be it noted, mean that he is willing to modify his philosophy in order to adapt it to existential facts. Nor does it mean that he ignores such facts as happen to stand in the way of an easy application of his philosophy. His premise appears to be that if he finds the truth on each level of thought there will -- and can-- be no contradiction between them. Which is to say that truth on one level will fit harmoniously into truth on all the others. Thus he is confident that he can produce a society in which every aspect of reality, both essential and existential, will find its proper place.

For example, in providing for the rule of the best Althusius bears constantly in mind the fact that this principle does not take into account all the realities of political life, e.g., the fact of the essential equality of men, and that of the necessity of following one's own apprehension of the good if virtue is to be possible.⁵⁴ These two facts lead him to the principle of popular sovereignty: men must follow their own apprehension of the truth as well as the best apprehension of it, so that all the citizens, and not the best of them alone, must have a hand in the making of the laws. As we shall show, Althusius makes extensive use of the principle of pluralism to achieve the harmonious integration of these two apparently contradictory principles. And it is pertinent to note that the way he uses the principle of pluralism, itself the product of social and psychological analysis rather than of political philosophy, is a further illustration of his successful integration of two levels of thought in the course of his attempt to reconcile an objective interpretation of freedom with a recognition of the subjective character of all judgments about the good.

These considerations re-inforce our contention that

54. The idea is expressed in a variety of ways: xviii, 7, 34, the passengers of the ship should have a say in its destination. xvii, 60, what touches all should be approved by all. And xviii, 18, the basic reason: "For by nature all men are equal and subject to the jurisdiction of no one except by their own consent and voluntary act..."

Althusius' problem of freedom under law is not simply that of preserving the power of self-determination along with determination by law. It is equally the problem of organizing a society that will produce objectively good laws which nevertheless conform to the fundamental ideas of the social group. This problem must not be confused with the modern version of the problem of freedom under law. Althusius flatly rejected the presuppositions of that problem, namely, philosophical relativism and individualism. His problem is different from, for example, Rousseau's, because Rousseau never faced up to the problem of providing a government whose function is to preserve the social bond.⁵⁵ But it is also different from that of thinkers whose point of departure is a "social" conception of man and his need for authority. When he is discussing freedom in the context of popular sovereignty he tends to align himself with the latter group, but necessarily breaks with them over the rule of the best. Here, his premise is in effect, that the legislative activities of the executive take place in an area of decision making that is in fact inaccessible to direct control by the people. His problem thus becomes not that of establishing institutions that will become channels of direct control, but institutions

55. Although Rousseau evidently thought his discussion process would do this.

that will insure ultimate conformity between the products of this area of decision making and the mind of the people.⁵⁶

The degree of tension that underlies the juxta-position of popular sovereignty and leadership can be seen most clearly in Althusius' treatment of the extensive law making powers of the magistrate. For the tensions and polarities in the Politica occur between aspects of the existential order as well as between the essential and the existential. Althusius' magistrate is not a modern executive any more than his Diet is a modern legislature.⁵⁷ The Diet expresses the will of the people, but apparently confines itself, in general, to judgments of equity regarding classes of actions. Further specification of the will of the people takes place only in the process by which the Diet discusses and consents to proposals advanced by the magistrate. Althusius does not, however, regard this activity on the magistrate's part as an exercise of pure executive power. He is well aware that

56. It is significant that Althusius has an institution of Advisors to the magistrate, and that he provides that such Advisors shall be drawn equally from all the classes of society.

57. The Diet determines the "regula vivendi," x, 1-2. It declares what has come to be called the general will. Althusius applies these ideas, however, within the context of the institutional notions of the 17th century. The Diet legislates certain "highly general" laws, and makes certain "particular" decisions that are "majoris momenti." But for the most part it expresses its will be consenting to the program of the magistrate. See xxiii, 31 ff, and xxix, 4.

his magistrate is a legislating authority.⁵⁸ How is he to bring this authority into line with the sovereign authority? He is not, given his aims and method, attracted to any such extra-political solution of the problem as that of the right of revolution. For his purpose is to maintain order in political activity, and this excludes any practice that inevitably convulses the state. His first answer, therefore, is to propose two institutions, one through which checks can be placed on the magistrate's authority, and another calculated to influence the course of his decisions through advice. His ultimate answer is to be found in those sections on political prudence where he advises the ruler on the principles of action necessary to elicit freely given obedience vis-a-vis the powers of leadership. The citizens freely obey the popular sovereign because they participate in the making of the law. They do not participate in the functions of leadership, and this means that the source of free obedience in this case must be found elsewhere, in the quality of leadership itself.⁵⁹

58. xxix, 4: "Legislation is the act whereby the magistrate establishes a just, useful and necessary law for the republic with the consent of the nobles and the estates of the...realm." The initiative lies with the magistrate. The tension this exercise of legislative authority by the executive sets up is a familiar phenomenon in our time as the logic of the great society forces the progressive increase of authority in the hands of the executive in the form of administrative discretion.

59. Althusius' solution to this problem is found in two points, (1) the establishment of Advisors and especially

Thus freedom under law involves, in Althusius' system, popular participation in the decision making process plus willing obedience to the decisions of governmental authority. Save as this is clearly grasped, the meaning of many of Althusius' institutional complexes is lost and the main course of his thought becomes obscure. And, here as elsewhere, the correct point of departure is found in an analysis of the kind of thinking Althusius was engaged in, i.e., of the two level approach to political realities which his kind of thinking involves.

To summarize briefly the various problems Althusius must solve in his science, we have found his position on the definitional or philosophical level of thought to be as follows: (1) man by nature must act freely if he is to act as a human being. (2) Since man is by nature a social animal he cannot achieve the ends of human action except in society. (3) Social life by its nature requires that the action of its members be subject to the control of social authority.⁶⁰

the establishment of the Ephors who check and balance the magistrate. xviii, 91: "It must be noted that the duty of the Ephors is to take care lest the supreme magistrate degenerate morally by doing or omitting something contrary to his duty.... This mutual correction, censure and observation between the king and the estates or Ephors keeps the state of the realm protected, safe and in good health, and frees it from all dangers, evils and inconveniences."
 (2) Secondly, the training of a magistrate who will have the prudence to know that his own interests as a magistrate are best served by his serving the people, xxi, 6 ff.

60. These three principles are all stated in chapter i.

An analysis of the nature of man, virtue and society, that is to say, leads us to recognize the necessity of establishing a society in which man acts freely while subjecting himself to law. The complexity of this problem emerges most clearly from an analysis of the idea of freedom itself as Althusius understands it. The second or empirical level of thought Althusius is formally concerned with handles a problem of organization: what system of institutions and personal integration will produce a society in which the people will move in harmony toward a common goal and to this end elaborate laws to which all consent and which each has had a hand in making. There are numerous problems proper to this level exclusively: that of the implications of institutions, that of the social conditions necessary for their operation, and the like. But the central problem of organizing society so that men may be free is always posed in terms derived from the definitions he has put forward on the first level of his thought. And Althusius, we have seen, always recognizes that the problem of freedom cannot be handled in any complete way on either level alone. For to approach the problem of politics as a pure problem in institutions and psychology is to approach it blindly. One must know beforehand what values are to be sought;

the last two constitute the basic ideas of the chapter. The first is latent in the consent theory through which the consociation is interpreted.

otherwise one does not know what results organizational arrangements should produce. And to approach politics as a pure problem in definition is to approach it unrealistically, since the problem exists as a problem in actual societies, and until it is solved there it has not been solved at all. Althusius also recognizes that the problem as he states it is not the problem with which some political theorists have dealt. He is speaking of a particular kind of freedom and a particular kind of authority, and the solutions he offers are relative to that kind of freedom and that kind of authority. The organizational system he sets up is offered as valid only for the values and the society which he has defined.

It is on the empirical level of thought that Althusius introduces his institutional concepts: direct democracy, representative assembly, executive government, and his process concepts: popular sovereignty and leadership. It is here also that he analyzes their functions, their limitations and their social basis. It is here finally that he introduces his basic concept of concordia as the psychological and social pre-requisite for the operation of his system.

On the second level of analysis, we have observed, a new factor is introduced, namely, that of imperatives entirely independent vis-a-vis the principles of the essential order, and proper to the existential order. The

imperatives inherent in both orders set up the general problem of freedom, and it is from this aspect of the problem that the definition of political science is drawn. On the level of social and institutional analysis, Althusius concludes that union through consensus, fraternity and justice is a necessary presupposition of the social process of mutual sharing.⁶¹ The question thus becomes, how can these qualities be established and preserved in society? Here the primary facts are of two types, (1) the nature and implications, as regards government, of a sovereign group that achieves the proportions of a state, and (2) man's political behavior patterns and the motivations that produce them. We have seen how Althusius' consideration of government transforms the question once again: how, he is finally asking, is the supreme magistrate to exercise his authority so as to foster and preserve these qualities among men.⁶²

61. Communio or concordia is a condition logically antecedent to the sharing process. This idea is evident in the following references: i, 26, sharing can occur only in political life which is established with a view to engaging in that process -- the sharing being distinct from the social union as the act is distinct from its agent. vi, 17, sharing is determined by the nature of the group and by agreement on the part of the people. Before such agreement can be reached, however, there must exist a basic union of minds and wills. Further citations to this effect are: xv, 3; vii, 3; and ix, 30.

62. vi, 46-48, concord or harmony is developed by law. See xxix, 5, the conservation of harmony is one of the chief tasks of the magistrate. See also xxxi.

For consensus, fraternity and justice must exist before laws can be elaborated which the society will accept as just and obliging.⁶³ Authority, however, is the only instrument by which society can establish and preserve these qualities. It is, indeed, the only instrument by which it can realize either its ultimate purpose, namely, the just and pious life, or its proximate purpose, namely, the preservation of the social order. The problem is complicated by the further fact that the qualities needed cannot, by their very nature, be established by mere fiat on the part of authority: save as the members of the group freely establish them among themselves they cannot exist.⁶⁴ Thus the problem of establishing these qualities is expressed precisely as the problem of governing men so they will freely do what is commanded.⁶⁵ At this stage of the science, therefore, one encounters two

63. See the citations to the effect that license produces chaos and the rule of might rather than right. The idea is that unless virtue already exists, the law will serve selfish purposes rather than public ones and so not be law. See xviii, 16.

64. This follows logically from the idea that the qualities involved are ultimately moral ones, i.e., can exist only as a result of self-determination. See xxiii, 14-21; xxvi, 6, magistrates must not push the people farther than they are willing to go freely.

65. Thus Althusius' insistence that the magistrate must know how men act generally and the customs and temperament of his own people in particular, xx-xxi. The necessity of commanding so that the people willingly obey is present not only to insure freedom under the law, but for the additional reason that the people will not obey unless they are convinced

problems, each of which is merely one part, though an essential one, of the basic problem. On the one hand there is the question: how insure that law will truly express the mind of the people? On the other, assuming still that law must conform to the popular mind if we are to have free action, how bring this about where the sovereign group is of such a character as to make group decisions possible only on a very elementary level?⁶⁶ This introduces a new tension between the will of the people and the will of the law, in that the function of the magistrate is precisely that of leading the people farther than they can see along the road to the objectively good. Thus the problem of

that it is for their own good, xxv. The authority of the magistrate consists in the willingness of the people to obey, which willingness is a consequence of their conviction that he is serving the common good; see xxv, 1-2. The idea is substantially the same as that developed in Machiavelli. Indeed Althusius hints at ultimate failure on this point due to the impossibility of satisfying everyone, xxv, 66.

66. Even on the city level the group begins to get too large for direct democracy, v, 54. On the state level the group is too large to govern itself. It is here, however, that we first hear of the need for a special skill in government that is not possessed by the people. One detects throughout the discussion of the magistrate, moreover, the idea that since the magistrate's chief function is to develop social unity (xxx-xxxi) it is fitting that he himself be one person. See also viii, 3. This idea is recognizably the remnant of the metaphysical argument developed in the middle ages, for the unity of the governor. Here it is presented as an argument from social analysis; see xix, 84; xxxix, 30, 35. The consequence seems to be that the people establish only the terms on which the society operates, the common or natural law and the general structure of government.

establishing the conformity on which the reconciliation of freedom and authority depend assumes new proportions and can be stated as the problem of how to command so as to elicit from the people a freely given obedience to the law. Ultimately the solution to this problem depends upon the magistrate, and upon his art of governing. The political scientist, however, can equip the magistrate with the scientific knowledge of the way men act and the kind of organization the ruler needs -- knowledge, that is to say, necessary for the successful exercise of his art. This Althusius attempts to do in the later chapters of his book.

When we turn our attention to the state, the group level on which Althusius concentrates his attention, the position is less clear than we might wish. A first look analysis⁶⁷ of his thought indeed tempts us to read the discussion of the magistrate and his relation to the people in simple and unrelieved monarchomach terms, i.e., as an attempt to provide for the defense of the people against the power of the prince, and as a defense of the ultimate right of revolution in the event that the prince becomes tyrannical. On this showing, Althusius becomes a defender of popular sovereignty determined to refute the proponents of the divine right

67. Akin to "first look" theories so named by B. Bosanquet, Philosophical Theory of the State, 2nd ed. (N.Y., 1909), pp. 75, 77.

of kings. As we have seen, however, this interpretation cannot survive an attentive reading of the Politica for the following reasons. First, Althusius, in this section of his work, seeks to establish and insure the function of the executive at least as eagerly as to establish and insure a parliamentary limitation upon him. Secondly, Althusius does not think the people can engage in extended self-government after the size of the group attains that of the large city (in our terms, the medium-sized town). Thirdly, Althusius does not think the people possess the skill necessary for exercising authority where the object is the preservation of the social basis of life, and we have seen how this view derives from his ideas as to the nature of government and the capabilities of the people. Althusius, in a word, is not attacking the idea of princely power. He is attempting to discover how authority as extensive as that which the prince must have can be safely conferred. His primary concern here, we have seen, is to prevent authority from being used for personal ends, and to insure that the just use of it made by the prince will not depart significantly from the people's idea of what is just. His remedy for the use of authority for self-interest is indeed expulsion or revolution. The simple monarchomach, popular sovereignty interpretation does not, however, take into account the problem Althusius faces in his attempt to reconcile a sovereignty limited in

its nature, with a sovereignty of the people, as expressed through the Diet, which being supreme in fact is in fact unlimited. That the Diet is sovereign in circumstances that remove external limitations from its authority is just as significant as the fact that the prince is sovereign in circumstances that place the Diet over him as a limiting agency.

This description of the basic problem of the Politica has deliberately avoided the question of protecting individual rights primarily because Althusius himself does not conceive of the problem in these terms.⁶⁸ He assumes that men will have all the rights society is able to "recognize." That these rights will be denied to no one follows as a matter of definition from his conception of both social and political life as a fellowship and a sharing. This definition, however, must be expressed in the proper political system if it is to be an actuality. Thus the problem of participation in the political process is the basic one in the Politica, and the problem of freedom and order becomes a problem of insuring participation in a process not one of limiting a process. The only case in which prior rights confront the exercise of authority is found in the relations among social groups. In the

68. The individual is not prior to the group, but the sub-group is prior to the sovereign state, xxxix, 84. And it is the sub-groups, through their representatives, who resist oppression, xviii.

Diet where sovereign and ultimate authority resides, group rights are protected both by the basis of representation and the system of voting used. The system protects them on the premise that groups will not vote away their own right to exist or to govern themselves. To the question -- what if they wish to abdicate their independent existence? Althusius' implicit answer is that nothing can prevent their doing so without compromising sovereignty. And without sovereignty their right to exist is a frail one indeed.

This, then, is the way in which Althusius is ready to attempt an integration of the total data of political life. Perhaps the great mark of his genius can be found in his union of a complete insight into the complexities of the political problem with a solution to it which is characterized primarily by simplicity of construction and operation. To the first element of that solution we next turn our attention.

PART II

THE SOLUTION

Chapter III
SYMBIOSIS AND SOVEREIGNTY

Thus then, does Althusius define the problem of politics. As has been stressed, its general framework is provided by the two levels of thought, and its solution must be found in the implementation, on the existential level, of the harmony found on the definitional level. Naturally, therefore, the brunt of the scientist's work falls on the existential level where the implications of action and organization must be analysed and integrated to establish a decision making process proper to symbiotic life. The more abstract and definitional analysis of the nature of that life, the work of political philosophy, shows the complementary character of order and of freedom. But the conclusions reached on this level of thought present themselves to the political scientist as a description of results to be achieved rather than as formulae for such achievement. Here the political scientist has his proper object of study and his special problems of process and organization. To solve them he works out from a new and "scientific" order of knowledge about the contingent, existential order of

reality. Definitions alone, when they relate to human relations, do not automatically realize themselves in fact. And despite the harmony the philosopher discovers between them, it is a commonplace of history that freedom and authority are often in opposition. Many students, taken by this fact of history and excluded by their epistemology from the consideration of any but contingent reality, have defined these two elements in terms of necessary conflict and consequently sought practical solutions in the elimination of authority.¹ It is characteristic of Althusius' approach that he seeks his solution in the fullest assertion of both elements.² While acutely aware of the possibility of conflict between principles in the order of action, he is equally aware,

1. Proudhon, J.S. Mill, Marx, Paine and others, each in different ways, have tried this. The liberal idea of authority as restrictive command and of society as essentially competitive was a necessary way station on the journey from the Medieval idea of authority as reason based on communal acceptance, to the Marxist idea of it as essentially exploitive.

2. The development of ideas in the first chapter of the Politica, indicates that Althusius, after identifying the function of symbiosis, immediately enters upon the problem of its political organization on the existential level. The sequence of ideas is: (1) symbiosis meets essential needs of man, i, 3-5; (2) symbiosis is a partnership in all the elements of life, 6-9; (3) symbiosis requires a political structure to handle the authority for which it calls, 10-13. Althusius' method throughout the book is first to give the political structure he favors and then the considerations of political philosophy the structure meets. For purposes of clarity we have separated the two considerations. When we speak of before and after with regard to the relations of these two levels of thought, we speak of the logical relations between them, not of their chronological appearance in the Politica.

by virtue of his political philosophy, that by nature they are mutually complementary. The crux of his approach is to discover in this "ocean of human affairs and the weakness of our nature," the means of their integration on the level of action. This involves giving each principle its proper influence. It requires first a use of authority for proper ends; secondly its use by the proper persons, and thirdly, its exercise through the proper processes and institutions. The Politica, consequently, is devoted in great part to discovering the ends, persons, processes and institutions proper for the exercise of authority if man is to live in a society where he freely seeks his own interests while obeying the law of the group.³

This chapter is devoted to an analysis of the first part of the existential solution, i.e., to the solution in terms of institutions and processes, of the problem of freedom and authority. To isolate the present object of study more precisely, it is useful to note that the total solution on

3. This attempt to discover the "proper" organization of social-political life is what Gierke calls the attempt to discover the natural laws of social organization, Natural Law and the Theory of Society. The nature taken as the criterion is that of symbiotic life. Althusius maintains a close connection between symbiotic life and political structure, making the one evolve naturally from the other. This approach is quite different from a "descriptive science of facts" that draws its institutions solely from a consideration of existential reality with no reference to a distinctly philosophical contemplation of the facts.

this level is achieved by two series of integrated structures and processes, of which we here take up the first and more basic. First, Althusius provides for a basic process of decision making calculated to implement popular sovereignty. Secondly, he establishes a system of leadership intended to complete this sovereignty by particularizing the will of the people and directing it to the objective good. Both institutions are essential. But it should be evident that the logically prior one centers upon the provisions for self-determination under law through the realization of popular sovereignty. For until the individual can determine his own action there can be no question of achieving a moral good or of establishing a social life based on moral, i.e., voluntary, union. It would be an over-simplification of Althusius' thought to suggest that each process is exclusively concerned with the realization of one aspect of freedom. The distinction made here consequently has validity only insofar as it stresses the primary concern in each of the processes identified. By so doing it enables one to concentrate attention upon the analytical presentation of Althusius' thought and to examine successively the significance and implementation of popular sovereignty and leadership.

Turning our attention to the first process, we find a system of legislative institutions ordered ostensibly to

the defense of popular sovereignty against the encroachments of the supreme magistrate.⁴ If, however, we analyse these institutions more carefully, we find that their purpose goes much deeper. The defence of the right of popular sovereignty is present, but the essential orientation of thought is toward the implementation of that sovereignty. These institutions do not exist against the ruler but in cooperation with him.⁵ Their real purpose is to establish in civil society a decision making process that enables all the people to participate in it. Their bearing on the problem of freedom rests in this, that they are calculated to provide suitable channels for the production of a law which, being in conformity with the group's mind, makes it possible for each member of the group to obey himself in obeying the law.

Two considerations suggest that we pause to justify this interpretation before going on to develop it in extenso. First it differs essentially from Gierke's interpretation.⁶ Secondly, there is need to show, at least

4. The interpretation of Gierke, The Development of Political Thought, chs. iii-iv.

5. i,12: "If there is the same agreement and will between those who command and those who obey, their life is made happy and blessed." This unity between ruler and people, here presented as desirable, is later developed as essential.

6. The basic difference between Gierke's interpretation and this centers upon the question of the total purpose of

in a sketchy and preliminary way, that the monarchomach interpretation is truly a "first glance" one. We have already indicated what appear to be the general factors of distortion in Gierke's reading of the Politica. With regard to the point at issue we suggest that they hid from him certain elements of Althusius' thought which his interpretation, accordingly, leaves unexplained. The monarchomach interpretation, for instance, does not explain the positive functions of the Diet. The negative and defensive functions of checking the magistrate and expelling him if necessary are bestowed on the Council of Ephors and not on it.⁷ The Diet performs the positive function of declaring the will of the people by approving and passing basic legislation and the laws of the magistrate.⁸ Nor does it give any

the system of popular assemblies. Is it simply to establish an assembly with powers to limit the magistrate? Then Althusius' central question is that of limiting powers. Or is it primarily to establish a system of institutions to insure popular participation in decision making? Then Althusius' problem is a much more profound one of positive implementation. The strategic question is whether Althusius faced up to the problem of implementing popular sovereignty, and especially whether he recognized the problem of representative government.

7. The Ephors, in fact, constitute an upper chamber of Lords with powers of advice and the function of protecting the constitution when the magistrate attempts to violate it: xviii, 90-91, and Gierke, Development, p. 43. The Ephors are the natural representatives of the people whom the author of the Vindiciae contra Tyrannos assumes but does not explain.

8. xxxiii, "On the Diet," especially 18-20.

explanation of why Althusius was so concerned about the composition of the Diet on the various levels of the political structure, or why he was so concerned with the voting and discussion procedures in each.⁹ The interpretation offered in these pages is based on the principle that the Politica must be read in the light of Althusius' own definition of political science. In that definition we find the formal concern in all he says, and it requires us to seek in the third of the book devoted to the instruments of group control, as well as in the other two thirds, direct evidence of a concern with unity. This interpretation, moreover, focuses its attention on the representative process itself, considering it to be the central thing. Institutions must be organized to meet the demands of processes, and those latter are determined in turn by the purposes they serve. Thus the meaning of the institutions can be grasped only when one identifies the processes they embody and the purposes the processes seek to realize. The justification of such an interpretation of the Politica is based ultimately on the claim that it is the only one advanced so far that attempts to account for all the elements in Althusius' thought.

With regard to the purpose directing the processes of

9. Concern about structure centers upon the estate system, v.g. viii has the best development of this point. For a discussion of voting procedures, see iv, 12; viii, 66 ff; xxxiii, 18 ff.

self-government, there is a general sense in which the purpose of every symbiotic process can be identified as the preservation of union. But union is preserved through various processes. To determine the formal and proximate contribution each of the two major processes makes toward unity, one must view each in relation to Althusius' analysis of the implications of symbiotic life. For each solves a different aspect of the problem of order in such a society, and provides for the preservation of symbiotic union in a different way.

The problems Althusius grapples with in his handling of the system of popular institutions and the group control process here under study, derive from his basic analysis of symbiosis, which leads him to the conclusion that symbiosis by its nature requires that the social order be voluntary. This, in turn, leads him to the conclusion that the authority which imposes the order must be exercised through a basic decision making process that allows each member a maximum of participation in the making of decisions. The key to his existential solution of the problem of freedom and order lies in the notion of a conformity between the individual's will and that of the law, a conformity, most importantly, that results from the individual's participation in the decision making process, that is, from the exercise of causality with respect to the decisions reached in the

law.¹⁰ To achieve this end of conformity through participation, the chief organizational problem that must be solved is that of accessibility. That is, the process must be open to the influence of each member of the group in such a way as to enable the law produced by it to summarize the minds of all the members subject to it.¹¹

10. Participation is the essential idea behind the system of representation which Althusius considers to be a political mechanism ordered to the realization of the Medieval principle of consent to the laws of the magistrate. M.V. Clarke's treatment, Medieval Representation and Consent: A Study of Early Parliaments in England and Ireland (N.Y., 1936), and Gierke's treatment of representation in his Political Theories of the Middle Ages, describe systems and ideas that are obviously the forerunners of Althusius' system and his idea of it.

11. "Summarize" is not a mathematical concept here. But it does assume that law can substantially express the experience of the individual despite the formal uniqueness of each individual's experience. Laski, Grammar of Politics (New Haven, 1934) seems to reject any concept of a summary that has a significant relation to the experience of the subjects, and so could express their will. On this point the economists seem to have done much more significant work. See Lionel C. Robbins, An Essay on the Nature and Significance of Economic Science (London, 1935) and Kenneth J. Arrow, Social Choice and Individual Preference (N.Y., 1951). The individualists do not seem to have paid sufficient attention to the non-rational factors such as the tendency to imitation, sympathy and inertia that affect this problem. See Graham Wallas, Human Nature in Politics, 3rd ed. (N.Y., 1921) and the collection of essays in Roots of Political Behavior, ed. Richard C. Snyder and H.H. Wilson (Princeton, 1949). Althusius is acutely aware of these factors, see xxiv, "On the Nature and Attitudes of the People," and his analysis of obedience in xxv. The Medieval dictum, Sicut rex ita grex which Althusius uses a great deal, summarizes this insight see x, xxx, 29

When the law does this, then and only then can one say that the symbiotic order is self-imposed, i.e. that the people are sovereign. The process Althusius offers is based essentially on the establishment of successive levels of discussion. And the essential problem he faces is that of how to establish in the higher and more remote levels of social conversation a discussion situation in which all the people may be said to participate effectively, even though their only access to the process is provided by representatives. This, we hope to show is his essential organizational problem. Supposing him to have solved it, it becomes evident that by his solution he has provided simultaneously for a sure method of producing a law citizens can freely obey, and, consequently, a sure method of uniting the people under a self-imposed order. Thus Althusius' solution to the question of political science and the problem it contains is expressed primarily as a determination of the way law is made. The importance of this approach lies in the fact that for the popular processes, it forced him to engage as a pioneer in the analysis of free representative government.¹²

12. Cierke, Development, p. 331, thinks Althusius' position leads either to modern constitutionalism or to Rousseauistic absolutism. Friedrich thinks Althusius is clearly an absolutist, "Introduction," pp. lili, lxxv. The position developed here is that Althusius clearly asserts the necessity of limited authority. But he just as clearly asserts the necessity for responsible and limited government. He is not modern in his constitutional theory, nor is he an absolutist. In his position there is a valuable contribution. The essence

At the heart of his solution, we find what has come to be called the general will situation. That is, Althusius sees that law can represent agreement by the whole group only when the group enjoys social conditions that make such agreement possible.¹³ These social conditions are summarized in the Politica by the term communio. In addition to the situation, the law Althusius visualizes requires

of that contribution is found in his interpretation of the problem of representative government. For an examination of the consequences of restrictive limitations on government, see Edward Elliott, American Government and Majority Rule (Princeton, 1916) p. iii: "The purpose of this volume is to point out the fact that the people of the United States have been hindered in the attainment of democracy, or the rule of the majority, by the form of government through which they have been compelled to act."

13. A Lawrence Lowell, Public Opinion (N.Y., 1930) develops this idea. See A.D. Lindsay, The Modern Democratic State, pp 236 ff. for a discussion of the meanings of the term "general will." See Charles W. Hendel, Jean Jacques Rousseau, 2 vols. (N.Y., 1934), I, 100 ff. for a further discussion.

With regard to the debate whether "general will" means the general and undifferentiated will that the state exist, or an actual policy will determined by majority vote, Althusius uses both ideas. See R.M. MacIver, The Modern State (Oxford, 1926), pp. 193 ff. for a discussion of the debate in question. In the Politica, the will for the state is a basic element in symbiosis. Indeed, a social contract theory supposes that the state exists only insofar as the society wills it to. xix, 49: the general will is expressed in the fundamental law or the pactum, which need not be explicit. See also, vii, 29: "All must be united by the common bond of love and benevolence toward the republic," and xxiv, 42: "the republic is safe when all the citizens love it." But the policy of the republic must also be a matter of general agreement. In many places Althusius states that the will of the people, meaning thereby their basic idea of the "ratio vivendi," is declared by the majority with the minority concurring. See xxxiii, 70-74.

also that there exist a process of discussion that will enable the group to reach an agreement. The problem this poses is: what system of institutions will provide such a process, especially when there is a question of decision making on the level of the state group?

To answer this question, Althusius goes to the facta of his science, which in this case are the philosophical conclusions he has reached about the nature of social life. Symbiotic life is known essentially by a philosophical contemplation of the facts of social purpose and human psychology. Political institutions and processes (because they must serve the needs of symbiosis), are determined in their basic elements by conclusions from this first view of social reality. When Althusius says that political science is a science of the facta of social life, he does not mean that it is a "descriptive science of facts," but that it is a science of discovering in the facts of the existential order the political structures that will serve the basic needs of symbiosis as defined in the area of natures. Althusius realized the influence of history and tradition in the shaping of processes.¹⁴ He clearly understood the futility of processes attempting to operate outside of their necessary social context. And finally

14. Because he sets out to describe the eternally valid forms of authority he carefully avoids conclusions in questions of detail. See xxxix, "On the Forms of Government."

he visualized institutions as responding to social life not only in this order of contingency, but also as flowing from the philosophical nature of that life.¹⁵ Consequently, his methodology presupposes a complete integration of political philosophy and political science.

In the case of the legislative institutions, this involves a consideration of the aspects of symbiosis that require a self-imposed order. His thought about the popular institutions may be broken down into two steps, (1) that ordered to the establishment of group control as a process necessary to symbiotic life, and (2) that ordered to the establishment of institutional channels that permit the operation of the required group control. In the following pages we propose to establish first the elements in the nature of symbiosis that affect his thinking about processes and institutions, and then to indicate how these elements set up a fundamental demand for a political process based on popular participation. In the preliminary outline of our interpretation we used the familiar abstractions: participation and access, but in the language of symbiosis, these terms must be translated into the more concrete, communio, communicatio, pactum and jura majestatis. It is difficult to say precisely how aware Althusius was of the implications of the more abstract terms.

15. This is the whole point of the approach from the point of view of the relevant situation. See chapter 1, above.

For he did not define them as such, but grasped them either in their embodiment in the processes and structures in the life about him, or in the guise of his basic concept of communicatio.¹⁶ They do, however, indicate the principles on which he builds his process and institutions. Symbiosis, therefore, explains more than Friedrich gives it credit for. In addition to answering the question "What is power?" it contributes largely to answering the questions, "Who should exercise power, and through what institutions ought it to be exercised?" Although political science is formally concerned with the organization and processes of the political order, it must, then begin with an analysis of the symbiotic life which is the end of those processes.¹⁷

The determining assertions on which any political

16. One might also suggest that no terms then available suited Althusius' purpose. See Maitland's "Introduction" to his translation of Gierke's Political Theories, pp. xxiii-xxiv, on the term "contract." The same condition described here obtains for Althusius. In general one detects in the creative writers of earlier days a lack of psychological and process-indicating terminology to explain the psychological data and processes obviously under discussion. The terms in the "quod tangit" phrase, for instance, involve the idea not only of consent but also of conformity between the decision made and the mind of the subjects.

17. This methodology is explicit in his definition of the science. I, 1: "Politics is the science of uniting men"-- this involves the discovery of processes and institutions -- "for the purpose of establishing...social life among them" -- the object of these processes and and institutions is defined. Althusius is quite clear that the Augustinian robber band or a tyranny is a form of union. He identifies them

system rests are those concerning the relations of the individual to his society. On the basis of such assertions political theorists can be divided into three groups. The Ancient Greeks held that every aspect of man's life is involved in social life, has social significance, and consequently is subject to social authority.¹⁸ The Medieval Christian held that all those aspects having to do with his temporal life on earth are involved in the processes of temporal society, the other aspects being involved in the religious society and the authority of the Church.¹⁹ The modern liberal tradition holds that only the public or non-self-regarding actions of man are involved in the social process and so subject to authority, the area of private life or of self-regarding actions being distinct and consequently inaccessible to any just regulation save by the

as alternatives to chaos. Yet he also insists they are not consociations. The famous "remota justitia" phrase of Augustine is quoted many times, v.g. xxxviii, 9.

18. See Werner Jaeger's analysis of the Greek concept of Paideia, Paideia: The Ideals of Greek Culture, tr. G. Highet, 3 vols. (N.Y., 1939), II, 199 ff. Shepard and Sabine hold that political theory rises from the political scientist's conception of society, "Introduction" to their translation of Krabbe, Modern Idea of the State, especially pp. xxxiv, xlix. S. Brownell, Human Community, p. 223, observes that man's "being is involved in relevance." Gerbrandy, National... Stability, p. 19, observes that Althusius is intensely anti-individualistic.

19. See the Gelasian Formula for the traditional statement in principle of the distinction.

individual's own conscience.²⁰ Among these three positions there are profound differences; each has produced a wide variety of sub-species. From the point of view of man's relation to society, however, both Greek and Medieval positions agree that Church and State between them cover every aspect of human life. The Liberal alone develops the principle that a part of man's life escapes social influence and authority completely. As is well known, each position is based on a distinctive view of man and carries with it its own set of political problems. The Greek-Medieval tradition is based on a social view of man and on a definition of liberty that restricts its valid exercise to the pursuit of the objective good. The liberal position is based on an individualistic view of man and on a definition of liberty that places no theoretical restrictions on its valid exercise.²¹ From these differences there follow significant differences on the question both of the nature and function of social life, and of the nature and function of authority. With regard to the latter point, the difference lies in the fact that for the Greek-Medieval

20. See Mill, On Liberty, and Hobhouse, Liberalism. The latter offers a critical comment on Mill's attempt to apply this principle, but does not deny the principle itself.

21. Except one essentially practical restriction that freedom not be used in such a way as to prevent a like freedom in others.

tradition there is no necessary opposition between liberty and authority: man can obey and still be free. For the liberal tradition, by contrast, there is, at least in certain areas of life, a necessary antagonism between them; in those areas obedience is ipso facto a limitation of liberty.²² As a consequence of this difference in concepts, each group in the more practical reaches of its thought is concerned with its own set of problems. The one seeks to establish the conditions under which man can obey and still be free; the other seeks to establish the conditions under which man need not obey. The sign of the preoccupation of each may be found in the value each attributes to the social qualities of consensus and fraternity. Neither denies that they must be present in society; the one, however, holds that they are absolutely essential to a well-ordered society, while the other tends to classify them as necessary only to a degree, and places major value on such concepts as competition and the clash of opinion. Thus each has its own orientation and is based on its own values. Even with regard to liberty, for which all have an honest and even passionate regard, while the word used is the same the thing valued is different. The unrestricted liberty of the liberal tradition is considered the ultimate in social evil by the

22. Again, see Mill, On Liberty, and Utilitarianism.

metaphysical minded Greek-Medieval thinker.

In view of the foregoing, perhaps the best introduction to Althusius' view of symbiosis is to say that of the three positions, that of the Greek is the one into which he fits most easily.²³ His very use of the term symbiosis is a more or less conscious return to the Greek concept of political authority and man's relation to his society. There are Medieval elements in his outlook, notably that of an extremely important concept of pluralism. His view of liberty and authority is Medieval as well as Greek.²⁴ But the Medieval dichotomy of church and state is missing from his thought precisely because he has abandoned the Medieval idea of the church.²⁵ As regards specifically Greek thought, his pluralism constitutes a departure from it, and this

23. One of the questions we shall ask later is whether Althusius falls under the criticism of F.M. Watkins that the idea of the modern state was distorted by those who interpreted it as the same thing as a Greek City-State. If he does, what does this mean? See Watkins, The State as a Concept.

24. Perhaps the clearest analysis of the way in which Althusius draws on these two sources can be made by saying that in his analysis of social life he draws on Greek tradition, while in his analysis of institutions, he draws immediately from Medieval sources.

25. The Medieval and Catholic view is that the church exists by Divine positive law. It realizes a natural need for religious society, but the nature of the church society and authority is determined not by the members but by Divine constitution. The Protestant view of the church

divergence is heightened by his pre-occupation with the modern political form, the state, as distinct from the ancient city-state form. Despite these differences, however, he must be classified as belonging to the Greek tradition, because his thought and consequently the political problems he attempts to solve are characteristically those deriving from the concept of the homo animal sociale, whose entire life and every action occur within the boundaries and under the authority of political society.

The thought of the Politica, consequently, begins with the assertion that symbiosis, or social life, is the way of life demanded by nature itself for the individual man, who is of himself completely unable to satisfy his simplest needs.²⁶ The basic idea, the determining idea, in Althusius'

as contained in Althusius is a strictly natural law view. That is, the church, like the state, is a natural law institution whose authority and governors are determined solely by the members, although the truth it teaches is of divine origin. Althusius attempts to keep the church and state distinct on the basis of a distinction between doctrines concerning the future life and rules governing the relations among men in this life. See xxi, 41, for the distinction. See also Friedrich, "Introduction," pp. lxxx ff. Such a distinction between church and state, as Friedrich points out, makes it difficult to distinguish a state with a moral function from a church. And Althusius has a difficult time avoiding the tendency to politicize the supernatural or religious elements in man, i.e. avoiding the concept of the church as an instrument for the realization of the political end of man according to the "civil religion" concept of Rousseau and Machiavelli.

26. This is evident from I, 3 ff. It is also evident

analysis of symbiosis is that of need.²⁷ Man is born "destitute of all aid, naked and unarmed, he was cast into the hardships of this life as if from a shipwreck...able neither to seek his mother's breasts nor bear the injustices of the times.... He is able to help himself only if someone else intervenes and assists him."²⁸ The essential

from i, 14: "The governing activity of the superior falls upon the soul and body of the subjects who obey; on the soul in order that they be instructed and informed with understanding and knowledge concerning the things necessary and useful for human life; on the body in order that food and the other things they need may be provided." See also, i, 27-32; iv, 16; vi, 16. The need generally is a need for human development. Rommen makes this point nicely in his The State in Catholic Thought, p. 136: "Social life...is a necessity arising not out of 'wants' but out of the intentional perfection of man's nature." That is the need arises out of the nature of man, nature being conceived of in the Aristotelian sense as a thing born which must develop to its ideal perfection. Althusius mentions a "social instinct" to live with one's fellow men, i, 33. But this idea does not control his thinking. See v, 42, instinct is directed by reason and purpose. Mesnard, L'Essor, p. 579, and Friedrich, "Introduction," p. lx, both make this point specifically about Althusius.

27. i, 27: "For if we did not need one another's help what society or reverence or order or reason or humanity would there be.... Everyone, therefore, needs the social intercourse and service of everyone else, and no one lives to himself alone. Therefore it was the needs of body and soul, and the seeds of virtue placed in our souls that drew together into one place men who had been dispersed and disunited. These motives built villages, constructed cities, established academies and a variety of farmers, artists, carpenters, architect, soldiers, etc.. so as to make them so many members of the same body."

28. i, 4; vi, 16; xvi, 3. See Mesnard, L'Essor, p. 579

point here is that the need is total and involves spiritual as well as bodily dependence. There is no aspect of life that does not require social contact for its activation. The immediate consequence is that "as long as he lives to himself and does not join the society of men, he cannot live fittingly and well in such a great lack of so many necessary and useful things." Therefore, "if he wishes to live fittingly and well, indeed, if he wishes to live at all, he is led and almost driven to this life where he is invited to the exercise and practice of virtue, a thing possible only in a communal group."²⁹ The immediate consequence of such dependence is that each man must live completely immersed in social life. Every action of man, therefore, has social import (1) because it is possible only by virtue of social life, and (2) because it affects for good or evil the rest of the society. "For the same reason God distributed his gifts unevenly among men. For he did not give them all to one man, but different one to different men so that I need yours and you need mine, and consequently there was established a kind of necessity of sharing what is useful and necessary. And this sharing cannot exist except in a political and social way of life.... For if we did not need one another's help, what society or reverence or order...

29. i, 4. See also i, 35, where Aristotle and Aquinas are cited in support of this position. See Friedrich's commentary, "Introduction," p. lx.

would there be?"³⁰ Given a situation in which each man is dependent on all his fellow men, the idea of a "purely self-regarding action" does not make sense.

Consequent upon this interpretation of social life, Althusius identifies as the characteristic and proper social action, the act of sharing: communicatio. It is defined as the act whereby the members "give to the whole the things they have that promote a fitting life as regards both body and soul, and in turn are recipients of the same in this mutual participation."³¹ The idea of mutual need produces

30. See i, 26; i, 3-4; vii, 13 ff. The household and the school both serve the purpose of turning out members trained to perform social functions, i, 27. The only difference between public and private activity is found in the directness and immediacy of their relations to the common good. The hierarchic divisions of social life are based on the principle that even private economic activity has a public function, ii, 26: "How could mankind be supplied with victuals and other conveniences of the body, were it not that so many arts (economic) serve us?" The function of the Censors stress the fact that even the private moral life of the individual has social importance. For the Censors regulate those aspects of life that are not suited to regulation by law but which are, nevertheless, socially important. xxx, 1, indicates that virtue and vice have public significance; see also, xxx, 5,7,12-23; xxxviii, 9.

31. i, 6. Thus in i, 3, we find that: "no man is of himself autarkes or sufficiently and adequately endowed by nature for a life lacking in nothing," and, vi, 15: "The mutual sharing of the citizens of the same city for the sake of autarkeian and symbiosin is concerned with good, works, justice and mutual harmony." And the explanation is given: "The city comes into existence because no one has everything of himself, but rather needs many things.... For since men need many things which no individual is able to get by himself, a number assemble in one place to offer one another the mutual aid of life." The numerous passages in which

the concept of society as a network of interdependencies that necessitates cooperative action based on an interest common to the group. The ultimate need is that of self-realization, and it is to this objective that social action is ultimately directed.³² Thus out of the idea of society as the natural product of the needs of man, Althusius develops the concept of a cooperative society. The significant thing in social life is not that all goals are personal (although they are), but that all goals must be sought in

Althusius identifies the unity of a pluralistic society as deriving from the integration of ends, expresses this idea: i, 4; ii, 17,27; vii, 13; xv, 3. Mesnard, L'Essor, p. 579 says: "La communicatio c'est... le mis en commun, la circulation de la vie sociale entre les symbiotiques, ce que les anglais appellent l'intercourse, Durkheim la densite sociale." See Reinhold Niebuhr, Moral Man and Immoral Society (N.Y., 1932), pp. 196-197.

32. Sharing has two objectives: (1) basic acquisition of the goods that constitute the good life, and (2) contribution to the process of governing the society. We are here concerned with the former. So vital is communicatio for membership that Althusius holds that a man in the poorhouse is not a member of society; he makes no contribution to it, xxx, 15. Nor are beggars members, Ibid. Wolf, Grosse Rechtsdenker, p. 14, agrees that sharing establishes consociation. Althusius accepts the ideas of Aristotle on this point. See the Politics, Bk. I, ch. 1, 1252b, and Bk. II, ch. 1, 1260b. This seems to be the basic motive behind the evolution of social groups from the family through the state. Each group finds itself inadequate and coalesces with others for the sake of autarchy or self sufficiency. iv, 3, the Platonic explanation of the origin of cities is accepted. vi, 16, involves the same idea. The refinement of coordination is gotten by a division of effort in the act of ruling, which establishes the best as the governors. viii, 8: "Civil authorities are those that maintain the just life in the consociation and the provincial symbiosis. Whence it includes everything touching on the enjoyment of the social life."

cooperation with other men; not that men compete for values (although they do) but that all values must be acquired by cooperative actions by mutual exchange. Thus man's inherent drive for self-realization leads him to the symbiotic life and ultimately to its mature and complete form in the state. Because of it he constantly widens the area of his social contacts until he includes within the bounds of his society every element necessary for the full life. Because of it, also, he constantly refines the quality and coordinates the activity of these contacts so as to derive from them the maximum benefits possible.³³

But it is men who engage in the activity of sharing, and this fact introduces us to the next quality of social life: communio or partnership in mind and heart.³⁴ It is the basic psychological condition necessary for sharing. Indeed, it is the social life considered as a static relational complex, for it involves the union of all on the basis of

33. As Althusius puts it, vi, 40: "For citizens enjoy the same laws, the same religion ... not insofar as each individual is similar to each, but insofar as all are similar to all." See Friedrich, "Introduction," p. lxxiii.

34. The interpretation of MacIver, Community, ch. 1, expresses the idea of Althusius well. The community, considered statically is a set of psychic relations. Althusius does not neglect the concept of end and purpose as an integrating element. But the end of the group exists as itself a psychic consensus about purpose. One must debate Rommen's contention, The State, pp. 36 ff, that the "relations" interpretation of social union is incompatible with the "ends" interpretation.

intellectual and volitional harmony as regards a common goal. It is the fundamental element in social life, and a prerequisite for the cooperative action whereby men achieve self-realization. Althusius argues from the nature of the sharing process that it can occur among men only when they are united by an intellectual harmony. Before values, either material or spiritual, are shared, there must be agreement among the partners in the process on what is good and what the good is, since it is only then that a norm of valuation can be used to establish the value of the various elements involved in the process.³⁵ Without a common value system the sharing process cannot, moreover, be directed to a common goal. The fact of interdependence forces upon man contacts and transactions with his fellow men. It is, of course, possible for men with different value structures to exchange things among themselves; but such a situation does

35. xvi, 3: "Because of this a republic is usually compared to the members of a human body, who, united and depending on one another, fulfill most precisely the office and duty imposed on them by nature. And through mutual help and aid they unite in incredible agreement and amity for the welfare of the whole body. If they were to disagree among themselves, they would not offer mutual works, but would abandon their duties, and the destruction of the body would necessarily follow." For similar expressions, see ii, 9; iv, 23; xxvii, 56. The agreement Althusius wants is about basic values. Within the society and concerning the application of values there can and ought to be differences of opinion, xxxvii, 66. But dissension in basic matters is a fundamental evil in the community, xxxvi, 45 and xxxi, "On the Preservation of Harmony."

not fall within the concept of symbiosis, because in it men are not helping one another to achieve a common goal, but are using one another for their own purposes. Althusius seems to be convinced, as we have pointed out, that such a situation inevitably collapses into anarchy.³⁶ His argument on this point is fairly involved since it does not pass directly from the idea of sharing to that of consensus. The concept of law as the ordering element in sharing intervenes. The immediate need involved in the sharing that arises from interdependence is that of order. To be operative, sharing must involve cooperative action and co-ordinated action.³⁷ And before a multitude can engage in this many sided social action, the co-ordination must be determined. This pre-determination of the rules of sharing

36. Krabbe, Modern Idea of the State, develops this idea in the Althusian sense, as does Sebastian De Grazia, The Political Community, A Study of Anomie (Chicago, 1948) For Krabbe, see pp. 69 ff., and the comments in the translators' Preface, p. lxxi. In the Politica, i, 25; ii, 7: "Agreement is the act whereby the mind and heart of the united members is made one: wishing, doing and rejecting the same thing, for the common good of those who are united." And, 9: "It is called a mutual harmony; no society or friendship can exist at all without it.... By concord small things grow, by discord, great things fall to ruin.... Livy tells us that nothing is stronger for the protection of the republic than a comrade in agreement, and nothing more dangerous for its overthrow than a comrade in disagreement." See xix, 49, and the innumerable places in which he holds that disagreement is the chief evil in a republic, and that license destroys society.

37. It must be remembered that the good sought by social life is essentially one which can be achieved only by cooperative action. The individual is not sufficient of himself to achieve it.

is law. The factor of consensus becomes significant in the law-making process, which from this point of view is simply the sharing process pre-determined. And it is as a necessary basis for law-making that Althusius develops the concept of consensus. It is important from two related points of view: without basic consensus, (1) agreement about law is impossible, and (2) there will be no sense of obligation to obey the law. In either event there is anarchy. In this way, therefore, Althusius argues that since symbiosis requires law for its existence, and since law, as distinct from force or fear, is possible only in a consensus society, therefore symbiotic union has an essential need for union of minds. It should be remembered that Althusius does not say the relations of symbiosis are the only ones that can exist among men. He says they are the only ones within which man can remain free and moral, the only ones that meet the requirements of social purpose.

Consensus, however, is not the only bond constitutive of union and necessary for sharing. Althusius holds that fraternity is equally important.³⁸ In the first place it, along with the virtues of temperance and justice are

38. iv, 23: "Mutual and reciprocal benevolence consists in the affection and love of colleague for colleague, with the harmony whereby the colleagues desire and reject the same things for the common good without discord. This benevolence is nourished, developed and conserved by banquets, constant contacts and public feasts." The Platonic influence is obvious. See the Laws, I, 639; vi, 780, viii.

necessary to enable the dictates of reason to overcome the effects of man's natural tendency to place private above common good.³⁹ Fraternity instills in the citizen an interest in the well-being of his fellow citizens and a desire to serve it. Fraternity, however, plays a more basic role than this of supporting the decisions of reason. It is co-equal with consensus as a constitutive bond of social life. "Not arms but benevolence and charity should be its (the city's) walls."⁴⁰ "Without this agreement and mutual harmony, no society or friendship can exist at all."⁴¹ For Althusius, like the many writers who work out from the logic of a "need" basis of social life, also stresses the element of fraternity. Aristotle's treatment of friendship as the basis of social life, under the form of a "love

39. Friedrich, "Introduction," p. lxxii, detects this as an important idea in the Politica. Niebuhr expresses the general idea that good will is necessary for justice. See his Moral Man and Immoral Society, p. 258. Althusius is quite aware of the tendency of man to sacrifice another's good for his own, xxv, 66: "The desire of one's own good is inborn in everyone so that each pursues it with great intensity, and avoids burdens and inconveniences or tries to shift them to others. This devotion to one's own good takes various and diverse forms following upon the diverse temperaments and desires of man." One might note here that Gerbrandy thinks the many harsh things Althusius says about the people is said of the people outside symbiotic life, National...Stability, pp. 28-29.

40. vi, 37.

41. The citizen must love the republic as well as his fellow citizens, vii, 29. xxxi indicates how basic this element is.

of utility," indicates the relations between the two ideas.⁴² And the brilliant, though inconclusive elaboration by Plato, in the Lysis, of friendship as originating in need, indicates that the idea of it as a constitutive element of social union derives immediately from the idea of need as the basis of social intercourse.⁴³ This suggests that the social process is based on political friendship directed by an intellectual consensus that gives order to it. In Althusius the idea of fraternity is tied up with the Christian idea of charity, i.e., with the love of one's neighbor for his own sake.⁴⁴ This tends to obscure the analysis of fraternity in the Politica, so that the Greek awareness of the utilitarian basis of the relationship between need and fraternity is not developed so explicitly. The relationship is seen, but is expressed in the Christian concept of a

42. Nich. Ethics, Bks. VIII-X. The Politica, ii, 14, indicates that the nature of the friendship may change as between family and state groups, suggesting the possibility of a "political friendship" in the state.

43. i, 26: "For this reason, God wished to instruct and teach men through men not angels. For the same reason God distributed his gifts unevenly among men.... Therefore God willed that one should need the aid and work of another in order that friendship should bind each and all." Justice and love are equated in iii, 21; vi, 28; viii, 8. In vi, 35, however, they are distinguished.

44. His references to fraternity are always accompanied by citations from scripture to illustrate his point. See i, 22: "The apostle who reminds us that we must seek and increase the advantages of our neighbor to such an extent that we ought willingly to give up our right of avoiding a great evil in favor of a greater good of another."

willingness to help others. The idea of a desire to get from another the things one needs is left unstressed. However, the general idea of mutuality in his treatment indicates that the idea of getting as well as of giving is involved.

Friedrich, though quite right in saying that Althusius identifies an objective basis for political life that precedes all thinking and willing in the political order, incorrectly interprets the meaning of the family group when he equates it with the "biological basis of political life," and suggests that this is the objective basis Althusius means.⁴⁵ The color of truth is found in this interpretation insofar as Althusius traces the historical evolution of the state from the family through the tribe and city and finally to the state.⁴⁶ But it is not the biological factor so much as the

45. "Introduction," p. lxxi. I interpret Friedrich as saying something very similar to Hume on this point. See the latter's Essay on Human Nature, Bk. III, sect. ii. And not at all something similar to what Aristotle says in his Eudemian Ethics, 1242a, or in his Politics, Bk. I, ch. ii. In the former work, Aristotle identifies the family as the source of friendship, in the latter his approach resembles that of the "seed bed" idea found in Althusius. In both writers, the state "grows" from the family in the metaphysical rather than the biological sense. For the concept of nature as growth, see Aristotle, Physics, Bk. II, ch. i. In general Althusius is an intellectualist. So much so that despite the general agreement that can be found between the Politica and a book like Krabbe's Modern Idea of the State, still one must insist that Althusius would not accept Krabbe's idea of the people's "sense of right," as a norm because it smacks too much of Hume's "moral sentiment."

46. I, 27; iv, 3; xxxix, 84.

psychological one that makes the family the basis of political life. The general basis of all free political action is a communion or partnership in living that stems from shared beliefs, fraternity and temperance.⁴⁷ The function of the family as the "seed bed" of all other groups derives primarily from the fact that in the family the qualities of shared belief and fraternity spring up spontaneously and rest on the bond of kinship.⁴⁸ The stress is on the

47. Althusius insists in applying the term "pactum" even to the family, v.g., ii, 2: "The simple and private consociation (the family) is that in which the society and symbiosis of life is entered into by a special agreement of a number of individuals.... Such a consociation can rightly be called the first and all others be said to rise from it." And he continues, ii, 3: "From this agreement comes the private and particular union." More definitely, ii, 14: "The private natural symbiotic consociation is that in which in answer to a natural affection and necessity, husband and wife, blood relatives and the wider in-law group agree to a symbiotic union and partnership among themselves.... Therefore it is rightly said to constitute the most intimate society, the closest friendship and union and the strictest necessity, the seed bed of all symbiotic consociation." (Italics added.) Friendship, union and necessity are the qualities the family produces. Mesnard, L'Essor, p. 585, says he agrees with Friedrich on this point. But his citation of Friedrich here indicates that he does not fully understand what Friedrich is saying. iii, 37, the family is the basic educative institution. T.S. Eliot's interesting analysis of the social function of the family in his Notes On the Definition of Culture, (N.Y., 1949), ch. iii, casts some light on Althusius even though the latter clearly rejects the identification of elite with class or family.

48. De Grazia, Political Community, and MacIver, The Web of Government, both point out the vital function of the family for propagating the shared beliefs and intellectual consensus of the community. That it is the school of fraternity is quite evident.

qualities rather than the blood bond.⁴⁹ Friedrich's interpretation here is consistent with his previous one that Althusius teaches a Calvinistic determinism. Given such determinism, social union obviously cannot be based on the free exercise of will necessary for the fraternal union of friendship.

As a result of these two interpretations, Friedrich has placed Althusius in a context that, surprisingly, smacks of the nineteenth century: a context of biological and mechanistic determinism. Whereas Althusius really approaches the problem of the objective basis of political life as a metaphysician in the Medieval, and as a psychologist in the Platonic tradition. Gierke has drawn a distinction that clarifies Althusius' purpose at this point: the distinction between a natural law that directs human action on the basis of human nature, and a natural law of social life that determines the structure of symbiosis on the basis of the nature of symbiosis. Friedrich's deterministic reading of Althusius on this point misses Althusius' point that the symbiotic life determines choice the same way any necessary means does.

49. In ii, the chapter on the private consociations, we have the clearest definitions of consensus and fraternity and their function in political life. In iii, 42 it is evident that the family is a political consociation: "But entirely different from this (economic union) is the consociation among spouses and blood relations, a thing that is purely political, symbiotic and general, consisting in mutual sharing of works, goods, rights and advice."

Consensus and fraternity, however, are not the only elements that emerge naturally from the concept of communication. In addition, there is a natural pluralistic social structure.⁵⁰ Althusius bases the structure on the simple fact that the interests of man harmonize and integrate on various levels. This fact is expressed in the historical and logical evolution of successive social groupings.⁵¹ It becomes politically significant when men, realizing that they have evolved a new stage of interdependence, become aware of the need for a new authority to regulate it.⁵² But the point at issue here is not structure of authority,

50. i, 19, 21, law and sharing differ according to the requirements of each kind of group. Althusius' idea is that each group has a nature of its own which is determined by objective factors rather than subjective will. The citizens recognize these factors. The contractual element expresses the recognition; it does not seem to indicate any control over basic form. See xxxviii, 40, 125; xviii, 21-22, for illustrations of this point. Gierke, Development, p. 94, makes this point for the period in which Althusius wrote. Bosanquet, Metaphysical Theory of the State, p. 85, makes it for the contract theory generally.

51. v, 1: "For human society advances by definite gradation and progression from the private to the public societies." Although Althusius usually puts this statement in an historical context, the argument is not primarily one from history. As man advances through time he expands his horizons, and each new expansion requires a new group integration. See the analysis in the introductory essay of the translators of Krabbe, Modern Idea of the State, p. lkv ff.

52. The people who establish authority by the pactum are already in a union of some kind. iii, 1, the kin groups are already united; iv, 1: "men already assembled together, establish...one body." v, 1, 4, men are already assembled, symbiotic law gives them order.

but rather the natural structural form symbiotic union takes.⁵³
 The former idea will occupy the last part of this chapter.
 At present it is necessary to develop the idea that the structure of pluralism is presented by Althusius not simply as a desirable political structure, but as a necessary consequence of the symbiotic principles of mutual need and the integration of interests.⁵⁴ The fundamental consideration on which the configuration depends is that of the integration of private and common interests, or the principle that every interest must be sought in common with other men having the same or complementary interests. The six levels of group life Althusius identifies correspond to his analysis of the six points at which human interests reach objective integration. Thus Althusius' pluralism is based on the assumption of the primacy of interest in social action, expressed in the Politica as the central determining function of purpose in the

53. It must always be remembered that for Althusius, the structure of authority is a consequence of social structure.

54. Pluralism is one of the facta the political scientist deals with. Watkins expresses the idea in his State as a Concept, p. 58: "As a political theory the fundamental virtue of pluralism lay in its emphasis upon the unrealistic nature of the legal concept of sovereignty.... This came as a valuable reaction against a widespread but unwarranted tendency on the part of political scientists to look upon social fact in terms of legal fiction.... Wholesomely setting themselves in opposition to this tendency toward legalistic unrealism in the social sciences (the concession theory of corporations) the pluralists maintained that the activities of associations are a basic social phenomenon."

formation of groups. Thus he distinguishes each group by the end or common good proper to it, i.e., by the interests whose integration and ordering is the purpose of the particular civil society.⁵⁵ There are certain points on which all groups are the same. Each is a symbiosis. Each, consequently, possesses authority to sustain itself.⁵⁶ Ultimately the only clear difference among them is found in the degree to which each is capable of offering man the full life. Thus the private groups (family and collegium) fulfill only partial aspects of man's life.⁵⁷ And the public groups (city, province and state) offer him the opportunity of the full life. Among the latter groups, the only difference seems to be the degree of autarchy or sufficiency each

55. ii, 4, presents Althusius' concept. Mesnard, Di'Essor, p. 589 ff. gives an extended description of the pluralistic structure. He remarks that each group level has its own lines of cleavage. That is, the structure is not strictly pyramidal. Althusius adds nothing to the structural outline of the Middle Ages, his creativeness is expressed in his interpretation of the structure. See Gerbrandy, National... Stability, pp. 9, 24-25 for comments on Althusius, and Gierke, Political Theories, pp. 22 ff. for the Medieval Theory.

56. This accounts for the similarity of comment on the pactum in the opening treatment of each new group.

57. The family and collegium integrate parallel interests, while the public groups integrate convergent ones. For the private consociations Althusius uses a restrictive term when indicating the purpose of union. ii, 2: "ad quid peculiare inter se commune habendum." iv, 4: the same "ad quid." But for the public group, v, 1, the object is "ad politeuma constituendum."

achieves.⁵⁸

The psychic bonds described earlier and this pluralistic structure supplement one another in that consensus and fraternity develop and are operative only within a pluralistic sub-division of social contacts. Interests, whether of individuals or groups, are the foundation of consensus and fraternity, the things out of which psychic bonds come and upon which they rest. This involves, of course, the doctrine of the essential objective harmony of interests. And this doctrine is developed in the Politica as an objective analysis of the sharing process in a need context of interpretation.⁵⁹ As such it is based on a

58. Thus the city is a republic in microcosm. vi, 16: "And just as a man, so also a city or small republic, is called a microkosmos. For in it, the common activities pertaining to the city are carried on and handled almost the same way as in the kingdom and province." See also, v, 4.

59. Althusius is clear that even economic interests are objectively interdependent. See his approval of Cicero, ii, 26-27: "There is hardly one (economic interest) that could be carried on without the aid and reciprocal service of the other." This is quite different from the interpretation of Franz Oppenheimer, Karl Marx, or even Wright, in which the objects of need are precisely the cause of conflict. Althusius' constant use of the analogy of the body, as illustrative of the integration of social life, stresses the non-competitive character of that life. xvii, 13, and viii, 48 offer good examples. Michels' observation that not even materialism produces a competitive theory of social life unless it is given an apocalyptic purpose, points up the fact that in Althusius, the concept of end is subject always to that of a determining and controlling nature. Roberto Michels' First Lectures in Political Sociology, tr. Alfred De Grazia (Minn., 1949).

non-personal examination of the metaphysics of society. As Althusius develops it, the doctrine does not lead however, even in the economic sphere, to the conclusions Adam Smith was to reach, precisely because Althusius could not accept the idea of the "invisible hand."⁶⁰ Althusius believed, indeed, that if each man does what he can according to his talents, there will exist in society all the elements necessary for a full life.⁶¹ But this does not mean that these elements will automatically integrate. For all human activity is carried on and oriented to its goal by conscious human purpose.⁶² So that it is possible for men to come into conflict in the pursuit of interests, not because their interests are inherently contradictory, but because at times they are pursued under the influence of passion or

60. The "invisible hand" was developed precisely to avoid the planning of the mercantile state: William A. Orton, The Liberal Tradition (New Haven, 1945), pp. 115 ff. It admits the necessity of integration but denies that a conscious effort need be directed to this end. Althusius insists that it is supremely necessary to integrate consciously. He has, if you will, the idea of the planned state. But the planning is in favor of moral development. This purpose distinguishes him from the mercantilists. See Heckscher, Mercantilism, Vol. I, for an analysis of the mercantilist objectives; see also, P.W. Buck, The Politics of Mercantilism (N.Y., 1942).

61. This idea includes not only the idea of following a private profession, but also that of a functional division of effort as regards the activity of governing. The men of talent are always present.

62. Althusius is aware of this, vii, 13; xviii, 115.

misunderstanding.⁶³ There is moreover always the possibility that men have different ideas of what their interests are or how they can best be realized. Therefore Althusius relates the development of psychic bonds to the ascending levels of group life. The idea is that the smaller the group the more intense the bonds developed.⁶⁴ Althusius, a shrewd observer of men, had no illusions about the disruptive and competitive character the interests of men may assume on occasion. But he was also clear that a serious attempt to discover the conditions of social union cannot be based on a principle of analysis that gives primary significance to the disruptive and competitive factors of life.⁶⁵ The basic postulate of need precludes any theory of the competitive character of social life, for

63. In the Politica, authority distributes bona. But the bona are essentially spiritual and therefore infinitely distributable. If the bona were limited, i.e., material then the conflict theory would become possible. James Mill in his essay entitled Government spells out most clearly the logical implications of the idea of the distribution of a limited bonum.

64. See the idea of the family as the seed bed of symbiosis developed above. Althusius also develops the idea that the greater the size of the group, the greater the difficulties of order and freedom. See v, 4; vi, 7; ix, 90; xxiii, 14; xxiv, 14. In Althusius one discovers the idea of Aristotle that the size of the group affects the kind of the bond in the group.

65. As Lindsay remarks, Modern Democratic State, p. 42: "The conflict theory of society is not a theory of society but a theory of social dissolution."

it involves essentially the idea of cooperative action.⁶⁶ To solve the problem of conflict arising from passion or misunderstanding, he depends on the factor of pluralistic organization in an atmosphere of consensus. The main supposition is that men will cooperate when they see that they must if they are to realize any of their interests. Thus Althusius does not fear to base his society on cooperative action because he is convinced that the selfishness the competitive theory attempts to neutralize can be ordered more positively by an organization that makes accessible to the normal mind the objective fact that the service to the common interest is a matter of selfish interest.⁶⁷ This idea can be realistically implemented only by an organization based on the objective integrations of human interests and supported by the virtues necessary for the discussion

66. The competitive theory of the state derives largely from the idea that the state exists to moderate and control the competitive forces of society, thus in effect denying that competition is an unmixed good. Or it sees the state as preserving the factors that insure economic competition, thus asserting that competition is either a supreme good or a necessary means to it. In Althusius, the state exists to spell out the recognitions of its citizens.

67. In vi, 17-29, Althusius suggests that service to the common good is best achieved through the efficient and orderly discharge of private action. "Therefore, in this public function, the many and diverse private activities and their exercise...achieve harmony and serve the well-being of the entire provincial body.... Whence public duties control private duties which they correct, delimit, enlarge and direct, and they refer private activities to the common good and use of all the symbiotic groups in the province."

situation through which such integration can be discovered.⁶⁸ And this is the secret of the six level group life Althusius proposes. Among the six levels there is scarcely an interest of man that does not get involved in some group interest.

Thus behind the ascending levels of social life lies the idea that each level must achieve within the limits of its own activity a successful integration of the interests it encompasses.⁶⁹ The function of authority on each level

68. vii, 13, men must work out integration through discussion. As we see from xxiii, Althusius does not postulate the perfectly rational man in this process, although he is quite certain that it cannot operate unless the participants possess certain virtues such as temperance and fraternity, which make discussion possible. The concept of "enlightened self interest" is latent in Althusius. His development of it, however, is based on the premise that the common interest is a personal interest of each member of the group. There is no principle of egoism in his theory as there is, v.g. in Machiavelli's.

69. Each group is a persona, ii, 8; vi, 6. And there is a separate contractus for each level, i, 19; vi, 15; ix, 7. Mesnard, L'Essor, p. 582, says: "C'est cette synergie décidée dans l'unanimité des volontés représentée par la loi, qui permet de considérer désormais toute communauté symbiotique comme une personne morale." Friedrich, "Introduction," p. xc, charges Althusius with the "trick" of vacillating in his discussion from the idea of the symbiotic group to that of the people as a mass. The fact is that to define the state in terms of sub-groups does not deny that the individuals are members of the state. It only insists that they are so through the instrumentality of groups. Althusius is very clear about this. See ix, 5: "But these individual citizens and families or collegia are not members of the realm, just as a plank and stones are not considered parts of a house. But cities, large towns and provinces are, just as prow, poop and keel are parts of a ship and roof, walls and floor are essential parts of a house." In other words, it all depends on the point of view one uses in considering the state.

is to order the action that occurs on that level. To this end it is first necessary to integrate the interests involved in and motivating the action. Therefore Althusius envisages symbiotic life being realized through an ascending series of integrations rather than through an unarticulated mass of individuals who somehow succeed in preserving fraternity, consensus and order despite a social life in which various orders of interest and purpose simultaneously clamor for recognition.⁷⁰ The state, for instance, is not the area where all interests achieve integration on all levels, but the area where only those interests common to provinces are integrated. In Althusius' society, therefore, the individual does not have to handle a multitude of interests simultaneously. The problem of their integration is solved piecemeal, each set of interests being integrated immediately by a separate political organization on the level where such integration is most natural and obvious.

Thus, insofar as the harmony of interests is concerned, we find that on the subjective side, the structure consequent upon this grouping of interests gives the greatest possible opportunity for men to see precisely where their interests

70. The best modern statement of this kind of thinking is found in Mary Follett, Creative Experience (N.Y., 1930) and in her earlier book, The New State (N.Y., 1918). Although Althusius' conception of the structure of the discussion process is not exactly the same as Follett's, the principle of pluralistic integration in both writers is the same.

harmonize, thus making cooperation less difficult of achievement. It also offers the most fertile soil for the development of fraternal relations, in that the individual is faced with a series of groups in the more intimate of which he integrates his action and aims with those of men he meets and knows. The impersonal element is kept at a minimum, and is not allowed to permeate the total social life of man. The logic of total need, it is true, submerges the entire life of man in social life. But the psychology of the sharing process and the inherent structure of that life rescues him from the terrible ordeal of facing the totality of society alone, and spares him the humanly impossible task of grasping in one movement of thought and emotion the totality of his social relations.⁷¹ In the final analysis, therefore, the pluralistic structure Althusius identifies derives in equal proportions from the idea of the objective configuration of

71. Mesnard, L'Essor, p. 586, remarks on this: "Ce n'est pas comme chez Rousseau une coordination volontaire des individus, qui les transforme en citoyens: le plan politique est préparé de longue date par une régulière élaboration sociale, le citoyen n'est pas citoyen comme individu, mais comme symbiote ayant fait ses preuves dans les sociétés primaires." He thinks that in this Althusius is consciously following the ancient Greek system of demes and gens. But one need not look beyond Althusius' own time to find the system in the Medieval City-State. Herman Finer, Representative Government and a Parliament of Industry (London, 1923) points out repeatedly that one of the problems of integrating interests is first to get them stated and properly known. This point has become a common place in much of the latest writing on corporative based representative systems.

interdependent interests and the idea of the psychological needs of the human mind attempting to find its way rationally through the welter of interests within which every man lives.

Thus far in the analysis of symbiosis, we have avoided the concept of authority and restricted our exposé to the articulation of human relations as they necessarily follow from the social facts of need and interdependence. But after following the logic of this fundamental situation to the above conclusions, Althusius is led by the same logic to a further conclusion: that the sharing process requires the presence of an authority in social life. His conception of authority derives immediately from the idea that it exists in response to a need of order inherent in the nature of the sharing process. His basic argument is that since sharing occurs among free agents of varying talents, functions and points of view, there must be within the society some agency empowered to determine the precise order according to which the process will be carried on.⁷² The consensus or unanimity

72. In this Althusius follows the Medieval argument that multiplicity must be ordered. See Aquinas, Summa Theologiae, I-II, 19, 10. Sir Paul Vinogradoff, Common Sense in Law, 2nd. ed. (N.Y., 1946) expresses the idea well, pp. 12-13: "If social intercourse is a requirement of man's nature, order of some kind is a necessary condition of social intercourse.... It is only when certain rules of conduct intervene to settle the normal behavior of man...that social intercourse becomes regular and continuous." Here we do not consider the question of who orders, but simply the fact that order must be established. Althusius expresses the idea frequently, I, 11: "For nothing (as Cicero says) is as suited to the need

Althusius holds to be necessary for the sharing process cannot discharge this function because it is too generalised. It can establish the principles and fundamental norms for social life but cannot regulate, without further interpretation and application, the multitudinous contacts of that life in their specific, concrete reality. For this, statutory law is necessary, a law that applies principles rather than declares them. For between the agreement about general values and the specific action that realizes them, there is room for a great deal of important difference of opinion. And authority is needed precisely to establish commonly held conclusions about these specific actions.⁷³

While Althusius supposes that a spontaneous unanimity

and condition of nature as government. For without it there can be no home, nor city, nor tribe, neither can mankind exist, nor the entire nature of things, nor the world itself." Again, xviii, 21, the presence of authority in animals shows its naturalness. And, *ibid.*, 22: "For order is necessary in all things to such an extent that the conservation and longevity of all things depends on the harmony of command and subjection, and on the harmony and equal proportion of different kinds of men. From ataxia and anarchy come confusion and calamity through which God is wont at times to punish this consociation of which we speak." See also, i, 35; xvii, 17; xx, 6. The basic argument is in ix.

73. Althusius' discussion of law is characterized by a pre-occupation with this problem of passing from the lex communia or natural law to the lex propria or civil law. xxi, 19-34, the basic difficulty is that natural law is not sufficient of itself to establish order since it is by nature generalised. It must be applied and in the application interpreted and modified. See Jacques Maritain, Man and the State (Chicago, 1951), pp. 84 ff., for a discussion of this problem in a manner that would be acceptable to Althusius.

is possible concerning principles and basic values, he sees that one cannot expect such agreement in the practical order of action where the question is not, "what is true or good?" but rather, "what should be done?"⁷⁴ There is in Althusius' reasoning on this point, the argument of Simon that unanimity cannot be used to solve the problem of order in social life primarily because spontaneous unanimity cannot be realized when there is a practical decision under consideration.⁷⁵ Simon's argument centers about the idea that practical judgments are incommunicable in the sense that since they cannot be proven adequately, the discussion as to their truth must continue indefinitely unless a conclusion is reached on

74. xviii, 16: "For this complex and multitude of various and diverse affairs which the society of so many cities and provinces involves, cannot be properly cared for and governed by the citizens singly or as a whole. Partnership also dissolves before discord by which even great things are destroyed and fall into ruin. No one can obey a multitude when it disagrees with itself and is influenced by different opinions." Even in the Diet unanimity is impossible, viii, 3: "Moreover, plans and advice cannot achieve any uniformity in such a great diversity of various men, of life and diversities of occupation." i, 35: "Nor can such diverse elements continue in the world if each were to desire to accomplish its work by itself without order and morality. And if power were to impinge upon equal power, it would destroy everything by continuous and unresolved discord.... And as long as each one thinks he can live according to his own will, he would avoid the rule of discipline." See also, xviii, 17, 22.

75. The Nature and Function of Authority (Milwaukee, 1946) The same idea is developed in Krabbe, Modern Idea of the State, p. 71, and MacIver, The Modern State, p. 155. The characteristic feature of the argument is that when applied with complete logic, it establishes the origin of authority apart from any consideration of evil tendencies in man.

some basis other than a common agreement as to their truth.⁷⁶ Althusius' awareness of this condition does not possess the degree of reflective analysis which Simon has developed. But his idea of authority is influenced by the observation that as a matter of fact, "if all are equal and each one arbitrarily wishes to rule the rest...discord will easily result."⁷⁷ Therefore, he concludes, someone must intervene whose function it is to get the "most pleasant and fitting harmony" that results when each one acts in conformity with a common norm of action.⁷⁸ Unanimity is required on basic values, on the question of the general structure of government, and in decisions that affect members in their individual capacity. But where there is a question of a decision affecting

76. This does not exclude the possibility of an accidental unanimity being reached. The question at issue is one of principle. As Aquinas points out, Summa Theologiae, I-II, 94,4: "In speculativis est eadem veritas apud omnes tam in principibus quam in conclusionibus.... In operativis autem non est eadem veritas vel rectitudo practica apud omnes quantum ad propria."

77. I, 37.

78. For Althusius, the decision making processes are ordered to the task of reaching conclusions that oblige, xxxiii, 18. This position distinguishes Althusius from the natural rights individualists. For their position ultimately depends on unanimity as the basis of obedience. As such it sidesteps the entire problem of the function of authority. In it, law is reduced to the coercive elements that accompany social decisions. A further difference between the two positions may be found in Althusius' awareness that law making is not the same as debating the truth of an abstract proposition. The first process is under a compulsion to reach conclusions which is not found in the academic process. The naive natural right thinkers, with their single minded defense of the right to reject, suppose that law never reaches binding conclusions.

the group in its corporate capacity, the decision may be reached by something less than unanimity.⁷⁹ It is true that in discussing voting procedures, Althusius does not seem to make any distinction between majority and unanimous decisions, saying indifferently that the matter should be settled by either majority or unanimous determination. This indicates only that he has not become aware reflectively of a distinction he himself makes. For the unanimity on which the political order itself rests is quite different from that expressed in statutory law.⁸⁰ In the former,

79. In iv, 18-27, one finds the clearest statement of this: "The majority of the entire group controls the minority by its vote in common things.... The reason is that in this case what is common is not mine.... In common matters that relate to all the members individually or to the individual members, a majority does not carry the day.... The reason is that in this case what is common is also mine." We have here an approach to the idea developed so clearly by Rousseau, that law must be general. Althusius' provisions for voting in the Diet express the same idea, xxxiii, 62. See Gierke, Natural Law, I, 69, and II, 275, note 26.

80. Althusius sees, though not as clearly as Rousseau, that every society must achieve unanimity on practical matters apart from law, "at least once." Social Contract, Bk. I, ch. v. Althusius' interpretation of the pactum involves this idea in that the agreement, while prior to authority, establishes the government. See iv, 1; xxix, 9, and Gierke, Natural Law, II, 246, note 72. Maritain, Man and the State, p. 112, makes a distinction between consensus in the practical and in the theoretical orders that illuminates this problem. The same distinction is made by Simon, Philosophy of Democratic Government, ch. 1. Unanimity is possible in practical matters only when the means to be chosen by the people are obviously unique. Thus the decision to have government, is practical, but there are no alternatives, so spontaneous unanimity is possible. Aquinas identifies the central point in his On Kingship, Bk. I, ch. 1., government is necessary in all cases wherein "this or that course may be adopted."

it is a result of individual assent and agreement. In the latter it is the result of a majority decision in which a disagreeing minority concurs.⁸¹ There is this important distinction between the two: that the basic unanimity is reached apart from authority, while the latter is achieved precisely through the exercise of authority.⁸² And

81. When the minority concurs but disagrees, Althusius considers it, evidently, a form of unanimity. He uses the phrase "to which the minority assented" a number of times. See xxxiii, 71, 115. Behind this lies the idea expressed by MacIver, The Modern State, p. 199: "The exercise of the right to vote is an implied acceptance of the general order of the state." Althusius assumes that given the relevant situation and the participation of all in the decision making process, there will never be a decision by the majority that will be absolutely unacceptable to the minority. His concern over the preservation of these two conditions is based on an insight into their function of making a free decision making process possible. Lowell's observation, Public Opinion, p. 34, describes the reason for his concern over homogeneity: "It is indeed largely a perception of the need of homogeneity as a basis for popular government, and the public opinion on which it rests, that justifies democracies in resisting the influence of great numbers of widely different races."

82. Although a part concludes the whole we do not wish to be understood as interpreting Althusius as a numerical majoritarian. Like Rousseau, he never commits himself on this point, probably because, as Mary Follett points out in The New State, a writer who thinks in terms of agreement through discussion will not be pre-occupied with the problem of majority rule. Certainly voting by estates is incompatible with numerical majority rule. Moreover, Althusius is not sure that any numerical basis can be fixed for some decisions: viii, 28, in religious matters, a vote does not determine truth. v, 66, in the city, at times, votes are weighed as well as counted. xxxiii, 65, he seems to approve of weighing votes in the Diet on occasion. Wolf's observation, Grosse Rechtsdenker, p. 198: "Niemand hat tiefer, wie er die Macht der blossen Majoritaet oder gar der Masse veraechtet," is evidently based on Althusius' insistence on unanimity in fundamental matters. It over-states Althusius position entirely.

it would seem that Althusius was aware of this problem of agreement in practical matters and of the consequent need for authority to reach it. Thus the need for authority in society derives ultimately not from any defect in man, but from the need for order in circumstances where such order cannot be determined by spontaneous agreement.

This authority, so necessary for the social order, resides radically and primarily in the whole people. One is struck by the importance Althusius attaches to the idea of a sovereignty that is popular. If the people are not sovereign, they cannot be said to constitute a society, because sovereignty is itself the bond of society.⁸³ It is

83. Politica, p. 5: "These so called rights of sovereignty are the proper attributes of the realm to such an extent that they belong to it alone and are its vital spirit, soul, heart and life. When they are present the republic lives; when they are taken away, it perishes and disappears, and must be judged unworthy of the name." Again, ix, 16: "Therefore as long as this right (of sovereignty) flourishes in the realm and rules the political body, so long does it live well. When, however, it is lost, the entire symbiotic life perishes or becomes a band of robbers and evil men, or the realm breaks down into many different realms or provinces." Mesnard observes, L'Essor, p. 611: "A vrai dire ce n'est pas une souverainete mais la copropriete par les membres des biens et des droits de la consociatio." But his statement that the essential difference between Bodin and Althusius is found in the idea of sovereignty shows how casually he has examined this aspect of the ideas of both men. Their basic difference is found in their concept of the essential bond and nature of society. In Althusius this bond is communio, a human, free and moral thing. In Bodin, it is pure subjection to power based on fear and the desire for security. Gierke, Development, p. 34, says that the concept of sovereignty Althusius developed is original with him. Alfred E. Zimmern's remark that the Greek's great "objection to an absolute ruler was not that he governed badly, ...but that he kept himself to himself. To be governed by an absolute ruler took all the life

therefore inalienable in the strictest sense that even if the people wished to delegate it to a ruler they could not do so and still remain a people.⁸⁴ The meaning of such expressions and the significance of the centrality of sovereignty in the idea of group harmony becomes evident when one realizes that it is nothing more than the political conclusion to the idea of symbiotic union -- an extension of the notion of communicatio into the area of rule-making.

This transfer from symbiosis to popular sovereignty is achieved by a number of strategic ideas. Of these, that of the social contract is the most important, precisely because

out of society," reflects Althusius' real objection to the same thing. See The Greek Commonwealth, 2nd ed. (Oxford, 1915). Absolute monarchy is bad not because it results in poor government, although Althusius would argue this too, but because it does not recognize the fact that sovereignty necessarily resides in the people. The act of ruling is itself a part of communicatio and essentially a corporate act. See xix, 10, 36-37; xxiv, 49.

84. V.g., xxxiii, 122, a confederation is not a group precisely because the members do not share a common sovereignty. vii, 3, the partnership of law is a condition whereby the activities of the group in preserving social life, "are administered in behalf of the need...of the province." Also, xvii, 27, Althusius makes the interesting observation that the group can exist without fundamental law but not without sovereignty. xix, 49: "For a republic or realm can exist and be established without such laws (leges fundamentales). And this is the chief difference between these fundamental laws and the rights of sovereignty, without which latter no republic can be established and having been established, preserved or handed on to posterity." Rousseau was not original when he observed the following order of ideas: "By the social compact we have given the body political life and existence; we have now by legislation to give it movement and will." Social Contract, Bk. II, ch. vi.

it constitutes the fundamental assertion that the group is sovereign. Much that is beside the point has been written about the contract theory chiefly because the individualistic critics tend to attribute to its proponents a definition of contract they never envisaged,⁸⁵ or to interpret the concept in an ethical context they never accepted.⁸⁶ Although it is certainly true that the contract theory has been used by

85. The first error consists in giving the term "contract" a legalistic definition and then assuming that every writer who used the term must have meant this. John W. Gough, The Social Contract: A Critical Study of its Development (Oxford, 1936), does this, pp. 6, 71, 136, 174. And his conclusion is that a contractarian must necessarily be individualistic. Barker is much more cautious. In his "Introduction" to Social Contract, Essays by Locke, Hume and Rousseau, World's Classics, 511 (Oxford, 1946), p. xxx, he defines the term contract, but does not explicitly suppose that every writer must have meant the same thing by the term. In his "Introduction" to The Politics of Aristotle, pp. xlvii, ff., he says that only those who have a "pure" contract theory are individualistic, and adds that the contract theory is not incompatible with the idea that the state is natural.

86. In some writers, the definition of "contract" proceeds on the assumption that Hume's criticism of the idea in terms of his own subjectivistic theory is correct. See Hume, Treatise of Human Nature, Bk. III, sect. ii. If Hume's moral theory is correct, the contract does assume legal obligations before the legal system exists. But only if Hume is right. At any rate, to determine the meaning of "contract" in any writer, we must accept that writer's moral theory, not Hume's. Gough's definition is based on Hume; see The Social Contract, pp. 176-177. C. Vaughan, Studies in the History of Political Philosophy (N.Y., 1925) p. 12, offers a perfect example of this approach.

For general criticisms of the contract theory, see the "Introduction" of Sabine and Shephard to Krabbe, Modern Idea of the State, pp. xlvii ff., Lasak, Grammar of Politics, p. 241, Barker, Greek Political Theory, Plato and His Predecessors, 3rd ed. (London, 1947), p. 160.

individualistic thinkers,⁸⁷ it might be more generally true to say that it has been developed by social thinkers and criticised by individualistic ones. To the extent that individualism has been read into Althusius' use of the contract theory, his thought has been distorted in one of its fundamental elements.⁸⁸ As a preliminary statement of position, we might say that Althusius uses the social contract in an attempt to explain the origin of obligation, not the origin of social life, and in an attempt to get at the logical pre-suppositions of the political order.⁸⁹ If we consider the

87. See, v.g., Anton Herman-Chroust's study of the Epicurean theory, "The Origin and Meaning of the Social Compact Doctrine," and Gough's reading of the non-conformist theories in England, The Social Contract, pp. 83-88.

88. Thus the reading of Gierke is that Althusius is individualistic. See his Development, pp. 100, 105. He seems to assume that contractarianism is inherently individualistic. Sobei Mogi, The Problems of Federalism, 2 vols. (London, 1931), I, 27, makes the same reading of Althusius on the same assumption. Figgis, Studies, pp. 129, 137, makes the same reading, seemingly on the premise of Hume about social contract. Friedrich, "Introduction," p. lxxxvii, says that the contract played little part in Althusius' thought. Seemingly Friedrich reached this conclusion because he assumes contractarianism to be individualistic and he is quite aware that Althusius is not. Wolf, Grosse Rechtsdenker, p. 176, agrees with Friedrich.

89. To borrow from Barker, Political Thought in England, p. 10. in his assertion that Maine did not destroy the idea of contract by an appeal to history. See also his passage in The Study of Political Science, p. 19. In his contract theory, Althusius is attempting to get at the real relations upon which law and the legal system rests. As Mesnard remarks, p. 579, L'Essor: "Entre ceux qui ressentent les mêmes besoins vient l'établir un lien réel, qui les rend justement convives, participant à une vie commune...le pact qui l'exprime n'est que le signe d'une réalité sociale donnée;

idea of pactum or contractus in the Politica itself, we find that its meaning is almost indistinguishable from that of consensio or consensus. The difference between them is this: pactum indicates agreement insofar as it is the efficient cause of symbiotic life, while consensus indicates agreement insofar as it is a constitutive element of that life.⁹⁰ That is, considered statically, living together is a form of consensus or communio of thought and will. While considered dynamically, it is a form of communicatio or sharing whose origins are found in the original agreement or consensus to share all things in accordance with

la communion des symbiotes." Krabbe, Modern Idea of the State, p. 18, remarks: "Consequently Althusius is the first writer ...who strictly considered, does not base the authority of the sovereign and the authority of law on different foundations but considers the former as an element in the organization of the community." What Gewirth says of Marsilius of Padua is equally true of Althusius, Marsilius of Padua, I, 89: "In this conception of Marsilius and the other Aristotelians, there is no idea of a social contract in any sense which would imply either that the political association is contrary to human nature, or that man did not always find himself in some community proximately related to the state." The most profound analysis of the import of the social contract, at least as Althusius uses it, may be found in Bertram Morris, "The Substance of the Social Contract," Essays in Political Theory Presented to George H. Sabine, ed. M.R. Konvitz, A.E. Murphy (Ithica, 1948), pp. 113-129.

90. ix, 7: "The bond of this body and consociation is agreement and the reciprocal giving and receiving of trust among the members of the republic, that is, a tacit or express promise concerning the mutual sharing of things and works, of aid, counsel and the same common laws according as the utility and necessity of universal social life in the realm shall require." See also, ii, 5-7.

the basic mind of the group.⁹¹ It is not accurate to say that by the pactum a number of men agree to enter upon the social life. By the pactum, rather, a multitude of men already existing as an incoherent group by virtue of de facto mutual interdependence, agree to establish among themselves an authority with the right to direct their basic human contacts. They agree not so much to live together as to live under a common authority.⁹² This process of agreement is envisaged in terms of contract because there were no other ones available to Althusius.⁹³ The thing done is entirely pre-political

91. 1, 29: "The efficient cause of political consociation is the agreement and pact of the citizens who do the sharing; the form indeed, is the consociation achieved through mutual contribution and communication whereby political men establish and develop, prolong and conserve the fellowship of human life through koinonian." This makes it evident that the distinction between the constituting action and the constitutive element is delicate indeed.

92. Although Althusius is worlds apart from Hobbes, both agree that the sovereign is established by the social contract, and thereby it becomes the bond that holds society together. See ix, 7; v, 1; iv, 1: "That is, by common consent they reach an agreement among themselves concerning the method of rule and obedience for the utility of their group."

93. The new thing in Althusius' theory is precisely this interpretation of the contract as itself the sovereign constitutive act which in turn is itself an act of communicatio. It is this that makes sovereignty the bond of civil society, and consequently, absolutely inalienable. If it is not in the people, there is no people. Althusius discovered, long before Rousseau, the ideas contained in the Social Contract, Bk. I, chs. vi, vii; Bk. II, chs. i, ii, iv, vi. If, as is generally held, Rousseau is an individualistic thinker, the context of thought in the Politica differs in important ways from that in the Social Contract.

and non-contractarian in the legal sense of the term. To criticize it in the individualistic frame of reference either as supposing legal obligation before the legal order exists or as supposing the surrender of prior rights by the independent individual, misses the entire meaning of the term as Althusius uses it.

The meaning of the pactum emerges from Althusius' basic idea of interdependent interests. Such interdependence is expressed, it would seem, in the description of the historical and logical evolution of successive political forms.⁹⁴ At the point where men become aware of the need for establishing a new authority to regulate the new points of interdependence, Althusius' attention shifts, in accordance with his conception of political science, to a new communicatio and a new kind of union. For as he handles the pactum, it is not formally an agreement about the coordination of those interests whose interdependence constitutes the need for authority, but rather an agreement about the possessors of the authority to be established. Assuming unanimity to be excluded, it answers the question: who shall make the basic decisions? The pactum answers the question by establishing the authority. At each group level where a pactum occurs, therefore, Althusius discusses the pattern according to which the members share in the exercise of authority. This sharing is quite a

94. V.g., iv, 5; xxxix, 84.

different kind of communicatio from that which we earlier identified as the fundamental act of social life.⁹⁵ Thus far we have discussed the implications of this latter process. With the analysis of the contract theory we begin a

95. See pp. 147-168 above. Of these two levels of communicatio or sharing, Mesnard says, L'Essor, p. 580: "Cette communicatio a deux aspects, suivant qu'on la regarde du haut du groupe ou du haut de l'individu. Le premier point de vue nous la montre comme une socialization progressive des éléments de la communauté, le second comme une participation croissante des membres à la vie commune.... La première concentre et répartit pour le bien de l'Etat les ressources communes, la seconde organise la division du travail suivant les capacités de chacun, la dernière établit un statut de la vie commune et les normes légales de la coopération entre les convives." ix, 1: "The universal... consociation is that in which a number of cities and provinces bind themselves to observe, establish, exercise and defend the justice of a kingdom by mutual sharing of things, works, riches, and combined powers. For without these supports and the sharing of law, the pious and just life cannot be established, fostered and conserved in the universal symbiosis." And ibid., 7: "The object of the promise of so many different men and orders is that the separate actions of each may be referred to the utility and partnership of one republic so that subjects may be kept together with their superiors by a certain equability of law." And ibid., 12: "Such are the members of the realm. Its justice is that whereby the members of the realm are consociated and united among themselves in one body under one head. This justice is also called the right of sovereignty..." The introductory treatment of each group has similar observations, v.g. ii, 2: "The simple and private consociation is that in which the society and symbiosis of life is entered into by a special agreement of a number of individuals who are united for the purpose of holding and sharing definite things in common." i, 7, defines this sharing insofar as it is the object of political study: "The mutual sharing (koinonpaxia, as I call it) involves the goods, works and common rights by which the diverse and manifold need of each and every symbiotic is satisfied and the...self-sufficiency of human society is achieved, or the social life established and perpetuated. Whence Cicero said: a people is an assemblage of men united by agreement as to right and the mutual sharing of useful things."

a discussion of this new communicatio, the partnership in law.⁹⁶ Indeed political science as defined in the Politica is not concerned with the primary interdependence among men except insofar as it sets up the problem of the nature and function of authority. The union of men Althusius is interested in is their union in the exercise of authority. If this is properly organized, one gets an answer to the question: How should men be united so as to preserve social life among themselves? In the pactum Althusius identifies the principle of group control as the natural law of structure for the exercise of authority. His first answer to the question, therefore, is: the people.

The problem of nature versus convention, as old as political science, is perhaps the fundamental problem Althusius grapples with in his contract theory. For under the terminology

96. vii, 3: "The partnership of law is the condition whereby, through the offering and sharing of services and goods, everything by which the pious and just life among the members of the provincial symbiosis is fostered and preserved, is administered in behalf of the need and use of the province, by each and all its members." The citizen is defined not in terms of his participation in the primary interdependence, but in terms of his sharing in authority. i, 6: "By symbiotici are understood the sumbonthei who, having been united and consociated by the bond of contract, now give to the whole of the things they have that promote a fitting life, and in turn are recipients of the same in this mutual participation." In fact, one may engage in the primary sharing without belonging to the group, v, 11: "Contradistinguished from these (the citizens) are the outsiders, the visitors, the foreigners, the travelers, who are obliged to engage in no activity beyond that of their own business, to question nothing about the foreign country.... But as far as their conscience permits to accommodate themselves to the customs of the place and the city in which they live."

he uses, one detects that his real struggle is to reconcile the two ideas that authority and social life are ontologically determined in their form and structure, and that this form and structure, nevertheless, must be consciously brought into existence and sustained.⁹⁷ That is, while social life and the loci of authority are naturally determined, yet they exist by virtue of a convention or agreement among the citizens. According to our reading of the pactum, Althusius uses it to solve this difficulty by holding (1) that constitutive power resides naturally in the people apart from and prior to any agreement to this effect, and (2) that legislative sovereignty also resides naturally in the people, but in accordance with a constitutive agreement to this effect.

There is a clear sense in which the group as such possesses by nature the right to establish the authority it needs.

97. See Gough, The Social Contract, p. 111, and M.B. Foster, The Political Philosophies of Plato and Hegel, ch. 1, for illuminating discussion of these problems. Those who simply assert the natural possession of authority by the people do not face up to them. (Krabbe's approach is a good illustration of this.) Nor do the pure utilitarians, since they reduce all to convention. Chroust, "The Origins and Meaning of the Social Compact Doctrine," loc. cit., discusses this idea. Althusius struggles with the problem constantly; see Mesnard, L'Essor, p. 584. Gierke observes, Development, p. 35: "Necessity leads to association. Association itself is a product of tacit or explicit contract." Althusius simultaneously asserts that sharing is determined by agreement and by the nature of the group. ii, 2, sharing is "according to the terms of the agreement and the requirements of the life." i, 27: "At times the relevant communicatio is greater and more intensive, at times less and more restricted, according as the nature of each consociation seems to dictate or as the matter has been agreed on and established among the members."

The classical writers who developed this point in the same period as Althusius are in substantial agreement with him about this. The argument involves two premises, (1) that no individual possesses this right by nature, and (2) that, nevertheless, it must exist. Now if we extend the concept "natural" to include everything that nature demands, it follows that authority is a natural component of the group, and in the absence of any natural possessor other than the group, it resides in the group.⁹⁸ In his arguments against Bodin and Barclay, Althusius uses this kind of argumentation against the superior force, the competence and the divine right theories of the natural repository of power. Thus the authority needed by the group resides radically in the group. In a theory that holds authority to be a natural group need, the pactum is itself the first act of group sovereignty.

98. ix, 18: "The right of the realm, or sovereignty, belongs not to the individual members but to the whole taken as a unit and to the whole consociated body. So that it can be established not by one member but by all the members of the universal consociation together. And so it is said to be the property not of the individual member, but of them all. Whence it follows that the use and ownership of this right belongs not to one or to the individuals, but to the members as a whole, who can dispose and make decisions about it by common agreement... For as the whole body is related to each citizen, and as the whole body can command... each member, so the people command each citizen." We have here an early example of Rousseau's distinction between the citizen as subject and the citizen as sovereign. In the Politica, there is a clear and constant distinction between each as each, and each as all: ii, 12; iv, 10; v, 64; vi, 39; ix, 18; xviii, 14. The right in question here is that of establishing or constituting authority, the right to the constitutive power.

So that the pactum, while it establishes a recognized authority, actually does not rest on a free determination of who shall possess the right to establish authority. The problem resulting from this conception will be discussed in chapter IV below. It is sufficient here to point out that considered as the act constitutive of civil society, it can be interpreted only as an act of self-recognition.⁹⁹ That is, people come into contact with one another, and at the point where the recognition of mutual relations is coupled both with a sense of need for an ordering principle and with a willingness to continue in this relational framework, civil society comes into existence. The authority is established by the individual's recognition of the locus of the right to exercise the authority necessary to stabilize the social situation he finds essential to his well being.¹⁰⁰

99. Perhaps the term "self-creation" is better. As Hobbes so clearly saw: "The pacts and covenants, by which the parts of this Body Politique were at first made, set together, and united, resemble that Fiat, or the Let us make man, pronounced by God in the Creation." Leviathan, p. 1. The thing that distinguishes Hobbes and Althusius is precisely their conception of the conditions out of which the need for authority originates. This profoundly affected each man's conception of the nature of that authority. See C.W. Hollister, Government and the Arts of Obedience (N.Y., 1948), chs. iv and vii, for an excellent analysis of the relationship between the conception of authority and the conception of the social relations that occasion it.

100. By the social contract the basic constitution of the society is set up. But "constitution" must be understood here in the Aristotelian sense, not in the modern sense with its implications of a bill of rights. This latter type is established by the contract of rulership, a separate act

As Althusius uses the idea, it supposes a state of nature, if you will, but that state is neither individualistic nor anti-social. It is one of inchoate social relations. The motivation of the contract is not to preserve rights against aggression, but to stabilize and order the basic relations of man with man.¹⁰¹ Moreover, Althusius' pluralism, beginning as it does with a natural group in which natural authority exists, stresses the fact that the need for authority does not derive from the actual existence of disorder, but from the possibility of it. In civil society, groups already internally united and ordered form new groups. The state is built from the family up. Althusius rejects the

of the sovereign people directed not toward themselves, but toward the magistrate they establish. See xix, 39, for a list of provisions to be included in the contract of rulership. The pactum determines the leges fundamentales, which seem to include both the basic constitutional structure of authority and the basic ratio et forma vivendi, i.e., the limits of popular acceptances. xix, 59: "This fundamental law is nothing else than pacts of a kind under which many cities and provinces come together and agree to establish and retain one and the same republic by common work, counsel and aid." i, 10: "The partnership of law is the act by which the members of the group live the common life, ruled by laws which establish just relations among men."

101. Althusius' conception is like Locke's insofar as he holds that men come into social contact and this leads to the discovery that authority is necessary for order and freedom. iv, 1: "After the natural, we now take up the civil consociation in which by their good pleasure and will alone, some men, already assembled together, establish in human life one body. That is, by common consent they reach agreement among themselves concerning the method of rule and obedience." (Italics added). Althusius' comments on the consequences of there being no authority approximate the Hobbesian idea.

Aristotelian idea that the polity is best known because being the whole it is the first in the order of conception and the parts are known in terms of it. Instead he offers the idea that the sub-groups are first in conception because they are the cause of the polity, and the cause is prior in idea to its effects.¹⁰² For the exercise of this constitutive, causal power there is required only a preliminary awareness of new social relations. This is what is meant by saying that the social contract is an act of self-recognition. And sovereignty, in its first appearance as constitutive power, is justified not by itself, but by a prior communion of mind that forms the basis for the act of creation.¹⁰³ Thus the pactum is primarily a theory of the source of obligation; it involves a basic assertion that civil society exists by virtue of a radical self-determining act whereby the individual identifies himself with and accepts the consequences of life in society. And from this it follows that the constitutive

102. See xxxix, 84, also ix, 3. For Aristotle, see the Politics, Bk. I, ch. ii.

103. Here the opening is left for the idea of natural law as a limitation of sovereign power. The agreement about justice is precisely an agreement about the nature of things. Thus although the will of the people is supreme, it is never presented as absolute in the sense of being a norm for itself. It is subject to ontological being, and Althusius, a realist in epistemology, had no idea of a freedom of thought that left man without responsibility vis-a-vis the object of knowledge. See ix, 20-21, and xviii, 43. Gerbrandy, National ...Stability, p. 8, remarks that: "to derive obligation from will is alien to Althusius." Gierko, Development, p. 43, remarks that natural law is supreme in Althusius' theory. Friedrich, "Introduction," p. lxviii, thinks otherwise.

authority can be exercised only by the whole group. It is here that we first meet the concept of sovereignty as a communicatio or sharing process, an act in which all participate by contributing, and in which all share by deriving from it the benefits of an established authority. It must be remembered that the constitutive act itself is justified as a popular act, not because this has been agreed upon, but because, all men being equal, no man has of himself the right to perform it.

As the arguments of Bodin and Hobbes show, the theory of a social contract does not necessarily involve the conclusion that the people should participate in the exercise of legislative sovereignty. Althusius' argument that the popular exercise of legislative sovereignty is as necessary as the popular exercise of constitutive sovereignty, is drawn from another aspect of symbiotic life. The legislative sovereign is established by the pactum. The possessor of that authority is a matter of agreement. It is not, however, a matter of choice. On this point, Althusius himself determines the terms of the pactum. And as he sees it, the people, if they are to meet the demands of the situation, must establish a popular sovereign. No other kind is possible, no other kind meets the inherent demands of the symbiotic situation. In this position, there is none of the tendency to dictate policy such as is found in those who presume to lay down the laws for a society. Althusius is

a political scientist attempting to discover the natural laws of the configuration and distribution of authority.¹⁰⁴ He is not telling the people how they should live, only how they must organize social authority.

The basic consideration that leads to popular sovereignty, just as it was the basic element in constitutive sovereignty, is that of equality. Althusius sees that whatever one may say about the naturalness of authority, once one accepts the assertion that "by natural law all men are equal and subject to the jurisdiction of no one," he must, if he recognizes authority, add, "except by their own consent and voluntary act whereby they subject themselves to another's command and transfer to another their rights which no other can claim for himself without a just title gotten from their owner"¹⁰⁵ Most frequently, this idea is related to the origin of the

104. As Barker says, Political Thought in England, p. 10, The social contract is a "theory intended to explain not the temporal antecedents but the logical presuppositions of the State." See also his, The Study of Political Science, p. 19. Althusius approaches the contract not from the historical point of view in an attempt to discover what the people have done, but from the analytical point of view, to discover what they ought to do. Mesnard remarks, L'Essor, p. 579: "Entre ceux qui ressentent les memes besoins vient s'etablir un lien reel, qui les rend justement convives, participant a une vie commune. Ce lien ne saurait etre considere comme uniquement volontaire. Le pact qui l'exprime n'est que le signe d'une realite sociale donnee la communion des symbioties." See xix, 35, for an argument from the nature of things rather than from choice. The pactum has necessary conditions: ix, 15-19; xviii, 22; xxxviii, 110, 125. That is, if symbiosis is the objective to be realized, then the pactum must meet certain needs.

105. xviii, 12.

magistrate's right to rule. But the argument logically requires that no one, not even the people, has the right to command except by virtue of the same consent. For the equality principle insists that authority binds no one not involved in the original and continuing consent that establishes it. Althusius, in accordance with this principle, recognizes a right of withdrawal from the society in cases where consent is withdrawn because of basic disagreement.¹⁰⁶ The consent given, moreover, is not simply an abandonment to authority, i.e., an agreement to obey any law that comes from the authority established. Althusius clearly supposes that the consent given carries with it a set of limiting conditions.¹⁰⁷ And the conditions he supposes are precisely those elements of consensus which he postulated earlier as necessary for the exercise of even the act of constitutive authority.

106. xxix, 5; xxx, 13; xxxviii, 53, 67.

107. First of all, the constitutive authority involves power to determine the structure of authority, and this power perdures. ix, 18: "Whence it follows that the use...of this right (of sovereignty) belongs...to the members as a whole, who can dispose of and make decisions about it by common agreement. And what they have decided once must be kept and followed, unless another course pleases the common will." In ix, 16, it becomes evident that the constitutive act establishes not only the structure of authority but also the ratio vivendi in society. I, 10, generalizes the point: "The partnership of law is the act by which the members of the group live the common life ruled by laws which establish just relations among them... The law is of two kinds: one determines the direction and government of the social life, the other determines the basic system and the mode of sharing goods and services that is to obtain among the members." See further, iv, 8-12, 16; xxi, 15 ff.; xix, 29, 49.

Consensus is the common judgment of what is just and good. And Althusius supposes that any consent to obey must necessarily carry with it the understanding that obedience will be given only to just law, i.e., law according to the group's idea of justice.¹⁰⁸

This aspect of the pactum makes it supremely imperative, if society is to be preserved and kept orderly, that the law making process be organized so as to avoid any opposition between the group's sense of right and the law. And this imperative alone suffices to lead one to the conclusion Althusius reached, namely that insofar as it is possible, the group itself is the one who should be the

108. Friedrich suggests this by remarking that Althusius agrees with the Israelites that custom is the norm of good law. See Hollister, Government and the Arts of Obedience, for an illuminating analysis of the function of custom. Among modern writers, Krabbe with his theory of the rule of the people's "sense of right" approximates Althusius most closely. In Althusius himself we find the idea presupposed in a large part of what he says, especially in chapters ix and x. x, 4: "Seneca calls this (the basic system of justice) the bond whereby the republic retains its unity, the vital breath which the city draws. If the mind is withdrawn from it there would be nothing but burdens and booty. ... It can be called the public command of the people and the pledge or promise of the inhabitants concerning the good to be done and the evil avoided." It is significant that promulgation of the law is completed by its reception by the people, x, 3. Generally, in speaking of legislation, Althusius' attention is fixed on the activity of the magistrate. But his development of prudentia politica indicates that leadership is subordinated to popular acceptances. And, in the last analysis, the Diet, which is a mirror of the social mind, takes precedence over the magistrate, xxxiii, 19-20. It is this supreme authority of the group that leads Friedrich to call Althusius an absolutist, "Introduction," pp. xciv-xcvi.

lawmaker.¹⁰⁹ In reaching this conclusion, however, Althusius employs certain other considerations whose effect is to shift the argument from that of mere utility over to one of natural necessity. In his analysis of the nature of the magistrate's authority one sees that the primacy of the group's sense of right is a practically operative as well as a theoretically desirable condition.¹¹⁰ For the magistrate's right to command disappears at the point where he commands something opposed to the group's sense of right. And it disappears not in the legal sense, but in the real psychological basis on which it rests. For the authority of the magistrate consists in the people's good will. This suggests that if the sovereign were separate from the people, the same situation would inevitably result. And the clash here would destroy social union.

An additional consideration fortifying the transition from popular consent to popular sovereignty is found in the Althusian conception of the legislative process itself. Legislation, it seems, consists in a determination in specie and ultimately in individuo of the implications of natural law.¹¹¹ Natural law, since it exists only in the form of

109. ix, 18.

110. See the section on political prudence as developed in chapter VI below.

111. See xxi, 50. x, 9: "Interpretation of the law," seems to be a part of legislation. x, 10, executive action denotes the act of enforcing the law.

generalized conceptions of reason or generalized requirements of nature, cannot itself direct action.¹¹² Positive law is nothing more than the necessary specification of these generalized norms. Its validity, therefore, depends on its conformity to natural law.¹¹³ It would be wrong to interpret this insistence on natural law as the norm of just law only with reference to the leadership function in the Politica. It is indeed, the "best" who bear the burden of bringing positive law ever more closely to pure justice. But the centrality of group control is most clearly evidenced in this fact: despite his recognition that the elite are better qualified to make accurate judgments about objective justice, Althusius still insists that the group's conception of natural law is the ultimate norm for positive

112. Althusius is still in the metaphysical tradition of the Middle Ages, and so has retained the concept of natural law found also in Maritain, Man and the State, pp. 92 ff. That is, natural law is not a determined written thing, but a principle of nature, a "tendentia" as Aquinas calls it.

113. xxi, 32: "For if it (proper law) prescribed nothing the common law did, it would not constitute a new species. If it established something entirely contrary to common law, it would be unjust because it would make mutable the common law which is at another time immutable." See also, i, 18; x, 8; at xxi, 26: "It is quite necessary, therefore, that it not depart entirely from common law, that it be not contrary to it in every particular, and that it not repeat it in every particular and be identical with it." Althusius' conception of natural law is sometimes difficult to fix, since he equates natural law with the will of God, which makes sense. But then he equates the will of God with the ten commandments, and so treats them as natural law itself, xxi, 14. But he himself sees, xxi, 29, that the two are not the same, since "they (the ten commandments) explain natural law."

law.¹¹⁴ The argument is not from the will of the people, but from their reason.¹¹⁵ Law is reason.¹¹⁶ And although it is discovered by the process of agreement, it must be obeyed because it is objectively just, not because it is agreed upon.¹¹⁷ That is, the source of obligation in law can be derived from the relationship of the law to the independent imperatives nature itself imposes on man. But it is the reason of the people that determines what these imperatives are. This is so, not because the people know best, but because positive law is a spelling out of natural law and the basic judgment of what natural law is was already made in the act that established authority. In Althusius, therefore, the argument for conformity to natural law constitutes an argument for conformity to the mind of the people. And law of every description must emerge from and conform to the mind

114. Not a new norm, but a decision on the question: whose conception of natural law will be accepted as the compelling one.

115. xxiv, 46, suggests the "Prelude to the laws" idea found in Plato, Laws, iv, 718, 722, 723; vi, 772.

116. One of the clearest ideas in the Politica, xxi, 20-21; xxi, 32: "Its principle (of natural and positive law) is right and true reason on which depends and by which is determined or declared what is just." This is Aristotle's "intelligence without passion," Politica, Bk. III, ch. iv, and the "recta ratio" of the Scholastics.

117. xxi, 16-17: "The rule of living, ruling and administering is the will of God alone, which is the way of life, the law of what must be done and omitted.... Therefore the law alone proscribes not only the order of administration for the magistrate, but also the rule of life for all the subjects."

of the group if it is to be accepted as just on the level of subjective apprehension.

Krabbe's definition of legislation as the weighing of interests on the basis of a norm, is an accurate description of the idea found in the Politica.¹¹⁸ This is simply a more sophisticated way of summarizing Althusius' idea that law is the determination of order with a view to preserving the common good. For in the pluralism of the Politica, legislation is bound up with determining what groups (or interests) must do and not do for the sake of the common good.¹¹⁹ The analysis of authority suggests that it exists to order the pursuit of private interests, with the norm for the order being found in the common interest. So that law does not represent a compromise among clashing selfish interests, but a moral estimate of the duty of each interest as regards the common good. That is, it represents a conclusion about justice, not about private advantage. The strongest do not make the law precisely because power is not the source

118. See Krabbe, Modern Idea of the State, "Introduction," pp. lxi-lxx. It is precisely because interests are involved that the basis of participation in lawmaking is that of the estates. xviii, 113, Althusius clearly has the idea of protecting the interests of man in the process of determining their duties. The functional basis of representation is also a method of interest representation.

119. The common interest of all the groups is the preservation of symbiotic life. The pactum is primarily an agreement of all the interests to contribute to it. ix, 1, in the pactum each interest binds itself to contribute services and goods to this end. The same idea is found in ii, 1; iv, 1.

of obligation. In this context, Althusius' theory of consent insists that the justice of the law's judgment must be determined by reference to the group's idea of justice, which is simply another way of saying that even in a natural law theory, the gnoseological element¹²⁰ is particularly relevant to the political problem. Granted that law should be according to right reason, the question arises: whose reason will be considered right for the purpose of legislation? Althusius answers, with qualifications derived from a theory of leadership, that in the last analysis, the people's reason will be considered as right reason, even when to a political scientist or a philosopher it appears that an elite in the group possesses a better approximation to the ontological norm of justice.

In response to these pressures for conformity between law and the mind of the group, Althusius develops the principle of participation.¹²¹ In analysing it one must be careful not to make the modern elements in his thought constitute

120. See Maritain, Man and the State, pp. 84-94, for the distinction between the ontological and gnoseological elements in the natural law theory. At p. 91 he remarks: "So the law and the knowledge of the law are two different things."

121. "Participation," if it is not a translation of, is necessarily involved in the idea of communicatio. Communicatio is the basic idea of the Politica; see Friedrich, "Introduction," p. lxiii; Cooperation involves participation in the cooperative action.

the totality of it. As will become evident in our analysis of his theory of leadership, Althusius had the modern awareness that the principle of conformity can be realistically implemented only on condition that the subjects of the law have a causal influence on its determination. Perhaps he saw this even more clearly than many current champions of civil rights, whose position postulates, existentially, a lack of participation and, philosophically, the futility of it. For the formal and precise function of participation in the Politica is not to defend rights against government, but to produce laws that conform to the mind of the group. Althusius saw that injustice in the law prevents such conformity almost by definition. In this context, injustice consists formally not in immoral activity, but in the subjection of part of the society to the will and interests of another part. Such subjection occurs when society disintegrates into two or more groups who differ about ends or about the justice of means. When this happens, "the entire simbiotic life perishes, or becomes a band of robbers and evil men, or the one realm breaks down into many different realms or provinces."¹²² The most pressing problem, in short, is not that of getting a law that is just with regard to some objective "right reason," but one that conforms to the whole

122. *ix*, 17.

group's reason.

These considerations are present and operative in Althusius' consideration of the need for participation of all in the making of law. But other ideas more characteristic of his basic philosophical approach are more markedly at work here. The most striking of these is his handling of participation considered not as an implementation of the consent principle, but as an act of communicatio performed in response to a duty toward society.¹²³ That is, the individual has indeed a right to consent to law, but more importantly, he has a duty to contribute his thought to the task of making law.¹²⁴ Here we reach what appears to be the deepest level of Althusius' thinking. And in this approach we discover the ultimate reason why he conceives of sovereignty as a communicatio and a communio that binds society together.

123. See Laski, Grammar of Politics, pp. 242 ff., for the idea that the lawmaking process itself is part of the social relation.

124. The act of making law is considered as a part of the sharing process, specifically as a communicatio consilii, or pooling of wisdom. See xix, 49; xvii, 55: "Having treated of the sharing of aid, we now examine the sharing of advice which is offered by the members of the consociated body in general and the ecumenical councils of the universal consociation. (These councils) are meetings of the convoked members in which deliberations are held concerning the republic and its utility and well being.... And by the partnership in advice, decisions are reached and resolved for the common good." It is illuminating that the plural is used here: communicatio consiliorum. xviii, 57: "Therefore these councils and meetings are epitomes of the policy or realm. At ibid., 60, the communicatio consiliorum is equated with the quod omnes tangit principle.

We can begin with the ultimate need of man --to develop his nature-- and see that this constitutes also his ultimate duty and becomes the source of all other duties and needs. To live in society therefore, can be considered either as a need or as a duty. Likewise to obey authority is both a duty and a need. But obedience is not the only duty. Since authority is a necessary means to preserving social life, one can consider the exercise of authority as a discharging of the duty every citizen has to preserve social life.¹²⁵ As Althusius interprets the citizens' obligation toward their society, it involves not only the passive aspect of obedience, but in addition an active contribution to the task of preserving social union. Therefore the citizen is obliged to contribute to the exercise of authority. Behind this conclusion lies, it would seem, the facta: (1) an essential element in social life is that the order in it be a voluntary one, and (2) this voluntary order must be stable. These two requirements can be met only by a law which each and all the citizens think just. Now it is not an easy task to make such a law. For success the wisdom and help of all are necessary. It is only when all engage in the discussion of law and influence its course that one can be sure that it will be

125. All men have this duty, for, xxxiii, 30, and viii, 3, there are some decisions that cannot be prudently made by one man or a small group. Althusius agrees with Mill that the vote is a public trust. See Mill, Representative Government, p. 299.

acceptable to all. Thus all the arguments for the necessity of conformity become equally arguments for the duty of participation.

As a consequence of this approach, Althusius thinks of popular sovereignty or group control as a process of sharing (communicatio consilii). The meaning he gives it becomes more evident when one considers that this is not the only form of communicatio.¹²⁶ Another form is found in the communicatio operum whereby each functional group contributes either to the material or the spiritual basis of symbiosis, or defends it against external attack. Another form is the communicatio rerum, Althusius' term for paying taxes.¹²⁷ And in his view, just as each citizen must contribute money for the common good, so each one must contribute ideas. In return he receives the benefits of symbiotic life.

126. i, 8-10, the citizens are those who share everything necessary to sustain the symbiosis. This sharing involves services, goods and law. Althusius includes in this concept the Ciceronian idea of the republic and the modern idea of the wisdom of the whole people contributing to the law. By the inclusion of the latter element he was forced to carry the concept of partnership over into the activity of directing the life of the group.

127. In iv, 12 ff.; vi, 15; xix, 49, one can find discussions of communicatio consilii as simply one of the forms of communicatio the citizen must enter into in order to preserve the social life of the group. This conception is the immediate basis for a functional organization of interests. The major concern is to organize the groups according to their duties of sharing. ii, 35, the merchants, from the point of view of the social importance of their work, supply the material basis of social life. ii, 17, the commercial arts, because they are necessary for the common good, must be carried on according to the laws that preserve that good.

So that complete mutuality of sharing is realized. Each contributes to the whole and receives something from it in return. This is the communicatio of the second level. It is ordered not to the immediate acquisition of private benefits but to the sustaining of the symbiotic life which is the common good. Out of it arises the communio with respect to authority, the communio juris, in terms of which the polity is defined in the manner of Cicero.

As a final comment on Althusius' principle of popular sovereignty and his theory of contract, we note that the primary explicit concern of the pactum is not that of establishing the basic terms of agreement -- these seem to be necessarily implied in consent -- but precisely this matter of establishing the duty of contributing to the preservation of social life.¹²⁸ The members of the group establish authority first of all by agreeing to share the burdens of lawmaking.

128. In the citations above, Althusius generally remarks that the sharing is engaged in according to the agreement of the members. This seems to mean (1) there is a fundamental consensus expressed, and (2) this consensus, which is expressed in the pactum, is spelled out in positive law, which also represents an agreement of the people. See ii, 2; vi, 17, on the sharing of goods carried out "with the common consent and agreement of each and all."

Chapter IV

THE PROCESSES OF POPULAR SOVEREIGNTY

The conclusion that symbiotic life requires a law-making process in which the whole community participates poses the problem Althusius must solve in his system of political institutions. Granted that such a process is necessary, the problem remains of organizing it so that the group can participate.¹ We find, therefore, that Althusius' attempt to establish an institutional structure for symbiosis is dominated by the problem of establishing avenues of access to the lawmaking process. In this part of his thought he moves from considerations in the essential order to those in the existential. His struggle now is with the facts of political structure and human behavior rather than with the nature and necessities of symbiosis. Where formerly his concern was to discover the ultimate purposes of symbiosis and the implications of these purposes in terms of essential political processes, now, accepting popular rule as one of

1. As Krabbe puts it, Modern Idea of the State, p. 97:
"This is the problem of finding adequate organs to express the conscious life of men, insofar as this is manifested in a sense of right."

those processes, he attempts to fabricate from the raw material of institutions and psychology, a suitable institutional vehicle for it. This is the area of competence proper to the political scientist, the area of positivistic observation of the actualities of human behavior in political life insofar as these affect the problem of access.² This area of observation is organically integrated with the philosophical by virtue of its being employed primarily to discover ways of implementing the conclusions reached in it. Values are accepted -- not discovered -- on this level of thought.³ There are two other ways of thinking in politics, both equally bad from the point of view of methodology. One, quite popular today, is that of quarantining "scientific" induction to remove it from the influence of philosophical thought. This method refuses to recognize the essentially philosophical nature of speculation about the ends institutions serve.⁴ The second, by arguing in a strictly deductive way from principles straight through to action, falls into the opposite error of refusing to recognize the existential

2. As in Machiavelli, much of Althusius' inductive thought is presented in the guise of history. But he has a number of chapters devoted to generalizations about observable fact, v.g., xxiii, on the nature of the people.

3. See the discussion of levels of thought, Chapter I, above.

4. V.g., it is only one's political philosophy that justifies a preference for democracy over tyranny. From the isolated inductive point of view, tyranny, as being notably more widespread, should be considered more natural.

order as a separate source of imperatives. It refuses to recognize the limitations exercised on choice by existing real conditions.⁵ The balance previously noted in Althusius' thought reveals itself again in his attempt to give order and direction to this inductive thought by using it to implement the conclusions reached deductively. These conclusions, it should be remembered go behind a definition of ultimate ends to a determination of necessary political means. And it is these latter conclusions that formally influence his inductive thought. For just as symbiosis has implications as regards necessary political process, so the political processes have implications as regards necessary political institutions. Althusius was aware not only that facts are not self-explanatory, but also that the examination of facts must be preceded, in a practical science, by a determination of what kind of facts to look for.

The direction in which the solution to the problem of access must be sought is pointed out by two general positions found in the Politica. The first of these is that access must be achieved in and through a pluralistically organized society. Thus far we have discussed participation only in

5. Ruth Benedict, Patterns of Culture (N.Y., 1934), chs. vii-viii, has some pertinent observations on this type of limitation. Both natural law and positivistic thinkers fall into this error. The former because they are enamoured of principle to the detriment of fact, the latter because they have equated principle with a summarization of facts.

terms of popular sovereignty, that is, of participation on the state level. And since the problem of participation and access exists in its most acute form on this level, our analysis will concentrate on it.⁶ But it must not be forgotten that even on this level the fact that participation is realized on every group level below it has an essential pertinence. Thus institutions of access on the sub-group level are a necessary part of the solution reached on the state level. In the light of pluralism, this means that self-determination must occur anew at every point where it can acquire significance. The question, therefore, is not simply one of implementing popular sovereignty, but of implementing group control on the ultimate level of a progressively integrated pluralistic society. The significance and functioning of the state system of representation is profoundly influenced by this circumstance.

Of equal importance for the definition of the problem of access is the second general position: that the decisions the group can make are limited by the nature of group action.⁷

6. Althusius' main concern is with the state. Here the problems have not yet been solved. He seems to discuss the sub-groups only insofar as a knowledge of them is necessary for solving state problems, v.g., ii, 36. At ii, 4, he interrupts his treatment of the end of private groups to assert that the state or whole also has an end proper to it.

7. Size is an important consideration for Althusius, and this is so in many respects. Here the strategic one is the point at which the group becomes unwieldy. This occurs

On this point one finds in Althusius the preparation for Rousseau's clear statement concerning the competence of the general will. As a general principle Althusius holds that the group should make the laws. But he identifies certain aspects of group action that limit it both as to the degree of specification group decision can achieve and as to the initiative the group can take with respect to initiating decisions. These limitations constitute the basis of his contention that the existence of a government or executive part of the state necessarily follows from the circumstances of lawmaking.⁸ But the government, which is a practical necessity, is also the point at which the principle of leadership receives a bodily habitation and a place. And the limitations on popular control implicit in the idea of leadership tend to be identified in Althusius' thought with the limitations deriving from the practical limitations on group activity as such.

As a consequence of these positions with regard to pluralism and the area of group determination, Althusius'

in the city, v, 51, which is too large to govern itself (presumably after the manner of a guild), and so must appoint a government. Size is closely related to the nature of the group, but the latter is formally determined by its purpose, not by its size. However, Althusius sees no essential difference in purpose between a large city, a province and a state. See vi, 16; xxxix, 85.

8. See Ernst Barker's analysis of the proposition that, "the greater the electorate, the greater is the difficulty of its operation and the less the demand which we are entitled to make upon it." Reflections on Government, pp. 78 ff.

approach to the problem is not based on the concept of an ever increasing and more extensive participation of the individual in decision making, but rather on a clear idea of the inherent operational limitations on participation and an attempt to realize the participation that is possible in an ever more perfect manner.

It is obvious that direct personal participation in the making of laws is the ideal solution to the problem of access. On each of the private group levels, therefore, Althusius uses some adaptation of direct participation. In the family there is no mention of a familial assembly, and seemingly the sole possessors of authority are the father and the elders of the tribe or kinship group.⁹ This is a case where nature itself provides a ruler for the group. And we have here a case of participation which would seem to be more immediate than that supplied by an organized direct democracy.¹⁰ In the case of the collegium, however,

9. Although the family is a species of private consociation, and is formed by a pactum, still, ii, 14: "The private, natural symbiotic consociation is that in which in answer to natural affection and necessity, husband and wife, blood relatives and the wider in-law group agree to a symbiotic union." From ii, 39 ff., it appears that the basic agreement is between husband and wife, and evidently this involves the husband acquiring the right to rule.

10. The controlling consideration here is that of fraternity. The family is the "seed bed" of fraternity. ii, 14, in the family one finds: "the most intense society, the closest friendship and union, and the strictest necessity, the seed bed of all symbiotic consociation." The distinctive adjective Althusius uses for the family and the kin group is that

there is need of a formal organization to insure access and participation. And it would seem that here we have the best example of direct democracy in the Politica. Althusius uses the Medieval guild as the political institution within which the private interests of members of the same profession are integrated and regulated.¹¹

At the city level, the political characteristics of group organization change abruptly. In this first of the public groups, composed as it is of collegia and families rather than individuals, we have the first point at which the community is a communitas communitatum.¹² In this group again, we have the point at which a distinction between an assembly and a government is made. The distinction is not too clear, since the government is also the senate, the ordinary legislative body in the group. Yet there is a popular assembly based on direct democracy which determines the more important policies of the group. In general

of "natural" as opposed to civil, even though this group, like the others finds its unity in "harmony and agreement." The family is the first group from which other groups grow. Althusius evidently thinks that the structure of the family is fixed so immediately by nature that there is little need for the members to struggle with the problems of its establishment.

11. iii, 6 ff.

12. In the private groups, the pactum is among individuals, ii, 2-4; iii, 2; iv, 1. And in the public groups, it is among the sub-groups, v, 1, 8, 10. The kin group is composed of families, but the union is based on similar rather than converging interests.

Althusius' picture of city organization can best be characterized as a forerunner of Rousseau's. The arrangements whereby the ordinary senate is composed of the "best," who are simultaneously heads of what would be called administrative departments today,¹³ while the extraordinary senate becomes popular when negotia gravissima are discussed, indicate a basic principle in Althusius' approach to popular participation that will be developed later: the principle that the popular institutions are operative only with regard to the pivotal decisions on which depends the control of administration.¹⁴

On these levels, granted the existence of the harmony and consensus necessary for a discussion situation, Althusius sees only the problem of determining when and to what extent the majority shall have the power to conclude the whole. Thus his real problem here is not that of institutions themselves, but that of the discussion process within the popular institutions. Access, to be meaningful, involves more than putting the individual in the physical presence of the law-making process. It involves, equally, a process organized

13. v, 51 ff. At 61, there are three kinds of senate: (1) the ordinary kind, the collegium of "chosen men of prudence and high virtue," (2) the extraordinary kind, composed of group one plus an additional number, who debate difficult problems, and (3) on occasion, the whole people who determine the most serious questions.

14. v, 62, suggests that the senate is always composed of various collegia in the city. The ordinary one is clearly so drawn.

to permit the individual to influence the decision made. The discussion of voting and majority rule in chapters iv and v of the Politica indicates that the primary concern is to insure that everyone affected by a decision will have a voice in it.¹⁵ This means that everyone must have a real and significant vote.¹⁶

Althusius' real problem of access begins where the group becomes too large to meet even occasionally as a group for the discussion and determination of problems. Here the element of access and participation through representation appears, and instead of direct democracy, representative government becomes necessary. Precisely because he relates group decision making to the most intimate aspects of his social analysis, Althusius has to face up to the problem of representation. The essential problem representation must solve is that of establishing a process that gives all the significant elements of social life access to the lawmaking process when physical access for all the members of the society is impossible. Access serves participation, participation conformity, conformity freedom, and freedom symbiosis. The question that emerges is: what organization of representative institutions will insure access?

15. At the city level, the objective is that of a ruler governing "according to laws approved by the citizens," vi, 44. See also, v, 52.

16. The discussion of voting for the collegia in iv, 16 ff.; for the city senate, v, 64. There is no indication of voting occurring in the private groups.

Before analysing Althusius' use of representative processes and institutions it will be well to qualify our findings by noting the state of awareness one can detect in his thought with regard to the general problem of representative government. We have given our reasons for thinking that Althusius uses the representative process for more than a monarchomachic defence against tyranny. We suggested that it was organized positively to implement the elements of participation and access necessary for popular sovereignty. And we concluded that Althusius saw a problem here, even though he did not see it as clearly as a normally competent political scientist of today does. The systems of representation in the sixteenth and seventeenth centuries were, first of all, not highly developed and, secondly, not at all consciously analysed.¹⁷ Their implications were not evident. If one remembers this, it becomes evident that Althusius made a notable contribution to political science simply by restating the "quod omnes tangit" principle in terms of a consciously analysed theory of popular sovereignty in a society governed by statutory law rather than custom.¹⁸

17. See Charles McIlwain, The High Court of Parliament and Its Supremacy (New Haven, 1910) for the English attempts to explain their parliament to themselves. This book makes it evident that this most advanced of parliamentary governments has not achieved by the seventeenth century the insight of Althusius into representative and legislative functions.

18. M.V. Clarke, Medieval Representation and Consent; Fritz Kern, Kingship and Law in the Middle Ages, tr. S.B. Chrimes

By this insertion of a new context, the concept of representation is given new significance as a tool for establishing positive popular control over the life of the community.

This, I think, is his contribution to thought about representative government: that in his thought it becomes a positive system ordered to the preservation of the community itself by preserving in it the elements of free consent

(Oxford, 1939); E. Barker, Dominican Convention and Convocation (Oxford, 1915), and F. Coker, "Representation," Encyclopedia of Social Science. The institutions Althusius used were in existence. The context is the thing that differs. The basic difference is that Althusius had achieved the idea of the modern sovereign state ruled by statutory law. Gierke, Political Theories, pp 64 ff., suggests that insofar as modern conditions began to emerge in the Medieval period, a modern idea of representation did too. Barker's analysis would bear this point out, since the context of the Dominican Order closely resembled the situation Althusius envisaged. The Conciliar movement carried with it the most advanced ideas of representation. See Figgis, Studies of Political Thought. Henry Jones Ford, Representative Government (N.Y., 1924), p. 8, notes the effect on the problem of the difference in context between a feudal system and a national state.

19. Gierke, Development, p. 245, observes: "As to the composition of representative assemblies, Althusius himself copied the existing system of Estates. But for him the element of Estates was only one among the factors determining the formation of the corporative organisms which unite in ascending series to produce the State, while on the other hand, as the decisive and thoroughgoing formal principles of the constitution of representative bodies, he took instead the principle of corporative delegation. For this reason even when he based his constitutional structure on the system of Estates, he applies the democratic idea in theory and in practice as far as to support with energy not only the equality of rights of the Burghers as compared with the Nobility but also full rights for the peasantry."

to laws.²⁰ His system is constructed consciously on the principle that the making of law is a social act, an act of partnership, a communicatio consilii. Beyond this, one is hard put to determine precisely how far Althusius realized the full significance of the system he designed. This is a complex problem of interpretation requiring that one see the institutions as they appeared to Althusius, and not, for instance, attribute to him the insights Mary Follett²¹ has into the system of group discussion and participation.²²

20. The Medieval idea that the king is subject to the law in the context of a society based on customary law, bases obedience on this same principle of free consent and group rule. For it is the group that makes customary law. Althusius grapples with the problem of retaining this same basis of obedience in a situation where statutory law has displaced customary law as the principle of order. The principle of sovereignty (an idea alien to the Middle Ages according to McIlwain, The Growth of Political Thought, pp. 250 ff.) required him consciously to analyse the Medieval principle of group supremacy and restate it in a context in which government was distinct from the group. Kern, Kingship and Law, pp. 137 ff., notes that representation in the Middle Ages was attributed to King and Council without distinction.

21. See The New State and Creative Experience.

22. Yet Althusius used the assembly to achieve the results William Hollister identifies as characteristic of representative government, Government and the Arts of Obedience, pp. 104-105: "With representation, however, discussion crystallizes from conflicting alternatives into a consensus as to what should be done..." The production of consensus is the important thing. As Hollister notes, ibid., ch. vii, this consensus becomes the reason for obedience, i.e., citizens obey because the government seeks ends and acts through means that have been approved by them. Althusius' analysis of governmental authority indicates that even though its function is to lead the people, its authority is justified by the degree to which it realizes objectives determined ultimately by the people.

The general position finally adopted here is that Althusius has a non-reflective awareness of the various factors involved in an operative system of representation. That is, he has seen that for such a system to operate in a positive way, it must provide access to all interests and afford a situation in which there is an opportunity for discussion before voting. But he most probably did not see all the relations between these elements and a truly representative system. He is not, for instance, reflectively aware of a special problem of making representatives truly representative. Yet he does arrange his system so that there is an identity of interest between a representative and his constituents. The reason for this lack of awareness may be found first in the fact that he is thinking on what was at the time the frontiers of thought about participation and access, and so could hardly bring to consciousness all the problems of such a process. Secondly, his primary concern at this point seems to be that of drawing from social structures and implications the structural laws of political organization. His major conclusions are that there must be a Diet and a magistrate. The organization of the Diet is established primarily on the basis of the social organization shown to be a necessary consequence of symbiotic life. Since, however, no theoretical discussion of representation occurred before his time, he was unable to articulate all the problems he actually handled. Finally, he builds

his system directly from the institutions he finds about him rather than from the consciously reflective problem-solving point of view. The main problem that presents itself to him is how to get decisions and consent from the people in circumstances where they cannot be consulted directly. Here he makes reflective and consciously analytical a problem the Medieval man struggled with in a practical way from the time of Manegold of Lautenbach. What significance he saw in the system was grasped in concreto, that is, in his enlargement of an emerging Medieval system to solve a problem which that system solved de facto, but which had not yet been analysed in terms of an abstract statement of the problem. The lack of analysis was due, it appears, to the fact that the problem could not be recognized for what it was until someone had developed a theory of political association that accounted for the new forms of authority developing in the fifteenth and sixteenth centuries. Bodin, Machiavelli and Hobbes developed such theories, but they did not have to grapple with the problem of representation because their theories did not center about the problem of group participation in the exercise of authority. In our analysis of Althusius' system, we spell out meanings Althusius did not express in so many words, but which his handling of the system leads us to believe he was aware of. If one were to write a history of the theory of representation

Althusius would have to be given an important place as one of the pivotal theorists who gave a developed theoretical significance to a Medieval institution and so prepared the way for a conscious statement of the multiple problems of representative government.²³ As far as the institutions themselves are concerned, Althusius has, admittedly, little to contribute.

Once Althusius pledged himself as a result of his conception of group control to this task of implementing it positively through a representative system, he had to face up to the problems latent in the theory of representation.²⁴ There is, first, a whole series of questions concerning what is being represented. It is not enough to say simply that the group is represented, because this concept itself is indefinite, meaning anything from the individualistic juxtaposition of atoms to the real person conception of group unity. Another series of questions appears with regard to the problem of what representation is for. Simply to say that it is for participation is not enough, for the authority participated in may vary through a range of definitions that is almost as numerous as the writers on the subject. The

23. Statements like Ford's, Representative Government, p. 125, have to be modified: "It is an impressive fact that representative government was scarcely known or considered in political theory before the nineteenth century."

24. See Carl J. Friedrich, Constitutional Government and Democracy, pp. 255 ff., and F.W. Coker, Recent Political Theory (N.Y., 1934), pp 296 ff., for statements on these problems.

answer to these questions determines the question of the basis of representation that must be used to get the thing represented into contact with the authority it exercises.²⁵ Finally, and perhaps most basic of all, is the question of the nature of lawmaking itself. If lawmaking is command, then the assembly exists to give an obedience consent. If lawmaking is a process of adjusting interests on the basis of common purpose, then the assembly may easily take over the main work of adjustment. In this regard the interpretation of government is of immense significance and can vary from that of simple administration to that of policy leadership. Moreover, behind each conception of lawmaking there exists a conception of social life which may vary through a spectrum of meanings ranging from Plato to Spencer. In our analysis of Althusius' conception of symbiosis we have already indicated Althusius' position on many of these basic matters. It remains now to examine his use of the representative system to work them out.

Althusius' idea of the Diet is that it is not essentially different from the assembly of all in a direct democracy. The only difference he recognizes between such an assembly and a Diet is that in a direct democracy the assembly is the society itself assembled, while in representative government

25. The question of the basis of representation is decisive. See Maritain, Man and the State, p. 130, for an analysis of this point.

the Diet is an epitomized and mirrored society.²⁶ The mirroring is achieved through the representation of estates. It must be remembered that Althusius consistently views the state group as composed not of individuals but of other groups. It is therefore, groups that are represented. Even this, however, is not different from the situation in a direct democracy. For although we have individuals acting in one and groups in the other, in both cases, it is interests that are significant. It just happens that in the small group, the interests center about individuals.²⁷ As a mirror, the Diet is there simply to reflect the mind of the groups represented. That is, the Diet's function is to express a mind that exists in the people. To insure this, when the Diet is convoked the magistrate, in the

26. xvii, 58: "General ecumenical councils of the realm or consociated body are meetings of the convoked members in which deliberations are held concerning the republic and its utility... and by the partnership in advice, decisions are reached and resolved for the common good.... Therefore these councils and meetings are epitomes of the policy or realm, to which all the public business of the realm is referred." xxiii, analyses the Diet. It opens with the lines: "This council is also called a universal meeting, the senate of the realm or imperium, the assembly of the realm, the compendium and epitome of the realm." Althusius consistently assumes an identity between Diet and people. vii, 3; xviii, 8; xxiv, 41-42; xxiii, 11. His arguments for participation by the people are case as arguments for the Diet. See Gierke, Development, p. 67.

27. In the city, when the people participate directly in lawmaking, they gather according to their collegia, v, 61. Moreover, there is uncertainty whether the individual voting in the collegial assembly itself is acting merely as an individual or as a head of a family. The latter is more probable since only the father belongs to the collegium, iv, 3.

letters of convocation, include an outline of the agenda in order that "the representatives can come instructed and informed and be able to reflect on the matters to be discussed."²⁸ Althusius is careful to insist that the agenda be sent out early enough for the group to give a clear mandatum to the delegates. It is this mind, this mandatum, that the representatives represent. Thus in Althusius' mind, the Diet is the people. And its decisions are equated with those of the people. Although he is vitally aware of the problem of making the magistrate responsible, he is not equally aware of any such problem as regards the discretion exercised by the Diet. The reason for this seems to be that the magistrate must, by definition, exercise a discretion which the people are not competent to exercise. For the mind of the magistrate affects law precisely insofar as it is different from and in advance of the mind of the people.²⁹ But the power of the Diet is precisely the power that the people are competent to exercise but cannot because

28. xxxiii, 6, At ibid., 11, the legates to the meeting are commissioned, have a mandatum. viii, 5, the estates with their presiding officer stand for the whole province. Repraesentant is the term used. It is doubtful whether it carries the full meaning fixed in the modern term "represent." Barker and Clarke indicate that instruction of the delegate is the normal situation in the Middle Ages. viii, 66: "Each order has one vote or suffrage, although there may be many deputies representing the order. And, acting according to the prescriptions and commission of their principals, they are bound to explain their actions on their return."

29. See chapter V, below.

of physical considerations of size.³⁰

Because Althusius never formally discusses the problem of insuring that the two minds coincide, one may hastily conclude that he passes immediately from the possibility to the actuality of such conformity, completely unaware of a problem in the transition.³¹ But this leaves unexplained his extensive discussions of the organization of the Diet and of the estate basis of representation.³² It is, therefore, a fundamental contention of our analysis that in the discussions mentioned, Althusius shows himself in some way aware of a problem of the basis of representation, and aware of the fact that in the basis of representation is to be found the means of insuring harmony between the decisions of the Diet and the mind of the people.

If Althusius' representatives were mere agents, as the

30. Part of the problem of Walter Bagehot, Parliamentary Reform, in The Works and Life of Walter Bagehot, ed. Mrs. Russel Barrington, 10 vols. (N.Y., 1915), III, as also the problem of J.S. Mill, Representative Government, Everyman's Library (N.Y., 1910), as well as of the elder Mill, rises precisely from the fact that they doubted the competence of the people to exercise parliamentary authority. Bagehot nevertheless thought their ideas should be heard.

31. As T.H. Green points out, Lectures on the Principles of Political Obligation, reprinted with an introduction by Lord Lindsay (N.Y., 1948), pp. 142 ff., non-conformity between the two is always possible. Green's struggle with this problem is an interesting illustration of the difficulties one meets when the assembly is identified as the government.

32. xxxiii, it is evident that Althusius is concerned with these elements of procedure and process. The question he seeks to answer seems to be: how to achieve the objective of conformity through these arrangements.

provision for instruction suggests, there would be only a minor problem of insuring harmony between the decision of the Diet and the mind of the group. But the delegates, though in a sense ambassadors of the narrower group "mandatum ad hoc negotium habentes,"³³ have the power of modifying their instructions. For Althusius sees clearly that in the debates of the Diet a process of adjustment must occur, so that the vote of the delegate will never be a literal application of his principal's instructions. The representatives, that is to say, are neither uninstructed delegates nor mere agents. It would seem that Althusius envisages the representative as emerging from a context impossible for one trained in the individualism of numbers to visualize. For the representative is conceived of as representing not only the conscious policy choices of the people, but also their general attitude toward and conception of their own interests as also their life and their manner of thinking.³⁴

33. xxxiii, 11.

34. The idea of vicariousness is present in Althusius' conception of representation. For a short discussion of this idea, see Maritain, Man and the State, p. 134. James Mill faced this problem in a completely different context. It is significant that to solve it he had to appeal covertly to the principle of group interest, though this produced an inconsistency in his thought. Mary Follett is extreme in her scorn of representing the mind of individuals. This is due, perhaps, to her enthusiasm over the discovery that a united group has a common set of mental attitudes, has, that is, the unity that comes from the "idem nolens et volens" Althusius mentions in his treatment of the family.

The general relations between the Diet and the magistrate and the Diet and the people, represent an unresolved situation from which either a cabinet or a presidential system could evolve once the discovery of the party system was made and the problem of discovering the mind of the people, consequently, changed both in its institutional context and its philosophical presuppositions. But considered in itself and relative to the social situation for which and out of which Althusius fashioned it, the Diet represents a balance between the two politically significant forces of social life: the protection of private interests and the demands of the common good. The party system of government considered as a means of discovering the mind of the people has been profoundly modified by the individualistic conception of man as an isolated individual and the Cartesian conception of man as mind alone. Recent speculation by writers interested in interest groups and the corporative organization of representation suggests that the party system has grave defects in it.³⁵ The difference between Althusius' system and the modern one is not merely that Althusius knew nothing about political parties, but more importantly that he knew nothing about the individualistic conception of social life. Thus the basis of his system

35. See Ernst Barker, Reflections on Government and Herman Finer, Representative Government and a Parliament of Industry (London, 1933)

of representation is not an election in which policies as well as men are chosen by the individual citizens,³⁶ but rather it is the symbiotic life itself, successively integrating and harmonizing interests and functions within itself.³⁷ And it is these interests that are represented on a basis of functionalism. This idea is fundamental to the representative system. The representatives are established to achieve ever new integrations of interests and functions. But as Althusius handles the basis of representation, the entire system goes forward only on the premise that on each level groups can achieve integration only if their constitutive parts have themselves achieved it earlier on.

36. xxxix, 50. Althusius fears to give a vote to everyone after the individualistic fashion because of the danger of private interests. Evidently he consistently applies the principle that the group is the area of moral development; apart from it there is lacking the virtue necessary to serve the common interest. Clarke, Medieval Representation, pp. 300-301, by the twelfth century the idea of representation of a community had appeared.

37. Herman Finer, Representative Government, chs. i and ii, argues that much of the confusion in modern representation derives from the fact that the legitimate interests of the social order are not given open avenues of influence in the legislative process. At p. 24, he observes that since such interests actually do get influence, it becomes difficult to know who the real rulers of society are. G.D. H. Cole, Fabian Socialism (London, 1943), p. 127, remarks on this same element of distortion that occurs when legitimate interests are not given open and legal avenues of influence. At pp. 124-125 he observes that simply to represent the "people" is not enough. "One must decide who the people are and in what they are represented." See Mary Follett, Creative Experience, p. 251, for a discussion of the same problem.

the preceding level. If the first integration is not achieved, not only is the task of identifying functions impossibly complex, but, what is more to the point here, the basis for representation on the next level will be non-existent. It is true that unless a representative system ultimately represents the wishes and minds of individual men, it cannot be in any real sense an avenue of access for popular participation in lawmaking. But the question arises: Which is the significant view of the individual? How can he be most fully and effectively represented? Althusius' answer is essentially that of Mary Follett: the individual, from the point of view of political significance, is a member of a group, a group in which he participates by virtue of a common life and common interests. And it is this social quality of the individual that must be the basis of an effective system of representation. 38

The estate system as Althusius interprets it, is in reality a highly complicated thing. It is at one and the same time an interest group, a territorial group and a functional group. And in each of these aspects it is

38. Krabbe, Modern Idea of the State, p. 90, champions pluralism as an instrument of access. He suggests the principle that the individual should control the interests he understands. Once the system permits or forces upon the individual ostensible control of interests he does not understand, the interpretations of Michels, Pareto and Mosca acquire a basis in fact and so become true for the particular situation.

ordered to the preservation of social life.³⁹ As the basis of representation, it produces a system that represents all three. Policy is achieved progressively and experimentally, each level of group life determining its own internal policy but open to contact with other groups with similar interests in a different territory.⁴⁰ Thus in the province, the cities

39. Chs. vii and xxxiii of the *Politica* are devoted to an analysis of the estates and their political functions. The function of each estate is also its interest. So that by participating in the Diet according to its function, the thing relevant to the needs of the whole, it also can protect its interests, the thing relevant to the sub-group as a part. The territorial aspect is evident in vii, 40, the third estate is composed of townsmen, and the first estate of nobles who generally live in the country. But Althusius is not clear at times whether an estate is something one "belongs to" or "lives in." The clergy do not fit well into this territorial-functional identification. See chapter VII, below. In general when Althusius is thinking of the "part" as a place where interests are integrated below the sovereign state, he speaks of the static thing: family, city, province. But when he is thinking of "part" as a functional element in the sharing process, he speaks of the dynamic thing: estates. The functional aspect is dominant. See vii, 48: "Therefore, as the ecclesiastical order is composed of pious, learned, wise and good men of the province, so also the secular political order of the nobility will take care that it can produce active, martial and courageous men ready with arms or advice and skilled in military matters. The order of the people in the cities and towns will take care that it can produce and show to the fatherland, skilled and industrious men, excellent merchants, farmers and craftsmen. Through the work, labor and industry of these orders, autarkeia can be achieved in the consociation and symbiosis." See also, xxxii, 52; xxx, 11; viii, 3; vii, 13.

40. Although the estate organization is "linear" and "single interest" in character, it is tied into allied linear and single interest elements on each sub-group level. Thus the attack on modern linear groups by men like Baker Brownell, The Human Community, does not apply to Althusius' system. See also Mary Pollett, Creative Experience, p. 250.

clergy and nobility meet to determine provincial policy. The important thing is that the members of each estate first discuss the proposed policy within their own circle and only afterwards meet with the other estates to come to an agreement shared by all interests.⁴¹ It has become a commonplace to refer to Althusius' system as "federal." Nothing could be less true. Althusius did not think in terms of federal and unitary organization, but in terms of group integration. The union among cities and provinces in the state is not essentially different from the union among families in the collegium or among collegia in the city. Every social structure based on pluralism will have inherent in it those problems of the determination of jurisdiction which have come to be called the problems of federalism. And it is true that in building his pyramid, Althusius makes the territorial units the constituent members of the next group above them.⁴² But if one analyses his system, it becomes evident that the territorial identity of the group is not the basic consideration on which it is built.

41. See iii, 18 ff., and viii, 8. For example, in the provincial Diet, the city delegates confer alone and then with the other two estates. In the state Diet, each estate first comes to an agreement alone; then all discuss policy together. At xxiii, 13-15, Althusius assumes that meeting houses for each estate are part of the ordinary equipment of the legislative process.

42. At ix, 5, Althusius distinguishes between the various kinds of "parts" that may exist in a whole.

Function and interest are paramount.⁴³ The representatives of the sovereign Diet do not represent provinces, but estates, and the roots of the estate extend clear back to the collegium, the first of the civil societies.⁴⁴

The individual's participation in the discussion and determination of policy must be understood within the context of this basis of representation. The representative carries both the group's actual will and its general mind to the Diet. One must remember that the estate is a clearly

43. See the quotation from vii, 48, note 39 above. Althusius follows the Platonic conception of functionalism with the exception that he does not recognize the determinism of the iron, silver and gold division of souls. vii, 20, Althusius discusses the talents and gifts necessary for each social function. He holds that each person must choose his vocation. There is some confusion in this matter, however, for the nobility is hereditary, iii, 29, and so not a matter of choice. At vii, 30, the same division of gifts that distinguishes estates seems to be used to distinguish ruler from ruled. Yet in his discussion of the Advisors, ch. xxvii, it is quite evident that the distinction between the three estates is not the same distinction as that between the ruler and the ruled. Foster, The Political Philosophies of Plato and Hegel, ch. 1, has an interesting discussion of Plato's difficulties in his attempt to establish two different kinds of function: that of ruling and that on which the classes of men are based.

44. Thus for the second estate, the parish is the basic unit, viii, 8. And even in the state level, the delegates represent a function that is organized from the family through the guild, city and province to the state. The representatives of the third estate are also members of a collegium in the city. xxxiii, 12, the entire estate is designated as a collegium composed of minor collegia, i.e. the guilds of the city. This arrangement departs from strict federalism and requires that Althusius be classified generally as a corporative state thinker. See Gerbrandy, National...Stability, p. 23, and Friedrich, "Introduction," p. lxxxvii.

defined and organized unity built up from the collegial body to the state group in a series of steps which achieve a closer integration and consensus at each step.⁴⁵ Thus when each estate faces the other in the Diet, they come together clearly organized and internally united, prepared to formulate a policy that will establish a new group unity on the state level.⁴⁶ The example of the disruptive influence of the three estates on the eve of the French revolution is not to the point. Althusius would be the first to admit that his system could not work in a group divided as deeply as were the French people at that moment. The important point, as far as representation is involved, is that the representatives have a strong bond of unity in mind, will and life with the

45. Granted the internal unification of each sub-group, then the representative realistically implements the idea of a part representing the whole, for there is a whole to represent. In modern representation the difficulty is found in the fact that the thing represented is not homogeneous. Therefore a part of it cannot stand for the whole. See Gierke, Political Theories, pp. 64 ff. Coker, Recent Political Theory, p. 297, discusses the problems involved in the attempt to represent non-homogeneous groups. Disraeli's novel, Sybil or the Two Nations, first published in 1845, republished in World's Classics (N.Y., 1926), is an interesting treatment of the political problems that result when a nation divides into two hostile parts. Finer, Representative Government, p. 6, points out that territorial based representation that does not coincide with group or interest alignments produces confusion. See also C.D.H. Cole, The Future of Local Government (N.Y., 1921)

46. xxii, 58, the division into three estates, makes the processes of government more clear and certain. Reinhold Niebuhr, Moral Man and Immoral Society (N.Y., 1932; p. 230 and Krabbe, Modern Idea of the State, p. 164, discuss this idea.

people they represent. Althusius nowhere explicitly analyses the nature of this bond, indeed, he does not seem to be aware of a special problem in this regard. But in his system these bonds do exist and are operative. They must, therefore, be considered in any critique of his solution of the problems of access and participation.

We have in the Politica a system of representation devised by a man who succeeded in utilizing the institutional material of his period in such a way as to reconcile in one representative system the individual's demand for a consent process and society's need for a method of regulating private interests. There is a tension, a difference in polarity in these two elements, in that the consent principle stresses the importance of private interest while the functional principle stresses that of social service. Althusius' integration of them is achieved by identifying the functional aspect of the estates with the interest aspects of the individual in the estate, so that the vote of each estate represents its conception both of what is for the interests of its members and of what its duty toward society demands. This solution spells out in terms of decision making, the principle that the individual has two interests: his private good and the common good.

The estate system of voting might seem at first glance to be an application of the "weighted" vote principle in such a way as to throw the control of the Diet into the hands

of the two numerically smaller estates: the nobles and the clergy. It is true that from the numerical point of view this must inevitably happen. Still it seems quite clear that this consideration is not influential in Althusius' thought. He is not aware of any need to influence decisional power in this way. Indeed any attempt to do so would negate the principle of equality on which the whole conception of participation rests. The estate system is used as the basis of representation because the estates are the organizations that embody and express the interests the state must regulate.⁴⁷ It is justified on the principle that each significant interest should have a part in the making of laws. From this point of view the functions of the clergy and the nobles are as important as those of the burghers and so should be equally represented. Despite the numerical inequality in this system, the principle of equality is retained inasmuch as each group exercises an equal influence. The system points up the essential function of the Diet, which is to insure

47. There is the element of protection of interests in estate participation, xviii, 113: "It is advisable that these special and general orders and likewise the special orders be united according to definite procedures and principles and depend upon one another, and that each have need of the aid and counsel of the other. Then, it is advisable that each order be restrained within its own limits, so as not to be able to injure another, and that each have definite remedies whereby one may be guarded against injury by another. Namely that the ambition of the ecclesiastical order, the insolence of the equestrian and the license of the plebian orders may be restrained and the injury of one against the other may be forestalled."

that while laws regulate interests in conformity with the imperatives of preserving social life, they still remain within the limits of acceptance found in each estate. One encounters here the great difference between Althusius and Burke or Bagehot or Mill. All these men agreed that the judgment of the Diet or Parliament should express the mind of the nation. Indeed the three are united in agreeing that it should express the nation's best possible mind.⁴⁸ For Bagehot especially, this function raised problems about the composition of the Parliament. The solutions he proposed consisted in an arrangement for including lower class opinions while keeping control in the hands of the upper

48. This is the problem Bagehot struggled with in such an interesting way. Parliamentary Reform, Works, III, 113-114, he wants: "substantial agreement between Parliament and the nation," and "accordance of Parliamentary with national opinion." Still he also feels the need for something more and better than this, something that cannot be gotten by universal suffrage. His ultimate struggle was to reconcile the admitted need to have every interest get expressed in Parliament with his desire to have Parliament reach an informed and intelligent decision under the direction of those with "superior capacity," of those, "who create public opinion," III, 127. Finer, Representative Government, p. 3, approves of the economic council arrangement in Germany because it meets the norm: "inquire whether it promotes the greatest possible entrance of intelligence, science and benevolence into the government of the country." And, p. 211, he approves of it because it brings about: "the introduction of eminent personalities" into the government. Mill, Representative Government, has the same idea of the legislature as the organ of the rule of the best. Burke, Speech to the Electors of Bristol, has the same idea. Althusius wants the same effect, namely the best possible decision, but goes about it in a different way. Actually, his solution, which places the leadership principle in the magistrate, is based on a profoundly different conception of the function of the legislature.

class elite.⁴⁹ Althusius never encountered this problem because for him the Diet realizes not the elite principle of rule but the group principle. Although his choices show a definite tendency to the Bagehot and Mill type of preference for the rule of the best, he realizes it in his magistracy not in his Diet. The decision of the Diet represents, as a consequence of the magistrate's leadership, the best possible judgment of the group. But it represents also the actual will of all the citizens.⁵⁰ For Althusius, despite his acceptance of the rule of the best principle, was much more aware than was Mill or Bagehot that if one wishes an obedience based on conformity between law and group mind, one has to arrange to have the group ultimately get its actual mind reflected in the law.⁵¹ There is, it

49. Bagehot proposes a selective suffrage for the working classes. Mill organizes a Council of Legislation to enable the best minds to dominate legislation. Burke achieves his ends by his theory of "virtual" representation.

50. In the *Politica*, the decision the Diet approves is the best decision the country can produce, but the elite elements that refine the quality of legislation are concentrated on the executive side, and exercise their influence on the people before they come to the Diet. The magistrate is supposed to guide the popular mind the same way an ideally operating political party would. Thus it is the actual will of all the people that is accepted. xviii, 91, the rule of the best is limited by the liberty of the people.

51. Actually, the attempt to give the "best minds" dominance in the Parliament after the manner of the writers we mention is an overt application of the real will idea. That is, the Parliament will express the real will of the nation, but perhaps not the actual will of the people. The ultimate question here is: what kind of response do you want from the citizens?

is true, an embryonic upper House of Lords composed of Ephors, and a kind of Cabinet composed of Advisors. But the functions of these organs occur on the executive side of Althusius' distinction between Diet and magistrate. They represent the group as the force that directs and controls a magistrate inclined to disregard the Diet's mind. This interpretation is reinforced when one considers Althusius' analysis of the relations between the magistrate and the people. As will be shown in the next chapter, although the magistrate is a leader of the people, his chief problem is to keep within the limits of popular acceptance.

Rousseau's rejection of the possibility of representation is of interest in this connection because it questions the very principle of representative government. Rousseau took the general position that the sovereign will cannot be represented because the representative system substitutes the will of the representatives for that of the people. His basic premise is that the general will is a will shared by all the members and formed by way of direct participation of all in the discussion process that produces it.⁵² His distrust

Mill, Bagehot and Burke ultimately vote in favor of leadership in a way that begets an obedience response in the people. Bagehot, with his analysis of the people's willingness to follow, gets closer to representative government.

52. Rousseau, Social Contract, Bk. III, ch. xv, and Considerations on the Government of Poland, tr. Willmoore Kendall (Minneapolis, 1947), ch. vii. Bernard Bosanquet, The Philosophical Theory of the State, pp. 97-108, and Hendel, Jean Jacques Rousseau, II, 169, 198, discuss this problem of Rousseau's.

of organized private interests led him to conclude that since the system introduces only representatives into the discussion process, the conclusions reached in it must express only the mind and interests of the members of the assembly which, being a group within the whole, will necessarily have a particular and not a general will. Within this context of thought, it makes little difference whether "particular will" here means a will for the general good shared only by the members of an assembly, or a will for the private interests of the members of an assembly. In the first case the law does not conform to the mind of the citizens; in the second the citizens are directly oppressed. Both situations are fatal to freedom. It is interesting that the more recent writers have interpreted "particular will" solely in terms of a pressure group will for a private good. Both Herring and Ford consider the representative organ as the instrument of the "interests."⁵³ And this interpretation concentrates their attention on the single problem of preventing the representative organ from developing a will for its own particular interest. Consequently they pay little attention to the problem of getting a representative assembly that will have a mind common to all, or a general will. These considerations highlight one basic difference between direct democracy and representative

53. E. Pendleton Herring, Presidential Leadership, and Henry Jones Ford, Representative Government.

government. In a direct democracy the people bring their individual ideas to the meeting and there modify and adapt them through personal participation in discussion, while in a representative system the discussion is concluded and the law made apart from any such direct modification of the popular mind. The members of the representative assembly participate in a discussion situation that occurs apart from the people. Granted that they really participate and experience the mutual changes of viewpoint necessary for the elaboration of a true "mind of the meeting," it follows necessarily that that mind as expressed in law will differ from the express popular mind, which has not been subjected to the modifying influences of parliamentary debate. Granted even a truly representative assembly, still the conclusions of the assembly must be at least a more developed and modified version of the ideas at large among the people. Obviously, it seems to Rousseau, the will expressed cannot be popular because it is not a product of the weaving of "pluses" and "minuses" among the people into a whole. If the assembly enjoys a discussion situation, the law will always conform to the mind of the representatives. The important thing, however, is that it conform to the mind of the people. No matter how perfect the representation achieved, it still remains that the people themselves do not participate in the actual discussions that produce the laws. Rousseau's objections to the representative principle are useful in that

they keep us reminded of this difficulty, namely that conformity between the law and the mind of the people, even if it can be achieved through representation, cannot be achieved in exactly the same way as in a direct democracy.

The question arises, however, whether this difference can be enlarged into a doubt about the possibility of representative government achieving the same kind of conformity between law and popular mind as that achieved in a direct democracy. It would seem that Rousseau's analysis did not take cognizance of all the factors involved. It must be remembered, first of all, that since Rousseau knew only the estate system of representation, it was this that he rejected. Moreover, he rejected it as he saw it working in France, and may have been guilty of rejecting for a defined situation, an institution that did not work in a situation that was the opposite of the one he himself defined as relevant for political theory. Finally, it would seem that his enthusiasm for the thing he had discovered, the need for participation, led him to exaggerate the elements necessary for a participation that would produce conformity between the law and the actual mind of the group. Certainly his speculation indicates that the virtual representation suggested by Burke and the two Mills, whatever its usefulness for producing law in conformity with a national tradition and so with the mind of a homogeneous people, does not satisfy the requirements of a conformity to the actual mind of the whole

group. But here, it would seem, the proponents of virtual representation had a point which Rousseau missed: the uniqueness of the individual's experience should not be overstressed because his social habits of conformity and imitation along with his other habits of inertia (as pointed out by Graham Wallas, Human Nature in Politics and James Bryce, Studies in History and Jurisprudence) seem to insure that the actual and express mind of the average citizen will be the product of a rational interpretation that pretty well follows conventional patterns. Laskei, in his argument against the sovereign state, seems to have drawn heavily on Rousseau and so helped to illustrate this exaggeration of the uniqueness of the individual's experience. He observes: "The idea that my will and my experience are, in some mystic fashion, embodied in the will and experience of my representative is contradicted by all the facts at our disposal. My will cannot, as Rousseau saw, ever be represented at all, and my experience is, for its intimate substance, essentially private to myself. I can recognize, in any average legislative assembly, men whose actions reveal a purpose sufficiently akin to my own to enlist my support."⁵⁴ Now it was precisely this acceptance of a decision made by others to which Rousseau objected. For him, the general will could not be what it is supposed to be unless it gets formed

54. Grammar of Politics, p. 264.

by the immediate participation of all in the discussion that forms it. Rousseau sought not a consent that gets equated with submission, however voluntary, but a consent that results from discussion and acceptance on the basis of mutuality. Althusius sought the same thing. But he relied on a set of facts which Rousseau and, it would seem, Laski, disregard. And while it must be admitted that the product of direct participation is not exactly the same as the product of participation through representation, still there seems to be some basis for supposing that the same kind of conformity can be gotten in both processes. Rousseau makes the mistake of identifying the perfect achievement of a goal with the minimum achievement of it.

The modern party system introduces a new element into the consideration in that it provides a way for the people to participate in the first stage of the discussion that produces law. This alone does not solve the difficulty, for further stages of discussion and modification occur. But it does establish limits within which modification is permissible, and by so doing makes it probable that the changes worked by later modifications will not wander beyond the limits of popular acceptance.⁵⁵ As it operates in actuality, the defects of the party system stem from the

55. Barker, Reflections on Government, pp. 38 ff., analyses the party's contribution to the discussion situation in the modern state.

individualistic premise that finds reality only in the isolated individual,⁵⁶ and the rationalistic premise that restricts representation to mind and ideas alone. As a consequence of this point of departure, the system, in view of the heterogeneous units that are represented, runs into the difficulty that in any given unit of representation the minority opinion is without representation.⁵⁷ In fact the representative, in this system, feels no need to conform to more than the majority opinion in the district he represents. This raises the question of the degree of access the minority has when the group is split by the very process of selecting representatives in a situation where as the losing side, it is left without a representative.⁵⁸

56. Lowell, Public Opinion, p. 86: "If parties help to crystallize public opinion by framing issues, they tend also to falsify it, and this in several ways, all at bottom connected with the fact that the whole system of parties is an artificial grouping of men, a device for the practical working of a large electorate." See E.E. Schattsneider, Party Government (N.Y., 1942) for an analysis of the influence of a numbers consideration on party tactic.

57. Schattsneider, op. cit., makes this especially clear. Another danger arises from the party's will to power. See Barker's analysis of the party's tendency to monopoly, Reflections on Government, Part IV. The naive revelations by men like James A. Farley, The Farley Story (N.Y., 1948) indicate how often the "good of the party" takes precedence over the good of the state.

58. A commonplace criticism. Earlier expressions of it may be found in Mary Follett and Herman Finer. Bagehot, Parliamentary Reform, Works, III, 136, 149, is worried about an aspect of this development in his fear that universal suffrage in combination with majority rule would disenfranchise the upper classes since they are a permanent minority.

The minority loses too early in the game to be able to affect the law.⁵⁹ In recent times the principle of group activity and unity has been rediscovered. But as used by many writers, the group is interpreted in the context of the old individualistic and competitive framework of social interpretation which makes of the group simply a larger individual.⁶⁰ When this framework of interpretation is dropped, the way will be open to interpret group participation in legislation in some terms other than those of selfish pressure groups.⁶¹ When the fixation disappears that every group participation in legislation is necessarily pressure group activity, then the way is open to consider the possibility of legislation

59. Thus producing interpretations like this of MacIver, The Modern State, p. 200: "The general will...is not the will of the people as we have been employing these terms. The will of the people, our 'ultimate sovereign', is the will of a victorious element that wins its way through struggle and opposition. Only in rare moments of crisis does it ever transcend politics. But the general will unites those who win and those who lose. It is not the will for a policy but the will for the state." Hollister, Government and the Arts of Obedience, ch. iii, identifies this motive for obedience as corresponding to the exercise of the power of domination.

60. This approach seems to be implicit in such works as Lawrence H. Chamberlain, The President, Congress and Legislation, Studies in History, Economics and Public Law (N.Y., 1946), and Earl Latham, The Group Basis of Politics, A Study in Basing-Point Legislation (N.Y., 1952)

61. To base obedience on consent apart from real participation is simply a veiled appeal to the real will justification of authority. Such a procedure constitutes a strong temptation to the pressure group theorist about political action who also realizes the fundamental need for order in life.

based on group activity and group representation.⁶²

These considerations are pertinent in that they lead up to an analysis of an aspect of group life which gives a clue to the solution of the problem of producing a law which despite the modifications it acquires apart from the direct participation of the people is still acceptable to them. The solution must be found in some quality of the representative which is communicated to him by the nature of his connection with the people he represents. The thesis offered here is that Althusius seeks a solution precisely in that way. The problem is to get a law which on its emergence from the assembly will be sufficiently in harmony with the mind and attitudes of the people to insure that they will be able to adjust their individual minds to the law without a major effort or a notable change in the existing posture of their ideas.⁶³ To solve this problem it is not enough

62. Contrast these two ideas. MacIver, The Modern State, p. 197: "If there were no party system democracy in any sense would be impossible." Finer, Representative Government, p. 19: "There was needed (in Germany) a system to secure careful discussion and thought and acts of will based upon a probing investigation of all material evidence, the variety of possibilities, the hearing of all voices through the medium of something better than party."

63. Hitherto conformity has been viewed as a product solely of the citizens' action on the law. Now we introduce the idea that involved in the production of conformity is the element of the law's action on the citizen. Althusius is in the tradition that recognizes the formative influence of the law on the citizen. The general idea that we learn morality and what is just from the law expresses this idea. Ultimately, conformity is a product of both. If the first process is effective the second becomes possible.

to say that people have agreed to abide by the decisions of their representatives. Experience shows that they have not and possibly never will agree to abide by a decision whose justice does not sooner or later become evident to them. Nor is it enough to say that they have agreed to accept any decision emanating from a particular, clearly defined process of lawmaking. This solution has about it a greater degree of realism than the first. But the debacle of the eighteenth amendment in the United States shows that such agreement is conditioned and limited to laws whose reasonableness is perceived by the citizens, i.e., to laws that ultimately achieve conformity with the actual mind of the people.⁶⁴

We have indicated that Althusius was aware of the problems involved in the movement from the people to the making of the law. It would seem that he also had some idea of the problems involved in the movement from the law to acceptance of it by the people. His insight into the necessity of active acceptance by the people if a law is to be freely obeyed⁶⁵

64. The realistic view, expressed in the Declaration of Independence, that the people will suffer long and much before they revolt, is true. Althusius with Aquinas and Machiavelli stress unduly, perhaps, the readiness of the citizen to revolt. It must be remembered that the acceptance Althusius seeks is one that produces the kind of obedience he is talking about and not simple submission. Granted the "healthy" society he presupposes, it is quite probable that popular reaction to bad rule will be much more immediate and severe than it is in modern states.

65. Chapter VI, below, discusses this from the point of view of the magistrate.

turns his attention to the problem of establishing a system of representation that will produce laws in fundamental conformity with the general attitudes of the group. It is only when the movement of representation operates both on the way from the people to the law and on the way from the law to the people, that a law is gotten that satisfies the requirements of conformity in a symbiotic life. Rousseau's assumption that an assembly must necessarily have a particular mind falls once the possibility appears that the basis of representation is so deeply rooted in the group that the representative, given prior instructions, will inevitably think enough like the group to insure the passage of a law that represents what the group would have concluded if it had directly participated in the discussions. When this happens, then the group finds it possible to accept the law and, by an easy change in itself, to realize the conformity established as the goal of representation.

From this point of view, the strategic point about Althusius' system of representation is not so much that it is based on group representation, as it is that the groups represented are homogeneous.⁶⁶ The consequence of this is

66. The party system creates a false unity, one that begins dissolving as soon as formed because it has no roots in social life. Arthur M. Schlesinger Jr. gives an illuminating analysis of the unity of the Jacksonian party, Age of Jackson (Boston, 1945). G. D. H. Cole, The Future of Local Government, p. 150, remarks: "I do not believe that effective control over the elected person can be exercised, or elections

that the representative represents the whole group.⁶⁷ The universe of thought within which Althusius' system must be evaluated is simply unrelated to the individualistic one. Its basic premises are different. The basis of representation is not the individual thinking and judging about state-level policy, but the group united by a partnership in all life on the level immediately below that of the state and sending from the heart of that life a delegation to speak and judge for the group when all the groups meet in the assembly to adjust varying points of view. In determining the instructions to be given to the representatives there will be the inevitable minority and majority view within the group. But it must be remembered that the group sending the representatives has a large experience in the fundamental political process of adjusting

carried out in such a way as to secure a really representative result, unless the whole body of those who combine for the election of a single representative are conscious of a sense of social unity...a sense of the distinctness of the unit to which they belong from other units outside it." Follett, The New State, p. 150: "Unity must be something more than a sentiment, it must be an actual system of organization. We are now beginning to see that if you want the fruits of unity, you must have unity, a real unity, a cooperative collectivism. Unity is...a psychological process produced by actual psychic interaction." Clarke, Medieval Representation, p. 291: "The first condition requisite for political representation, in the full sense of the term, is a coherent society, organized within its own frontiers and of considerable geographic extent."

67. Or, the other way around, the force of opinion in the represented is concentrated in the representative.

differences in viewpoint and idea.⁶⁸ Althusius, as we indicated earlier, does not expect the minority-majority split to be incompatible with unanimity in the acceptance of the conclusions reached. Thus the representatives represent all the individuals in the group and not simply the numerical majority of them. With regard to subsequent modifications of instruction that derive from discussion in the Diet, Althusius' system insure a situation in which the law produced is easily assimilated by the group. For the representatives, since they are symbiotically united with the group, naturally tend to think the same way as it. They have the same attitudes and point of view; their interests are identified because they have already been integrated in the collegium, the city and the province; the psychological compulsions that influence their thinking are largely the same as those that influence the thinking of their fellow citizens. Consequently, the modifications they accept are within the limits of acceptability found in the whole group.⁶⁹

68. Althusius realizes the dictum of Follett, Creative Experience, p. 225: "We shall see that the whole secret of a sound system of representation in politics or industry is to make the necessary movements for agreement far enough back in the process." When the representative basis extends back into the city groups, it contacts the point where as Follett says, ibid., p. 222: "men meet on the basis of their everyday interests and in small enough numbers to make an attempt at agreement possible."

69. Follett, ibid., p. 245: "The core of the problem of representation is how to make the people I represent have a part in my own specific-response activity in the second

There is another consideration pertinent here that will not become clear until the function of the magistrate and his relations with the people are analysed. But it can be mentioned at this point where it has a notable significance. The point being made is that because the representatives are so similar to the other members of their group, the modifications of policy they develop will be clearly in line with the mind of the people. As a consequence, the law of the Diet can achieve its ultimate conformity with the mind of the people by the final act in which the people accept the law and thereby bring their actual mind into conformity with the law. Contributing largely to this last stage is the quality of imitateness Althusius identifies in the people.⁷⁰ Perhaps it can best be called the willingness

group, that is, how to make people share vicariously in their representatives' activity. We have had a too intellectualistic treatment of representation." Althusius leans heavily on the bond that exists between a representative and his people when these two have already been united by agreement (consensio). He tells us, ii, 7: "Agreement is the act whereby the mind and heart of the united members is made one thing; wishing, doing and rejecting the same thing, for the common good of those who are united."

70. This idea is presented in many different ways by different writers. It would seem generally that the ancient idea that justice is learned from the law is primarily a statement of the point. Thus Althusius' statement in his Civilis Conversatio, p. 11: "Who, I ask, could know exactly what justice is if he did not first recognize what is the law? From the law (one learns what is) justice." (The title of this work is a commentary on Althusius' idea of the relations between man and society). Bagehot, in his Parliamentary Reform, draws heavily on this idea of the tendency of the community to accept the ideas of the upper

of a people to follow a leader who is en rapport with them. This does not involve the position that the Diet exercises the leadership function of the elite. But it does involve the idea that the leadership of the magistrate is exercised first on the Diet and through it law is affect. And the law that presents itself to the people is a product of the magistrate's leadership coupled with acceptance by the Diet. What this amounts to is that the law comes to the people with the leadership authority of the magistrate behind it as well as the approval of the representatives. Consequently, it stimulates the natural tendency of the group to follow

classes. Lowell introduces the idea with the question of who forms public opinion. The actual mind of the people is the product of some kind of leadership. Thorstein Veblen, Theory of the Leisure Class, 3rd. ed. (N.Y., 1918) helped to pioneer the study of the natural tendency of the people to accept norms from a recognized elite. Althusius, xxv, "On the Authority of the Magistrate," makes it clear that the leadership he envisages does not suppose passivity on the part of the followers. It is notable that the ideas Ordway Tead, The Art of Leadership (N.Y., 1935) offers as new, can all be discovered in Althusius, who in turn consciously borrows them from earlier writers. Throughout the Politica there are frequent references to the fact that the personal and public life of the leader sets the standards for the people. The sicut rex ita grex dictum is essentially a statement of this fact. At xxiii, 31: "It is almost a law instilled by nature in the people that all the deeds, words and customs of the prince are carefully imitated. And they (the people) direct their eyes, efforts and minds to this alone that his every vice and virtue and every habit of body and soul find expression in their souls and minds.... The prince is a mirror placed on high in which all look and from which they acquire their norms for living." This idea is, of course, a Platonic one, and Althusius seems to agree that the decay of a society can be traced first to decay in the elite element.

the elite.⁷¹ And the law itself stimulates the acceptance and conformity whereby, in the last stage of legislation, the people's actual mind and that of the law achieve conformity. This point will become clearer in the light of Chapter VI below.

The structure of the discussion situation itself is of strategic importance if the modification of the express mind of the people is to be moderate and generally acceptable. For the discussion must be organized so as to insure not a victory of one point of view, but a summing up of all points of view.⁷² Institutions can provide access to the process, but unless the process itself is organized so as

71. It must be remembered that although the principle of equality lies at the heart of symbiosis, Althusius' society is not an equalitarian one. His insistence on the need for objectively good law and life forces him to face up to the problems a straight equalitarian theory avoids.

72. Hollister, Government and the Arts of Obedience, ch. vii, points out that bargaining is not discussion for it is ordered essentially to the realization of private ends rather than to agreement about the common good. This is what Althusius had in mind. While in the Diet there is an unlimited freedom of debate and the right to criticize freely, v, 62 ff.; xxxiii, 4-15, Althusius conceives of it as the place where the estates meet to answer the right question. The limitation on majority rule indicates the kind of decisions he wants. See Bagehot's commentary on this idea in Parliamentary Reform, Works, III, 148 ff. viii, 33, indicates that those not interested in the "right question" and the answer to it are profoundly dangerous to the republic. Thus demagogues, those seeking personal glory and the like constitute evils in the state. Mary Follett, Creative Experience, pp. 253 ff., analyses the elements in a real discussion situation in a way that fits into the idea of the Politica.

to permit all points of view to achieve significant influence, the summing up process will be inadequate, and someone's point of view will be excluded from any influence on the conclusion reached. The primary quality of any discussion process, therefore, is that it occurs in a situation that permits all elements worthy of access to influence the final decision reached through discussion.⁷⁵ The question we face, consequently, is: what are the characteristics of the discussion process and situation in Althusius' Diet?

The immediate consequence of the estate basis of representation is to bring face to face in the Diet clearly defined interests and equally clear points of view. This, therefore, is the first characteristic of the situation within which policy is discussed: that the partners in the discussion and consequently the interests involved are clearly defined. For Althusius provides that the first step in discussion is for each estate to make up its mind separately on the issues involved as though it were the only estate consulted. Only after each estate integrates itself in this manner do they meet in common for further consideration and an ultimate meeting of minds among all

75. V.g., xxiii, 76, one of Althusius' criticisms of the German Diet is that the third estate merely approves the laws, it does not debate them. xvii, 57: "Each member of the realm or republic has the right of deliberating, consulting and examining. The right of deciding, however, rests in the vote and opinions of the majority."

estates.⁷⁴ Such a process insures that all the issues involved in any policy will receive adequate consideration in circumstances calculated to allow maximum influence to each point of view.

But this alone will not ensure a just and representative conclusion being reached. Under certain social conditions such a process would insure deadlock and the destruction of all discussion.⁷⁵ Therefore, the second major characteristic of the Diet's process must be given equal place with the first. This is that the estates consider only matters of concern to the entire state group. To this must be added the assumption that the basis of the group is found in the existence of a good common to them all. In this context the clear definition of interests involved in the first stage of discussion, far from setting up irreconcilable groups within the Diet, actually moves the Diet one step toward the meeting of minds by defining the issues about which further discussion is necessary. Furthermore, these two

74. xxxiii, 19: "In order that the confusion possible in a multitude of opinions be avoided, and that the matter be considered more precisely, the estates of the realm or imperium undertake their considerations in separate collegial groups and in separate meeting rooms. And what has been agreed upon there is communicated to the rest and opinions are compared. Then a definite law is sanctioned and promulgated either unanimously or by a majority decision that binds all the orders." See also, viii, 2, 66, iv, 19 indicates the result desired: agreement of all.

75. As v.g., in eighteenth century France, modern Spain or between the United States and Russia.

characteristics together suggest that Althusius is not interested in compromise solutions in which all the interests agree about a common course of action conceived of as equally favorable to all private interests. This does not mean that particular interests are not involved in the decision, but that they are involved only insofar as they have a duty toward the common good. The law determines their duties.⁷⁶ Under the leadership of the magistrate, the very process of establishing what is for the common good tends to establish the common will for that good.⁷⁷

While the arrangements for discussion are ordered to providing the maximum participation of the interests having access, the provisions Althusius proposes for reaching conclusions are ordered to the protection of those interests from the oppression that appears when the majority decision

76. vii, 26-27: "There are two kinds of activity. It is either public or private, each being marked by a distinctive garb through which it is known.... A private activity is one which directly serves the special and private consociation and symbiosis and is ordered to the common good ...of the province.... Whence public duties control private activity which they correct, delimit, enlarge and direct, and they refer private activity to the common good and use of all the symbiotic groups in the province."

77. Althusius sees this as clearly as Tead, The Art of Leadership, p. 118, and many moderns. A real discussion situation requires that the various viewpoints each be expressed by its own exponents. Bagehot's clear view of this was at the bottom of his difficulty in his Parliamentary Reform. Virtual representation does not get the viewpoint expressed by those who hold it. See Maritain's argument for voting by groups, Scholasticism and Politics, tr. edited by M. Adler, 2nd ed. (London, 1945) p. 90.

expresses the pure majority opinion.⁷⁸ The protection lies in the requirement that all decisions must affect the three estates equally. This provision is calculated to protect each estate from the inherent tendency of man to seek his own selfish good.⁷⁹

Reviewing the system whereby Althusius expects to get an effective popular sovereignty, we see that it is based essentially on the two related concepts of an expanding group life and successive group integration. Although the individual is not stressed, the individual, through this system achieves maximum participation in decision-making. To appreciate the full effect of the system, one must always remember that the groups involved are not interest groups united externally by an effort to get favors or protect interests, but life groups united internally by a partnership in all life, by shared beliefs and mutual fraternity. For purposes of representation, to represent the group is to represent the individual, for the group is homogeneous, one in which although "each is not like each", yet, "each is like all." This system enables the individual to influence the law precisely because he gets at it through the concentrated energy of his group.

78. xxv, 66, Althusius is aware of man's tendency to sacrifice others to his own personal good, and is concerned with blocking it.

79. xviii, 113.

A second effect of major importance is that the system habituates the individual to political participation. By being drawn into direct, active participation in the collegium and the city he is taught the techniques and problems of participation and agreement. The educative effects of this activity in the sub-groups is insured precisely because the system leaves those sub-groups a large amount of significant and immediately important power over the life of the individual. This point needs further development. The problem Mill faced in his treatise on representative government states fairly well the problem of any organization for freedom which is primarily the problem of getting a people who are capable of working a set of free institutions.⁸⁰ Mill was aware that citizens are educated to political vitality by institutions that permit political action, and that of all institutions, those of the "local administrative institutions are the chief instruments."⁸¹ With increasing vividness some modern writers are becoming aware of the fact that participation must be learned on the local level of life before it can be practiced on the national. As regards Althusius' awareness of the significance of local political activity

80. Mill, Representative Government, chs. i-iii.

81. Ibid., ch. xv, p. 347. See Chapter IX below. G. D. H. Cole has some penetrating observations on this point. See his Fabian Socialism, p. 124, and his Future of Local Government, p. 33.

one cannot say that he consciously oriented his system to the problem of education in political life. His conscious problem is that of establishing a structure that provides for self-government. Yet his profound insights into the pluralistic structure of social life led him to the conclusion that self-government is as essential to the local community as it is to the national one. And his integration of pluralism and political structure results in a diffusion of authority throughout the framework of society.⁸² In this framework, the small city occupies a pivotal position. In it the most significant decisions are made. Here occurs the first integration of interests to establish the "full life," the life in which there is the first realization of the "nulla re indigens." Here the citizen still participates directly in a decision making process that deeply affects his personal every-day life in its most intimate aspects. Indeed one may say that in the city the most significant exercise of political authority occurs. In the Politica, contrary to modern developments, the central state government in many ways has the qualities of a service giving organization, while the local community is the place of essential partnership of life, and the collegium is the place where effective socialization of

82. It must be remembered that the supreme authority is simply the last one, not the absolute or all embracing one. See Chapter IX below.

economic life occurs.⁸³ Now it should be obvious that such an organization of political life is calculated to instill a deep and vital interest in politics in the individual, and is well calculated to insure that vigorous participation in state affairs which alone can make real any organizational attempt to open the state processes to individual determination.

Finally, if we evaluate the system of self-government in the categories in which Althusius consciously moves, we find that he has achieved a solution to his basic problems. As regards the problem of uniting men so as to preserve social life among them, his basic answer is that men must be united in a process of popular sovereignty that permits everyone to share in the common task of directing the life of the group. Given political vitality, his system of representation by estates offers a promising means of restricting state authority to state matters. But given decay in this vitality, the estates become perfect fascist corporations for domination by the state. If one is willing to place ultimate authority in the hands of the

83. The fundamental choice that must be made by anyone speculating about the institutional contributions to freedom is that between protection of liberty through restriction of legal authority and protection of it by participation in authority. In our own disorganized modern society the latter possibility is unrealistic except in a few homogeneous nations. This has led the empirical thinker to conclude that it is unrealistic in itself. One cannot object that this conclusion is wrong. The proper objection is that the thinker's epistemology is wrong.

people, then one must be willing to take the chance of their refusing to keep it. As Althusius views this problem, the determining element is that of the political health of the people. To preserve it, and so to preserve popular sovereignty, he appeals to the magistrate or political leader. To the question of the origin and function of the magistrate we next turn our attention.

Chapter V
GOVERNMENT BY THE ELITE

Where self-government is considered to be the only significant factor in political life, the problem of good government is solved by a system calculated to implement popular sovereignty. And indeed even when the conformity of law to an objective norm is included among the conditions of good government, it does not follow from this alone that good government requires other than popular law-making institutions. If it does not matter what the people decide, or if one thinks the people will always decide rightly, government, in the sense of a distinct executive institution, will assume only agency functions. But where a writer follows the logic of freedom to its conclusion in self-determination, as Althusius does, yet finds that a dispassionate consideration of the limitations inherent in popular processes leads him to question their ability to produce "good" laws, he is bound by the logic of the facts to ask himself whether popular institutions alone suffice

for good government.¹ This tension between the requirements of free government and those of good government is the major one in Althusius' thought. His solution for it is to establish two basic processes in civil society. Having examined the first, we next turn our attention to the second: the process of elite rule. Here we will be concerned first with discovering why Althusius thinks it essential to symbiotic life and secondly with examining the institutional system through which it operates and by which it is reconciled with the principle of popular sovereignty.

It is obvious that the theory of popular sovereignty, when developed in conjunction with a theory of rule by an elite, will differ in important details from a straight popular sovereignty solution to the problems of government. As soon as a writer accepts the idea of government based on a competence not possessed by the people and exercising a function directly inaccessible to the people, he must modify his conception of popular sovereignty. He need not abandon it, however, if he defines it with reference to the realities of the political process. This is precisely what Althusius

1. See Lindsay, Modern Democratic State, pp. 26 ff., for a short description of the various arguments for the competence of the people. Simon, Philosophy of Democratic Government, pp. 77-108, gives a more critical outline of these arguments. Lindsay calls this question the "stumbling stone of democratic theory." The controversy over this question is outlined by F.W. Coker, Recent Political Theory, pp. 291-376. Aristotle, Politics, Bk. III, ch. x, 1281b, states the problem.

does. In the Politica almost half of the book is devoted to the magistrate, his powers and functions. As the picture unfolds the lineaments of the Platonic Statesman, the Medieval king and the modern democratic leader become discernable. Yet the extensive powers given the magistrate do not destroy the concept of popular sovereignty as Althusius defines it. For that conception hinges fundamentally on the idea that sovereignty means de facto, the power to make the ultimate decision.² The sovereignty of the people therefore is not determined by the extent to which they directly formulate and impose policy but by the provisions insuring that only the policy they ultimately approve will, as a matter of fact, become law. In the Politica, consequently, sovereignty is insured by reserving to the people the ultimate power to validate policy by formally consenting to it either as presented to them or as modified by them.³ This idea of sovereignty clearly leaves room for a policy maker who

2. ix, 15-16, the people are sovereign. ix, 27: "It (sovereignty) is universal, first and supreme, not in the sense that it is above the law, or an absolute power, but relative to the particular special subordinate power which depends on, rises and flows from it and flows back to it in time." See also, ix, 12; this is the interpretation of Gerbrandy, National...Stability, p. 31. The conception of sovereignty here, strongly resembles McIlwain's description of "dominium" in the Middle Ages, Growth of Political Thought, p. 355.

3. Gierke, Development, p. 155, tells us Althusius was the first to develop the idea of a popular sovereign. At p. 161 he suggests that Althusius simply transferred to the people the claims made by the Prince. The ideas in this chapter will suggest that this interpretation may need revision.

although not sovereign, still is a leader, sovereignty in this context, being expressed as consent to the leadership exerted.⁴ The popular institutions and processes set up in the Politica are not ordered to the act of government but to the act of real consent to government, to a consent that expresses itself not simply as the power to ratify, but, more importantly, as the power to discuss and modify before ratification.

The tradition, in political thought, of the rule of the best universally asserts as the basis of such rule some special form of competence. The competence, or negatively the lack of competence, found in the people has been variously identified and explained. In general, the theories can be reduced to two: (1) those which primarily stress a lack of knowledge or rational behavior in the people, and (2) those which primarily stress an inadequacy of some kind in the political processes open to popular use. In the earliest theories, elite rule is justified by reference to intellectual and moral inadequacies in the people. Largely unconcerned with any problem of the operational possibilities of the popular processes, they are based directly on the need of competence in the knowledge of good. Plato's position, clearly worked out in the Republic and less clearly in the Laws, expresses this conception well.

4. See Chapter VI below, the treatment of the political prudence of the magistrate.

The pertinent limitation in the operational order is found in the capabilities of the people. To his observation of man in the mass, Plato brings his philosophy of ideas and from the two arrives at the Philosopher King idea.⁵ Closely allied to this limitation is the one deriving from the idea that social unity is neither a spontaneous nor a self-perpetuating phenomenon, but rather needs a leader to sustain and develop it. From this approach there develops Plato's conception of the Statesman's function as the weaver of the social fabric.⁶ These limitations on popular rule are taken and developed in the Medieval metaphysical argument for the Monarch; an argument that finds the Monarch necessary (1) as the cause of unity in the multitude, and (2) as the one who, knowing the goal of political life, can therefore lead the multitude toward it.⁷ This tradition, whether Greek or Medieval, receives its distinctive coloring and orientation from the metaphysical concern with the good within which it developed.⁸

5. The Republic, Bk. V, 473.

6. The Statesman, 305, ff.

7. A clear expression of this argument may be found in Aquinas, On Kingship, Bk. I, ch. i, and in his Summa Theologica, I, 103, 3; I-II, 19, 10. See also, Dante, De Monarchia, Bk. I, ch. xvi.

8. It is interesting to note that in this Platonic-Medieval tradition, the element of consent to the laws is always present, but never developed positively. Thus Plato has his "Prelude to the Laws," the Laws, 719, 723, 772, 880,

With the development of the consent element into the modern theory of popular sovereignty, these ideas were re-considered. And in the context of the general breakup of the intellectual unity of Europe in the sixteenth century, the process of reconsideration produced a number of opposing interpretations of the relationship between popular sovereignty and leadership. They span the spectrum of possibilities from the negation of leadership to the negation of popular sovereignty. This development was gradual. In the beginning, apart from the substitution of divine election or grace for the old competence principle,⁹ the development, within the democratic tradition, restricted itself to identifying an elite whose function was to elucidate the wisdom of the group. On this basis we find in the British conservative interpretations of rule by an elite a most significant attempt to integrate consent and its imperative of popular rule, with the principle of competence. Burke, Bagehot and John Stuart Mill may be taken as good examples

887, which is supposed to persuade the people to obedience. In the Medieval tradition it is present in the form of an insistence that customary law is above the Prince. See Kern, Kingship and Law. The idea is expressed clearly as early as Hincmar of Rheims in his De Divortio Lotharii et Tetbergae, Migne, PL 125:623. For the later Medieval period, see Gierke's Political Theories, Part VII, "The Idea of Popular Sovereignty." The evolution of the idea of consent is deeply involved in this development. See M. V. Clarke, Medieval Representation.

9. See Charles McIlwain's "Introduction" to The Political Writings of James I.

of this development. From Burke to Bagehot one moves from consent expressed simply as election of a representative elite who would rule, to consent expressed as a modified participation in the act of rule as exercised by Parliament,¹⁰ Now Bagehot himself saw that when the elite rule in Parliament, universal suffrage is incompatible with the idea of the rule of the best. But with the differentiation of political processes the leadership principle tended to lodge either directly in the government or else in the political parties that emerged, leaving the legislature as the vehicle for the expression of popular self-government.¹¹

This institutional development which held so much promise for an integration of leadership and popular processes was nullified, as far as such integration was concerned, by the gradual abandonment of a metaphysical concern for the good as such and the adoption of either a relativistic or a pragmatic basis for political speculation. Within the context of democratic thought, there is little basis for a strong leadership principle when there is no philosophical basis for asserting the possibility of an inherently more correct

10. Compare Burke, Speech to the Electors of Bristol with Bagehot, Parliamentary Reform. The difference between paternalistic and democratic leadership will be discussed later.

11. See the development traced by McIlwain, The High Court of Parliament and Its Supremacy, and the analysis of the modern situation by W. Ivor Jennings, Cabinet Government (Cambridge, 1936)

judgment in an elite than in the multitude. In this enervating climate of opinion, the concept of leadership changed its basis from that of superior competence in the knowledge of the good to that of superior competence in the manipulation of power. The leader becomes either the conqueror of the people or their mouthpiece, according as one follows the premises of Bodin or Hegel. Under much the same influences but following the popular or unreflective versions of democracy, the leadership principle was abandoned and the field won by the naive democratic theory of the unlimited expansion of popular rule whose full implications are expressed by only the most unwary of political writers.¹²

James Burnham's attack on this naive concept draws our attention to a new approach to leadership whose basis, laid by Hobbes, was also a premise of Bodin and Machiavelli. That attack is directed expressly against the possibility of the naive democratic conception of unlimited popular rule.¹³ But Burnham's uncritical acceptance of the epistemological and psychological premises of the Machiavellians has tricked him to a latently anti-democratic position he himself would reject. These premises center about the concept of authority

12. See Simon's description and criticism of the "Coach-driver Theory" of popular sovereignty, Philosophy of Democratic Government, pp. 146 ff. The theory has produced many of our characteristically "democratic" institutions: primaries, referendum, recall.

13. The Machiavellians, pp. 236 ff.

as power and of competence as virtu. Within a methodology based on philosophical positivism, both conceptions reject any metaphysical concern with truth and goodness, while the competence principle asserts, logically, the superiority of the ruler's desires over those of the people.¹⁴ The Machiavellian tradition of the prince is extremely significant insofar as it has offered the only fresh basis for a theory of leadership in recent political thought.¹⁵ Unfortunately it has produced a uniformly anti-democratic theory as Burnham's review of the various Machiavellians shows. The central factor in the theory is found in an empirical observation that rule by an elite is a fact of social life, and in a theoretical rationalization of this fact in terms of superior adroitness and drive in the realization of one's aims, i.e., in the possession of virtu.¹⁶

14. The transfer of the competence principle from a basis of knowledge to that of virtu is accompanied historically, and perhaps necessarily, by the change in the conception of law from that of reason to that of will.

15. By this I mean a leadership in which the leader really contributes to the political adventure something more than technical competence in the operations of government. Granted the philosophical rejection of norms, it would seem that the Nazi and Fascist theories of leadership are the only ones logically possible. The Marxists, of course, have objectivity in their law of history and on this have constructed a theory of an elite that resembles the classical "rule of the best" theory.

16. Or Burnham's summary of one Machiavellian principle: "The rule of the elite is based on force and fraud." The Machiavellians, p. 225.

For our purposes the significance of the Machiavellian development can be found in its stressing of certain inherent operational and institutional limitations on popular processes.¹⁷ The most recent theories, like the earliest ones, involve the denial in the people of a quality found in the elite. But unlike the earlier theories, the later ones begin with an identification of limitations in group action rather than with limitations in group competence. The approach is inductive, beginning with the fact of history that elites have always existed. The cause for this is identified primarily in terms of the ponderous quality of mass movements, the people's lack of access to information and their need for a kind of pilot group to etch out avenues of development.¹⁸ The peculiar positivistic and voluntaristic premises in the philosophy of the Machiavellian realists, however, leave them no basis for a Greek-Medieval interpretation of the significance of these facts. The elite justifies itself by virtu rather than virtue. It is questionable whether any integration of self-government and leadership can be achieved if such an assertion

17. Burnham, ibid., p. 142, describes Michels' position: "Even if we accept majority opinion as democratically valid for the entire group, it is at once plain that, in the case of large groups, strict or 'direct' democracy is impossible for mechanical and technical reasons." Ibid., p. 144: "All of these causes work alike, and inescapably, to create within the organization a leadership."

18. See Roberto Michels' First Lectures in Political Sociology, tr. Alfred De Grazia (Minn., 1949)

is made absolutely and becomes the sole basis for the function of an elite.¹⁹ The fact that in modern times this has been the case explains, perhaps, why some theorists in the democratic tradition have so conspicuously either avoided or attacked the leadership principle. There has been, however, a steady tradition of democratic thought that attempted to retain both self-government and leadership in the context of the modern climate of opinion. Barker and Lowell -- both of whom derive from the British conservative tradition -- may be taken as good examples of the tradition. Whatever the interpretations given to the competence principle in it, this group has uniformly accepted the idea that entirely apart from questions of competence or skill, the popular processes are inherently prevented by operational factors from ever absorbing the totality of governmental authority. There are things the people cannot do simply because there is no political process through which they can act. This is the fact.²⁰ The

19. The question of what constitutes this superiority is, of course, tremendously complicated by the recognition of the possibility that the wisdom of the group taken corporately may exceed the wisdom of the few who possess more competence than any part of the group. See Aristotle, Politics, Bk. III, ch. xv, 1286a. The problem becomes that of deciding in what the people are wiser, in what the elite. Plato himself, in the Laws, approached this idea, but was held from it by his identification of law and opinion and by his ultimate appeal to a Legislator who would infuse the wisdom necessary for good law into the group.

20. The Machiavellians have always recognized this fact because their dogma needed it. Some democratic thinkers have never recognized it because their dogma could not explain it.

fundamental analysis of it as made by Lowell and Barker stresses the nature of the discussion process when carried on among large groups of people.²¹ Our concern here is simply to point out that this consideration introduces a completely different source of limitation on popular sovereignty, a limitation not in competence of whatever variety, but in the institutional instrument of popular rule.²² Here we have a neutral, a value free limitation on popular rule that theoretically can become the basis for integrating the concept of competence in the ruler with that of self-determination in the people. Unfortunately there seems to be no extended and express attempt to achieve such integration on the level of theory in our time.²³ But if the facts of

21. Perhaps the great advance of Barker over Lowell consists in the recognition of the leadership functions of the party in the formulation of public opinion. Compare Barker, Reflections on Government, pp. 34 ff., "Political Liberty: Its Method of Discussion," with Lowell, Public Opinion, chapter on "Methods of Expressing Public Opinion."

22. The limitation may be identified as the inability to formulate "the right question."

23. There have, of course, been many vigorous assertions of the need of leadership as well as many bitter criticisms of the principle of equality. See Emile Faguet, The Cult of Incompetence, tr. Beatrice Barstow (N.Y., 1918), and R. A. Cram, The Nemesis of Mediocrity (Boston, 1917). Currently T.S. Eliot offers an examination of the structure of leadership in his Notes Toward a Definition of Culture. On the empirical side, there has been the work of Michels, Mosca and the realists. Burnham may be classified with these. But it is questionable to what extent their findings are compatible with the democratic movement. Harold D. Laswell has done work on the elite, but it is largely empirical and incorporated into a context that is friendly to the "realists."

limitation on popular processes are true, it is important to achieve some view of political processes that adequately accounts for them.

The foregoing consideration gives us a context within which to fix the thought of Althusius. For in that thought the principle of leadership is of equal importance with that of popular sovereignty. And the willingness to follow the facts that demand both principles, forced upon Althusius the problem of integrating them in one coherent system. The thesis submitted at this point is that Althusius achieves a consistent integration of them. His elite theory is formulated by relating considerations of inherent limitations in process to the philosophical demand that competence have a proper political function with regard to lawmaking.

The Medieval idea of authority and its purpose finds a ready place in the Althusian conception that politics is concerned with the organization of political processes insofar as they aid the preservation of social life. But fully as influential as the Greek and Medieval ideas is that of the new school of politics developing in the

Lester Seligman outlines the current research being done -- mostly empirical -- in his, "The Study of Political Leadership," AFSR, XLIV (1950). The undeveloped state of the question is evidenced by the absence of summary articles in such works as Les Doctrines Politiques Modernes, Introduction by Mirkin-Guetzevitch (N.Y., 1947), and Twentieth Century Political Thought, ed. Joseph S. Roucek (N.Y., 1946). F. M. Coker, Recent Political Thought, can summarise the question and opinions in two pages and do it adequately.

seventeenth century which worked out from the premise that there are natural laws of social organization. The premise, considered in itself, is exactly the same as that of the "realistic" school of thinkers led by Michels, Pareto and Mosca. The two schools are divided by vast and unbridgeable differences in their total approach to politics, but they both agree in this that there are laws of organization that bind with a determinism that does not permit one to disregard them with impunity. Althusius saw, in his own way as clearly as Michels, that popular rule is inherently limited by the limitations of group organization. He saw, consequently, that the elite is an essential part of the political process. It is true he did not devote his thought to the analysis of this organizational fact as did Michels. His total political philosophy oriented him primarily to the task, not of analyzing political facts, but of using them for defined purposes. But behind this theory of the function of leadership lies a clear awareness of the fact that leadership of some kind is inevitable in social life. His primary task was to give this fact meaning in terms of his basic concept of symbiosis. Here he departs from the "realistic" assumption that the fact is self-explanatory. The significance Althusius attaches to it can be found in two phases of his reasoning: (1) that concerned with the existential conditions necessitating the delegation of authority to a government, and (2) that concerned with working such authority into the context of symbiotic needs.

We can best come to grips with Althusius' conception of the function of an elite by examining the various lines of thought that lead him to the elite process. There are three such to be examined. The first two begin with observations on the limitations of the popular process itself and lead to the conclusion that an additional governmental process is necessary. While the conclusion reached involves also the idea that the governmental process must be characterized by knowledge and wisdom, it is in the third line of reasoning that Althusius points up and formally develops the idea that the governmental process is an elite one. For after noting operational limitations on the popular process, he develops the point that the people generally lack the knowledge and indeed the intellectuality to insure the existence of laws that realize the goals objectively demanded by political life.

The first limitation on the popular process is found in the inability of a discussion process, which a popular process must be, to cope with the problem of determining the course of action to be followed in individual cases.

For this complex and multitude of various and diverse affairs, which the society of so many cities and provinces involves, cannot be properly cared for and governed by the citizens singly or as a whole.... No one can obey a multitude when it disagrees with itself and is influenced by different opinions, nor are each and all fit and suited for command. We are led, therefore by necessity and utility, so that we cannot do otherwise nor find a better or more useful remedy, to entrust to a few suitable

rectors this care, which it would be ruinous and dangerous to give to each without distinction or to the whole group. Whence the establishment of these officials of the republic is said to have been suggested and discovered by right reason and the jus gentium.²⁴

Consequently, "the people first consociated themselves into a kind of body with definite laws...and then entrusted the administration of them to ministers and rectors elected by themselves, because the people themselves could not do it."²⁵ This limitation, which is one deriving from the nature of a process, must be carefully distinguished from another which derives from the capacities of the citizens involved in the process. For the former observes that certain types of decision cannot be handled by discussion, the latter that people are not competent to make certain types of decision with any tolerable amount of certitude that they will be

24. xviii, 16. Althusius states the idea in principle, viii, 3: "Nor, on the other hand, can the entirety of public affairs be fittingly handled by all indiscriminately and without distinction. For there are certain types of business which can be handled only by men skilled in those matters. Moreover, plans and advice cannot achieve any uniformity in such a great diversity of various men, of life, and of diversities in type of occupation." viii, 62: "The reason for establishing this prefect is found in the necessity and utility of the province. For the public business ...cannot rightly or for long be administered by many men, even less by all. This is because of the discord, disagreement and divergence of opinions."

25. xviii, 11. Althusius explains this further, v, 54: "Because the plebs began to run into difficulty in meeting, and the whole people with much more difficulty due to the size of the group, necessity itself brought the care of the republic to the senate." See Burnham, The Machiavellians, p. 144, for the same idea.

right and good. The limitation derived from the nature of the people will be analyzed later. Here the point to be developed is that the only process available to the people cannot cope with the complexities of specific practical judgments and must, therefore, be limited to judgments that, while ordered to action, are in fact too general to constitute an immediate directive for action.²⁶ With the development in our time of the idea of an area of "administrative" discretion, this limitation of popular processes is easily grasped. Althusius, it is plain, has grasped the fundamental organizational imperatives that make executive discretion inevitable, namely, that by discussion one can reach agreement only to the extent that decisions are general enough to exclude the infinite variety of solution possible in the final state of a decision that leads to action. It must be remembered that in the Politica, group rule is ordered formally to a decision which, being made on the basis of partnership in life and justice, is a more precise determination of the fundamental partnership it directs. The Diet must, if it is to discharge its essential symbiotic function, produce a mind of the meeting. Althusius, therefore, predicates of the Diet the power to deliberate,

26. The magistrate applies law to circumstances, ix, 1. Althusius says, xxiv, 14: "The law envisages general circumstances as does medicine, but the magistrate must adapt it to particular ones." xxiv, 30 ff., judicial activity is part of the executive process.

modify and decide only the fundamental and general law.²⁷ He seems to suggest that size simply prevents meetings in sufficient frequency to handle all decisions.²⁸ But the real foundation for a separate executive process is found in the fact that a group of a certain size attains a degree of complexity that requires, in the interest of unity of decision, direction by a small board or by one man.²⁹ The government, for Althusius, is, from this point of view, the same as it is for Rousseau, "the intermediary between the people as sovereign acting on the whole people as

27. Althusius consistently speaks only of the "deliberating," "consulting," "examining" and "deciding" powers. xvii, 50-60; xxiii, 8, the propositions or the determination of the matters to be discussed are in the notice of convocation sent out by the magistrate. While the Diet members may introduce new matter, this is considered as a part of a petition for relief from grievances, not as the exercise of a policy formulating power, xxiii, 11, 15. It is debate that is important in the Diet, and it is execution that is important in the magistracy.

28. Althusius is clear that sheer size alone introduces specific problems into the political process. ii, 4; v, 4: "The greater this consociation is and the more different kinds of consociation it contains within itself, the greater is its need for aid, support and means as regards the autarkein and sufficiency both of soul and of body and life. And it requires a greater and more extensive sharing of goods and works, outaxian and eunomian."

29. The family has no organized processes. The collegium has, seemingly, only a president of the meeting rather than an executive, iv, 6. However, there is a lack of clarity on this point. In the private group, Althusius seems to consider the group able to handle all decision making. And even in the Diet, he holds the group process able to handle individual decisions when they concern "res graviores." Nevertheless, when the group becomes public, the element of complexity becomes operative as the limiting factor in determining what can be decided by the discussion process.

individual members of the sovereign.³⁰

Althusius, therefore, concludes that the people or the Diet can make only general laws; perhaps in anticipation of Rousseau we can say: express only the general will.³¹ The reasons leading to such a conclusion, however, are not clearly those of Rousseau. Althusius shows no clear and consistently applied awareness that legislation about particular things introduces the danger of a "particular will."³² Fundamentally, his position derives from a straight application of the need for unity of action. Agreement is always necessary, and since even the variant of unanimity achieved

30. See Charles W. Hendel, Jean Jacques Rousseau, I, 184. Althusius frequently distinguishes between "each as each, and each as all." See v, 9, 27, 64; vi, 39; ix, 18; xviii, 11-15. The idea as Althusius uses it views the people, from one aspect as wards of government and from another as masters of it.

31. See Rousseau, Social Contract, Bk. III, ch. 1, for an argument for the existence of an executive function that closely resembles that of Althusius.

32. He certainly was aware of the danger of this, xviii, 113: "It is advisable that each order be restrained within its own limits, so as not to be able to injure another, and that each have definite remedies whereby one may be guarded against injury by another." And the "quod omnes tangit" principle, while it looks primarily to protection against the prince, involves also the idea of protection against every other interest. See Krabbe, Modern Idea of the State, p. 13. Yet within the Diet, Althusius is able to provide for the rule of a majority, i.e., two estates can override the third. His statement that this obtains only where matters common to the whole are concerned (xxxiii, 124) is not too important. For he is willing to let two estates make decisions concerning the life of the third, if this is required by the common interest. See the discussion of voting procedure in the Diet, Chapter IV above.

by majority rule, is not possible in decisions about particular matters; it must be realized by consent to the decisions of a governmental authority.

While the first limitation on popular processes closes off the area of administrative discretion from popular exercise, the second one Althusius identifies denies to the popular process the ability to initiate policy as a prelude to legislation. This limitation derives from the very structure of the Diet. And, considered as an imperative of the existential order, it is nothing more than the logical consequence of the idea that the Diet is an epitome of the whole group. Both magistrate and Diet represent the group, but they do so in radically different ways. The Diet represents it insofar as the whole, while it has a common interest, also has within it sub-groups each of which has a particular interest. As an epitome of the group, the Diet is oriented to the point of view of the relationship between the general good and the private goods of the sub-groups. Each estate formally represents only a part of the whole. And it is only as a combination of estates that the Diet represents the whole. There is consequently no member or element in the Diet whose function is to consider the whole precisely as the whole. And it is precisely because it is effectively organized to represent the parts of the whole that the Diet is incapable of effectively initiating policy for the whole. One function, as Althusius sees it,

excludes the other.³³ In the Diet Althusius provides access for the sub-groups with a view to insuring that their internal purposes will be respected when they are governed as parts of a whole.³⁴ For the communitas communitatum has a good proper to it which requires adequate attention. And the sole representative of this aspect of group life is the magistrate.³⁵ That is, he alone has the function of considering the group insofar as the group is one.³⁶ The representatives come to the Diet to find a policy.³⁷ The magistrate comes with a policy, but must win consent to it.³⁸

33. Not because they are antagonistic but because they require two different points of view. See, Simon, Philosophy of Democratic Government, pp. 33ff.

34. Krabbe insists, Modern Idea of the State, pp. 164-165, that for the proper evaluation of interests, knowledge of these interests must be had from those interested.

35. xxi, 3: "For to rule is nothing more than to seek the well being of others.... Therefore the power of administration is given to the magistrate for the sake of the good common to all the subjects." Simon, Philosophy of Democratic Government, p. 58, notes that the state must have an authority which "specializes in having the point of view of the entire common good prevailing over any special angle."

36. v, 25: "These presiding superiors are established by the common agreement of their citizens, and having been established, represent the city itself in the same way the syndics represent their group." See also, xviii, 12.

37. The representatives come from the group "instructed." But in the Diet itself, discussion will modify these instructions.

38. See Krabbe, Modern Idea of the State, for the idea that law is an evaluation of private interests in terms of the common good. Althusius proposes that the magistrate make the evaluation and the representatives correct and modify it.

With the policy making function, the magistrate begins to acquire, even from the point of view of the purely operational needs of the political order, the attributes of leadership. These attributes are developed even more clearly by a third function of the magistrate: that of preserving the basic unity of social life. Like the first two, this function also derives from a limitation on the popular process. As Althusius sees it, the process is an adequate instrument for formulating a popular mind and translating it into law. But it is such only granted a condition of social unity and the presence of social virtues among the people.⁵⁹ This dependence of the process on a pre-political consensus of the people makes it a defective instrument for the preservation of social unity. In a negative sense, it is true, the popular process preserves unity by preventing discord in the formulation of law, and by insuring that law emerging

59. See xxix, "On 'reserving Harmony,'" and xxx, "On Censorship," for Althusius' analysis of the importance of basic social unity. On this point specifically, Althusius argues that without law society dissolves and without a ruler there can be no law. i, 37: "But if all are equal and each one arbitrarily wishes to rule the rest, and the rest refuse to be ruled, discord will easily result and from discord the dissolution of society. There would be no grades of virtue or merit, and as a result such equality would be the highest inequality." xix, 23, the same argument is used more explicitly with regard to the ruler: "Seneca says that it (rule of the magistrate) is the bond through which the republic remains united, the vital spirit which draws together so many thousands. Nothing will be left but burdens and plunder if this insight into government is lost." xix, 21, this insight is one the people have by nature.

from it will produce no felt injustices in those subject to it.⁴⁰ But the process itself shares the general vulnerability to disruption found in society. And "society is subject to discord."⁴¹ If basic disagreements arise, if vice begins to poison social relations, the popular processes are paralyzed.⁴² For with the decay of the social bond private interests become irreconcilable in fact, and the Diet, the place where private interests meet and integrate, is rendered inoperative.⁴³ Therefore, to complete the self-sufficiency of the consociation, Althusius establishes the magistracy, an institution whose function it is, positively,

40. For example, xi, 35, a state in which the poor are taxed more than the rich is a decayed state, on its way to collapse. xxix, 4: "Whence love and benevolence and common solicitude is fostered among the citizens of the province when everyone understands that a careful solicitude is had for each and all the citizens in each way of life, when everyone understands that their demands concerning the things necessary and useful for the management of the social life...are heard, and remedies for them are prepared, as well as aid against more powerful groups and disturbers of the public tranquillity." vii, 8, fraternity and justice are indistinguishable; both apply the golden rule. See also, vi, 28, and Friedrich, "Introduction," lxxii.

41. xix, 54.

42. ix, 10: "Nor can such a multitude be easily and rightly ruled, nor concord...be so easily preserved among a large number.... For as iron by its nature begets rust by which it is gradually consumed,...so also a powerful, large and populous realm begets many vices by which it is gradually weakened. Experience shows, power begets confidence, confidence carelessness, this in time contempt, this in turn the lessening of authority, and this the less of the imperium."

43. The obvious example, of course, is the French Parliament under Louis XVI.

to foster union, and, negatively, to beat out the sparks of discord and vice before they burst into the flames of social conflict and disunion.⁴⁴ By this function, the magistrate acquires the lineaments of the Platonic Statesman, the man who weaves men together. As Althusius puts it, "The city or republic is like a body, civil disturbance like a disease, and the king or magistrate like a doctor. His first duty is to preserve the good health of the body, and his second to restore it if it grows sick. Thus the magistrate is called the guardian of the general society."⁴⁵ To ask the right

44. The positive aspects of this function are discharged by the regulation of education and by the quality of the laws proposed by the magistrate. For education, see i, 15. Mesnard, L'Essor, p. 604, observes that education is carried on by the church under the direction of the magistrate. See xxviii, 32. Althusius conceives of all the negative functions of the magistrate as tending to foster unity, v.g., censorship, xxx, 2: "Censorship, therefore, corrects those things that are not yet worthy of the imposition of penalties of law, but which if neglected or held as negligible, become the occasion of many great evils... Indeed when gradually neglected, they completely destroy the republic." xxi, 6: "If one could lawfully do anything he was able to do... if no authority of laws or magistrates repressed the factiousness of men, how could this group preserve its identity for even a short time." The Supreme Court's reference to the "sparks of a conflagration" is not original. xxxi, 10: "For from a burning straw or a neglected spark, a whole city is often burned down."

45. xxxi, 3. Compare this with Plato's description of the Statesman, Statesman, 304 ff. Plato is concerned with weaving the various kinds of nature together by "unanimity and friendship." Althusius conceives of the task as follows, xxiii, 15: "The magistrate should know the nature and temperament of his own people, his neighbors, of man in general. He must know his own people in order to know how they are to be ruled, what laws and mode of rule fits them." Specifically, he conceives of it as a task in weaving together the estates, each of which has a characteristic virtue and mentality, viii, 57.

question (formulate a policy) about the common good is one function of the magistrate. To get a single harmonious answer (consent or modification) is of equal importance. And it pertains to the magistrate to see that the Diet is able to give it. Therefore he must watch carefully over the partnership in life from which the popular process emerges. He reaches into the roots of all political processes and preserves in them the health of unity and concord.⁴⁶

A public activity is one which directly serves the life of the whole province and through which the higher private and necessary groups are directed to the civil society of the province by the bond of union, harmony and partnership for the well being of the province and of each and every member in it. And in this way they are preserved from the decay to which they would otherwise be subject. Such an activity is called a public duty. Therefore in this public function the many and diverse private activities and their exercise and use achieve harmony and serve the well being of the entire provincial body, whence public duties control private duties which they correct, delimit, enlarge, direct, and they refer private activity to the common good and use of all the symbiotic groups in the province. ... And as members of the body are united by sinews and arteries and from that union draw a common life, so the provincial society must be united by the common bond of love and benevolence toward the republic, and must be conserved and defended by a common foresight and solicitude.⁴⁷

46. Because of the identity between the virtue of the citizen and the "health" of the society, the repeated assertions that authority "leads natures to their goal," i.e., to virtue, are also assertions that authority preserves the basic "health" of the society. xiv, 2 the authority of the magistrate: "Is the life and soul of the realm in that it bring it about that one spirit presides over so many thousands of men."

47. vii, 28.

A consideration simply of the existential condition of the popular process establishes, therefore, the facts that there must be a governmental process organized to do certain things the popular process cannot handle, and that, consequently, this process must be based on government by the few. The functions assigned such government, while they suggest that the few be also "the best" do not establish this significance for the process clearly. For the reasons why the popular process is limited are completely neutral in significance. They simply say that the people cannot do certain things because of organizational limitations. Althusius gives elite significance to the rule of the few by adding to the above observations on the limitations of process, the idea that the people cannot do certain things because they lack the necessary knowledge. This opinion is offered as a fact of observation only and is not explained, as in Plato, by a theory of ideas.⁴⁸ Yet it carries with

48. That is, Althusius simply says that as a matter of observation, the people lack political science. He suggests that this lack is a permanent one, but not that it ever becomes anything but a fact of observation. He does not find in the people an intrinsic limitation that makes it impossible in the nature of things for the people to have such science. Indeed, as will be shown later, the lack is not absolute. For the people do know the first principles of morality, which are also first principles for the science of legislation. Althusius' position is much the same as that found in Graham Wallas, Human Nature in Politics. The roots of this behavior are indicated in xxiii, 1, as climate, temperament and custom. Here Althusius follows Bodin; see xxiii, 22 ff.

it important implications regarding the function of the governmental process, which now must supply a deficiency in the people themselves as well as in the process they use.⁴⁹

The importance of this second observation rests in its requiring that the elite process, in addition to supplying certain operations necessary for the task of legislation, must now supply certain talents and aptitudes required by symbiotic life itself. Specifically, the second process becomes elite because it contributes to political life the element of science and skill demanded by the second great need of symbiosis: that the law be not only self-determined but also determined in accordance with the demands of an objective norm. By the elite process the objective rightness of the law is insured. Thus Althusius' analysis of elite rule demands the integration of both the Platonic-Medieval argument for the "rule of the best" and

49. The meaning of "deficiency in the people" must be clearly fixed. The first meaning is fixed by the phrase being used in a "state of nature" context. Here the deficiency is used to explain the existence of authority and the state. This is the meaning of "deficiency" Simon criticises in his Philosophy of Democratic Government, pp. 6 ff. It explains the substance of authority as a response to evil in man. Althusius does not use the phrase in this sense. He does, however, explain elite functions as a response to deficiency in man. The deficiency, however, is in a real sense natural to man. And as Althusius applies the concept, it comes out as the idea that man is inadequate of himself, but the group is wise. The real problem Althusius solves in his elite process is that of insuring law based on reason and intelligence rather than on emotion.

the modern realist argument for the "rule of the few."⁵⁰
 In the following pages we shall examine more closely the
 line of reasoning that leads Althusius to the conclusion
 that the few who govern must also be "the best."

To take up our point, therefore, Althusius identifies
 two areas of deficiency. First, the people have a tendency
 to what is now called "non-rational behavior."⁵¹ They are
 subject to emotionalism, are unreflective, easily misled.

First, they are excitable, vacillating, inconstant
 and changeable, prone to passion, of which they lay
 aside or take up often contrary and opposed ones.
 When they are pressed by need...they are very suppliant
 and humble. But when they feel everything is well...
 they grow arrogant.... For the souls of men are unstable
 and displeased by certain inconveniences. They easily
 seek other arrangements.... In great things, they see
 little. They are fierce in words, remiss in deeds....
 They do not understand the middle way, and go either
 to right or left, and liberty, which lies in the middle,
 they know not how to retain or to relinquish moderately.⁵²

Secondly, the thought of the people is expressed basically
 in custom and tradition and habit rather than in creative
 analysis of the situation at hand.⁵³ Their ideas, therefore,

50. Althusius, therefore, is not simply following Plato or the
 Middle Ages. The descriptive scientific approach noted by
 Friedrich is operative here to discover a basis upon which
 the government of the few and that of the many can be
 integrated without sacrificing either.

51. In the sense used by Wallas, Human Nature in Politics.

52. xxiii, 21-30.

53. This aspect of the habits of men is introduced in con-
 nection with the idea that the magistrate should not try to
 change custom and tradition too suddenly, for it represents
 the people's idea of good and bad. See xxiii, 14, 20; xxvi,
 6-9. See Edward Jenks' analysis of the origin of

while they may be right as well as wrong, derive from what Plato calls opinion, i.e., from a source that offers no sure foundation for the correctness of the ideas. For precision's sake it should be noted that Althusius would reject Plato's analysis of opinion in the Republic. The difference between Plato and Althusius consists fundamentally in their differing interpretation of the validity of the people's opinion. For Plato, the popular mind is invalidated in its roots because it has no knowledge of the Good. For Althusius, however, the popular mind has a knowledge of fundamental good.⁵⁴ As a result of these differences, Althusius is willing to give consent effective power through a system of popular control, while Plato prefers to effect consent through the authority of the statesman alone. What the people lack is science, scientia, the ability to apply principles to circumstances.

This law is established for two principal reasons, as Canchus says. First, because not all men have the mental ability to draw from the general principles of common law the particular conclusions and laws suitable to the nature and condition of the circum-

custom, Law and Politics in the Middle Ages (N.Y., 1907), p. 56. The customs and habits of the people represent the reason of the people, even though as James Bryce puts it: "Habit is in fact fossil reason," "Obedience," Studies in History and Jurisprudence, II, 437. Alpheus Mason, Brandeis and the Modern State (Princeton, 1936), indicates how even rulers acquire this habitual reason.

54. xxi, 19-20. Althusius' idea here is that of Aristotle, Politics, Bk. III, ch. II, 1281b-1282a; of Aquinas, 7 Ethic, lec. 13, and of Maritain, Man and the State, p. 96.

stances of a given activity.⁵⁵

This inadequacy in the people, specifies the elite characteristics of government by the few. The conclusion is that those who rule, "ought to be" the best in the Platonic sense. Where they are not, the symbiosis suffers fully as much as it does when the people have no voice in government. "For what the eye is in the body, the sun is in the heavens, this in the republic is the magistrate who should be ignorant of nothing and keep many things secret."⁵⁶ Without the science and virtue of the few the purposes of symbiotic life and of authority cannot be achieved.⁵⁷ It is imperative therefore that the governmental process contribute these elements to the lawmaking process. As a consequence, the elite element is organized into a leadership

55. xxi, 32. The idea is that of Plato, Statesman, 293. As Krabbe puts it, Modern Idea of the State, p. 106: "Most men are not developed mentally to a point where they can live by principles or understand their significance." Machiavelli's estimation, Discourses, Bk. I, ch. 53, seems to agree with this one. In Althusius the rule of the best is applied to all exercise of governmental powers. He applies the straight functional principle used by Plato. See vii, 13, 18, 30, and ix, 36-37. The elite constitute a natural aristocracy in Jefferson's sense of the word.

56. xxi, 9. Althusius continues: "Therefore that republic is most miserable in which its governor is imprudent and ignorant of the art of governing.... Therefore God requires men excelling in practice and experience in the administration of a republic.... Plato says that republics are blessed in which kings are philosophers or in which learned and wise men rule."

57 xxi, 6-7.

process in that its contribution is to bring the people, through law, into a closer harmony with the objective requirements of the good symbiotic life.

Althusius' conception of the lawmaking process reveals most clearly the leadership and competence elements in the function of the elite. That conception is summarized in the term "interpretatio", which, in the Politica, can be translated as "legislation." As used, it indicates that the process of getting law for the group is mid-way between the modern voluntaristic idea that law is "made" and is a command, and the intellectualistic Medieval idea that law is "found" and is a judgment. On the whole, Althusius' idea is more Medieval than modern. Legislation is essentially the process whereby the principles of natural law are given specific content in the light of a given set of circumstances.⁵⁸ The principles of the law of nature are grasped intuitively.⁵⁹

58. The attention here is on the content of the law passed. Althusius also defines legislation from the point of view of the process involved. See xxix, 4.

59. xxi, 19-22. Althusius also used the term lex fundamentalis at times, to approximate the idea contained in the term lex communis. The difference between the two seems to be that the former is natural law as apprehended by the people, while the latter is natural law considered objectively. xix, 49, the lex fundamentalis is the pactum. But the pactum involves the basic values accepted by the people. Friedrich, "Introduction," p. xcv, thinks it is constitutional law. Althusius, xxiii, 1, speaks of the "five symbiotic laws," which in the light of chapters xxviii-xxiii, involve the basic structure of symbiotic life and therefore would qualify as constitutional law. Lex fundamentalis seems, therefore, to include the lex communis as apprehended by the people and the lex symbiotica as basic constitutional law.

But:

because not all men have the mental ability to draw from the general principles of common law the particular conclusions and laws suitable to the nature and condition of the circumstances of a given activity, and because the law of nature is not inscribed on the hearts of men with sufficient efficacy to prevent men from evil and impell them to good; since it only teaches, inclines and accuses men, therefore it is necessary that a proper law appear.⁶⁰

Proper law is "nothing else than the practice of natural common law adapted to a particular polity."⁶¹ That is, law, even when general to the group is still a specification of natural law in the light of the circumstances of the group.⁶² It is not equated with natural law, but is an application of it. "Its agreement with common law is found in its analogical deduction from principle and in the subject matter and end common to both laws."⁶³

While, "its difference from the common law rests in the fact that the proper law differs somewhat in the accommodation to particular affairs by adding or subtracting something from it because of particular and special

60. xxi, 31.

61. xxi, 30.

62. xxiii, the habits, mores and temperament of the people are important factors in the circumstances to be considered. See xxii, for an attempt to distinguish the natural from the proper elements in Jewish law. Maritain, Man and the State, pp. 95-107, gives the best modern analysis of natural law available. The ideas he develops are those Althusius presupposes.

63. xxi, 32.

circumstances.⁶⁴ Proper law, however, needs further interpretation before it can apply to the individual case within the society. It must, in other words, be executed.

The power of interpreting and explaining the law is that which is given to determine from the principle of the law and the nature of the activity involved the true and genuine meaning of the law for those who are uncertain about it. This is done through the consideration of various things, persons, time, place and other circumstances. And so the established law is adapted to the power of apprehension in men.⁶⁵

Legislation, therefore, is nothing more than the process of concretizing principles.⁶⁶ It requires, as analysed thus far, two kinds of knowledge, (1) of the principles (which the people have), and (2) of circumstances and their influence on the principles (which the people lack).⁶⁷ And it is this latter knowledge in which the ruler specializes. He must possess the scientia politica in its wider sense which includes both the intellectual virtue of science and the moral virtue of prudence.

This conception of law and legislation bears out Gierke's premise that Althusius stands at the dividing point

64. Ibid., 32

65. x, 9. x, 1-8 discusses the interpretation of natural law by proper law. 9 ff., discusses the interpretation of proper law by the magistrate.

66. Althusius and Aquinas seem to be in complete agreement on this conception of law. See Summa Theologiae, I-II, 90, 1 ff.

67. xxi, 1-30.

between ancient and modern.⁶⁸ Althusius is too much the Aristotelian metaphysician to accept the theory of pragmatism that suffuses the modern idea. The existential imperative that law, to permit freedom, must conform to the mind of the group, is placed in polarity, not in opposition with the essential imperative that law, to be good, must conform to the nature of things. This polarity on the level of intellectual analysis is translated, on the level of political theory, into a polarity between popular sovereignty and the rule of the best. On the level of political organization it appears as a polarity between the people and the magistrate. The two processes are in tension rather than in conflict over power; they seek functional integration. The magistrate is not a "mouthpiece" of the people, nor is he a philosopher king who rules solely from his own knowledge of the good.⁶⁹ The mind of the people, their instinct for right, their habits and customs, their felt needs are determining elements of the content of law, and of policy. But the science of the magistrate is also determining, and

68. One shared by Friedrich, "Introduction," pp. xcvi-xcix.

69. xxiii, 22: "The magistrate does not deliver himself to the multitude but prudently acts in unison with them; he does not depend on a weak wall." The idea that the magistrate is like a navigator or a doctor carries the understanding that he acts from science. See xviii, 33. Yet the magistrate is not, as the Philosopher King, "right reason" incarnate. Later in this chapter we shall examine the Althusian conception of "borrowed prudence" to indicate how the mind of the group gets expressed even in elite decisions.

part of the competence of the magistrate is found in the prudence that enables him to gauge correctly the degree to which his science can inform the free decisions of the people and in the art of governing that enables him to persuade the people to follow that science.⁷⁰ Law is not "found" in the Medieval sense, nor is it evolved in the modern sociological sense, nor is it "made" in the modern voluntaristic sense. It is an "interpretatio" of natural law, an application of right reason to contingency within the limitations of popular acceptance. The people approve and consent, the magistrate proposes and executes.

The elite process is as deeply rooted in symbiotic need as the popular process. Where the latter meets the need for self-determination, the former meets that of right determination. As we have indicated, the considerations leading to it are more complex primarily because the realities on which it rests are more complex. But having outlined the process itself and its reasons for existing, we now turn our attention to its symbiotic context in an attempt to indicate the intimate way in which it exists as part of symbiotic life. To state our findings in a brief preliminary fashion, we find that the integration of the elite process

70. As will be indicated in our examination of the check and balance system, Althusius establishes as one of the major problems he faces that of insuring that the power of the magistrate will be used prudently.

and symbiosis is achieved on the basis of two ideas: (1) through the concept of right determination, and (2) through the concept of functionalism and sharing. Each of these concepts are, of course, fundamental to the Althusian concept of symbiosis.

Althusius finds the real significance of the elite process in the symbiotic need for right, i.e., true order, in social life. His reasoning is quite clear: symbiosis is identified and defined by its purpose: the good life.⁷¹ The authority, therefore, that preserves it must, to discharge its obligation, not only keep order, but keep an order that is symbiotic.⁷² That is, one need not have an abstract interest in right and wrong order to justify an interest in the content of law. One needs only to have defined social life in such a way as to distinguish it from "robber bands" and the interest logically follows. The content of law becomes as important as the process that produces

71. The definition of the state from its purpose is an attempt to get at the state "form" in the Aristotelian sense of the word. The definition of it from the point of view of "psychic bonds" is an attempt to get at the same idea from the sociological, empirical point of view.

72. The form of the group, i.e., its purpose, may be identified as the ratio of it. The ratio is the "intelligible force" that directs the "evolution from imperfect to more perfect status," Rommen, The State in Catholic Thought, p. 135. Althusius identifies as the ratio of the group, its end or purpose. See I, 22-32, especially 29-32. For this use of the term ratio in the Politica, see xxi, 6, where the term ratio is equated with the term regula.

it. That the order be right is just as important as that there be an order.⁷³ But the adjective "right" indicates an extremely complex amalgam of ideas. That order is right which preserves social life. But social life is itself a multitude united by psychic bonds which themselves exist in the members as perfections of man. Thus the requirement that the order imposed by authority conform to the nature of symbiosis seemingly only reasserts the idea that law must conform to the needs of human nature. In reality it adds to this the consideration that the perfection of human nature is achieved fundamentally by social action. It supposes, further, that the qualities of freedom and justice are social in character. Consequently, Althusius can discuss the concept of government -- to govern -- in terms of leading natures to their goal, or in terms of retaining in the group the fundamental harmonies that constitute social life.⁷⁴

73. Indeed the order existing in a society is in fact the society insofar as it has realized its purpose. As far as Althusius is concerned, the purpose of the society is expressed and realized in the law, the regula vivendi, whether positive, *x*, 3, or natural, *xxi*, 16.

74. Thus Althusius can say such confusing things as, *i*, 13: "To govern is to lead that which is governed to its proper end by suitable means. Therefore it pertains to the office of governor not only to preserve the object governed from harm, but also to lead it to its end." And he means by "the object" both the individual and the group. For he says a few lines earlier: "So also in order to preserve social life, it is necessary that one member command the other for the safety and advantage of each and all." The shifting factor is found in this, that the individual can be considered as "each" or as one of "all."

The viewpoint in each case is quite different, but Althusius can make an easy transition from the one to the other because he has not thought out the distinctions implied in his definition of politics. Yet the amalgam is understandable; the thing is not distinguished, only the aspects under which it can be considered are. The governors and the group must consider the law of nature when they legislate. Good legislation requires (1) that the whole group agree about the basic justice of the law, and (2) that the law be in harmony with the objective requirements of the nature of man and society. Althusius thinks he can tell a group how it ought to be organized to achieve both requirements. And as we have indicated, the elite process is necessary for both social consensus and moral rightness. Since one cannot be gotten without the other, he tends to think of both together. This tendency is strengthened by the fact that moral rightness itself can be tested by reference either to symbiotic nature or human nature. At any event the content of the law is important. It is not enough that people be free from oppression and actually in possession of group self-determination. It is necessary also, and just as necessary, that the group's determination realize the purpose for which the group exists. As soon as one admits a purpose beyond sheer order for order's sake, it becomes important to insure that the purpose be reached. The ultimate justification of the elite and its basis of integration with

symbiotic life can be found, therefore, in this: that it meets the need for rightness of order.

A further consideration of a problem in methodology which is solved by the elite process may throw additional light on the integration of elite process with symbiosis. The question that arises when one's political theory demands an interest in the content of law is: what can the political scientist do about this? It is extremely difficult to show how the political scientist as such can establish himself as the maker of statutory law for the group.⁷⁵ First, because this is a completely prudential activity incapable of being fitted into the generalizations of scientific thought. And secondly, because it is difficult to see how the possibility of group self-determination can be admitted when the political scientist determines the content of law. It has not infrequently happened that men who are concerned with the content of law are betrayed into an anti-democratic theory on the basis of their refusal to accept sight-unseen the decisions of the group.⁷⁶ It would seem that the political

75. This question will be examined in Chapter VIII, below.

76. See Jacques Maritain's balanced discussion of this problem in Les Droits de l'Homme et la Loi Naturelle (N.Y., 1942), pp. 37 ff. His problem is that of discovering a way in which the Church can inform the laws of a state without violating the principle of the democratic and popular determination of the law. Aristotle's seeming relativism in accepting the principle of justice in the group as the norm of law is based on the idea that this is the existential limitation on the possibility of getting perfectly just law.

scientist can at best only establish the goals to be sought in legislation and the processes through which legislation passes, and then let the society discover the concrete means of reaching the goals, i.e., determine the content of their own laws. But Althusius, and, it would seem, every writer who advances a classical "rule of the best" principle cannot abandon society to the vagaries of its observable inconstancy. And while they cannot legislate the laws of the group, they can attempt to insure the right content in those laws through the establishment of an elite group who possess the knowledge of political science. The elite in a political theory like Althusius' is nothing more than a method for projecting into the process of lawmaking as it occurs in the group itself, the knowledge necessary for good law. This solution of the dilemma is justified insofar as it can be shown that apart from the dilemma of the scientist, there is a real need for the exercise of authority by the few.

77. Various statements of Althusius suggest that he considered sovereignty as expressing itself in both processes. Thus, ix, 16: "In this power of disposing (sovereignty) ...is contained the bond, soul and vital spirit of the realm. its autonomia, greatness, size and authority." And, xix, 23: "Thus a ship cannot be guided without a captain.... Anarchy begets ataxia...a morass of public and private disorders.... Seneca says that it (the rule of the magistrate) is the bond through which the republic remains united, the vital spirit which draws together so many thousands." Our attempt to show that popular sovereignty is operative only given leadership indicates the way in which these two statements can be reconciled.

The fundamental consideration throughout is not the political scientist's desire to meddle, but his obligation to fulfill his basic function: to discover how men should be organized political so as to insure the preservation and development of social life. While he is restricted to the analysis of process and the establishment of laws of structure, he nevertheless must cope with the fact that objectively bad law, even when accepted by the group, frustrates symbiotic goals. And in proportion as it does so it destroys symbiosis as thoroughly, though in a different way, as does anarchy or tyranny. Therefore, in the total picture, the elite process gets involved in symbiotic life not merely as a secondary mechanical process necessary to complete a basic one, but, more profoundly, it answers the basic symbiotic imperative that the group order be in fact an order of human felicity.

Another integration of the elite process with symbiotic imperatives is found in the fact that since it completes the movement toward freedom and right order begun by the popular process, it thereby completes the autarchy or internal sovereignty of the group. Together, both processes establish the self-sufficient community. Without the other, each would become an unbalanced caricature of itself. The popular process would decay into anarchy, the elite process into tyranny. Both processes, moreover, are necessary in a much deeper way than this negative idea that each without

the other is inadequate, suggests. Autarchy or self-sufficiency in Althusius evidently means that the group has not only the processes that make it possible to produce law in the operational order, but in addition that it has processes that insure that the law produced be both right and capable of getting better. The self-sufficient group is the one that has within itself the means of insuring its own growth. For the characteristic of the group always is that it is composed of individuals originally undeveloped who develop within a felicitous environment. We have indicated how in Althusius' theory of popular sovereignty the group has in some way the power to create itself, i.e., to constitute itself a civil society. Now we see that the completion of the creative power is found in the power to sustain one's self in existence and to grow.⁷⁸ This is indeed self-sufficiency. And Foster has rightly indicated that in the Greek tradition, the elite element is the one that gives the group the characteristic of being "political."

78. The concept of sovereignty has been given various interpretations. See H. E. Cohen, Recent Theories of Sovereignty (Chicago, 1937). It can be handled as a purely legal concept, or as a technical political concept. See, F. M. Watkins, The State as a Concept, pp. 50 ff. And finally it can be handled as a moral concept involving the idea of autarchy and moral self-sufficiency. Althusius uses the idea in all three senses, but most frequently he uses it in the sense of the ultimate authority, i.e., in the political sense, and in the Greek moral sense. The last named is the one under discussion here. For the Greek sense, see Alfred Zimmermann, The Greek Commonwealth, 2nd ed. (Oxford, 1915), Part II.

What is the peculiar character of a political society, which differentiates it from the forms of association to be found in the realm of nature...? We suggested that we might find a clue to the answer (or at least to Plato's answer) if we discovered what differentiates the fully developed Polis of the Republic from the 'first city,' and now one grand distinction between them is clear. In the 'first city' that which constitutes its unity...is natural in the sense that it is primitive and the product of no conscious purpose. In the ideal Polis this identical form is restored, and its justice depends entirely upon the condition that the form restored be identical with the natural one; but the process of its restoration is an act informed by conscious purpose.... Whereas the members of the 'first city' were imagined to be united in accordance with a certain form, the members of the ideal Polis are held in unity by knowledge of the form.⁷⁹

The integration of the leadership process with symbiosis is completed in Althusius' interpretation of the process as a part of the functionalism involved in the idea of communicatio. At the same time this interpretation casts new light upon the idea of autarchy as achieved by the perfect society. In examining this approach to leadership, it must first be remembered that the political processes are themselves a part of symbiosis, not something added to it as a preservative.⁸⁰ Indeed Althusius tells us that harmony and consensus between ruler and ruled is one of the essential elements of symbiotic partnership or communio. "If there is

79. Foster, Political Philosophies of Plato and Hegel, p. 15.

80. Although Althusius makes no distinction between consciously and unconsciously held forms as does Plato, still his general approach assumes it. Thus i, 20 and i, 30 assume it. The whole point about the magistrate is that he must consciously know and preserve the form of civil society.

the same agreement and will between those who command and those who obey, their life is made happy and blessed."⁸¹ And further, "A most pleasant and fitting harmony arises out of the condition of rich and poor, of working and sedentary men...and if the society is brought to agreement, a more durable, happy...harmony is achieved. But if all are equal and each one arbitrarily wishes to rule the rest, and the rest refuse to be ruled, discord will easily result and from discord the dissolution of society."⁸² And Althusius' analysis of prudencia is concerned as much with keeping harmonious relations between ruler and ruled as it is with insuring the rightness of the laws. When one considers that the law in the Politica is the regula vivendi which by virtue of summing up the norms of action for the group necessarily sums up the consensus of the group, it becomes logically necessary that the process of making law involves among other things, the pooling of the ideas of the group. We have already pointed out that this process involves a communicatio consilii or pooling of ideas in the Diet. Now, in view of the function of the ruler in the making of law, it should be evident that the basic interpretation of lawmaking as a communicatio consilii must also explain the activity of the magistrate. We find, in fact, that Althusius

81. 1, 11-12. See also, xix, 23.

82. 1, 37.

frequently describes the inter-action between ruler and ruled as the giving of advice. The idea is that both ruler and people give and receive intellectual enlightenment.

In addition the ruler or supreme magistrate keeps the favor of his subjects by consulting the Diet, because thereby they see that they are not excluded from the care and government of the realm, and, consequently, are kept from suspecting that bad advice has been given when events do not turn out as expected. For if no one gave advice to the ruler in difficult matters, the subjects would feel they were locked down on.⁸³

The contribution of the elite is sufficiently different from the contribution of the citizens in the Diet for Althusius to conceive of it in a Platonic way as establishing an identifiable and separate communicatio. The basic contribution of the elite is that of the science of politics:

And Naziansus in the Apologetica writes that it is the art of arts and the science of sciences to rule man, the craftiest of all living things.... Only political science cures all these inconveniences. From it one must learn how and at what time he should rule the helm of the ship of state in which the supreme magistrate himself with all his subjects travel as on an ocean... In like manner therefore, the supreme magistrate understands all the aspects of his office most truly from the right principles of administration, to which he obliges himself by the fact that he accepts the proffered rule...⁸⁴

As Foster points out,⁸⁵ the contribution of science meets a distinct need of the group, one which the private citizen

83. xxxiii, 29. See also, xviii, 16-22 and xxi, 7.

84. xxi, 7.

85. Political Philosophies of Plato and Hegel, p. 11.

cannot meet. And therefore the ruler is not considered as one of many whose advice and counsel contribute to the direction of the group. He makes a distinctive contribution which no one else can make. "For to command, to rule, to be subject...are natural actions.... For it is especially useful for each man (who cannot provide for himself) to be helped and preserved by someone else, and this condition is better described as one where a man both suffices for himself and is able to help others. And the greater the good he gives, the better and more distinguished he is."⁸⁶

Thus the function of giving counsel distinguishes the ruler from the ruled. Yet the differentiation of function in the Politica does not reach the starkness found in the Republic of Plato. There, the differentiation is that each class contributes a separate element of the social life: material basis, defense and knowledge. Althusius, it is true, bases his estate system on the Platonic differentiation to the extent that the people contribute the material elements of society, the nobles the defense in war and the clergy the knowledge of religion. Still when the question of conscious knowledge of the form of symbiosis appears, he drops this kind of exclusive differentiation for another more subtle one. The ruler contributes scientific knowledge of the symbiotic form and prudential knowledge of the

86. i, 34.

problem of governing men. One can say he contributes the knowledge of the whole precisely as a whole. The group, however, contributes the knowledge of how the implications found in the consideration of the whole as whole affect the parts of the whole. Althusius' approach is that the fundamental problem of government is one of making good law. For this it is not enough that the principle of the law be right; the specific application of it must affect each interest in the group in just proportion. A philosopher king would judge both elements rightly, but there are no philosopher kings.

From all this it appears that the Diet was introduced in answer to most just and demanding needs. For in a great number there is prudence and the size of the Diet insures the welfare of the people.. .. There are also certain public matters that cannot be handled by one person, but can be well settled, deliberated and examined by all, for they are better known by them than by one or a few.⁸⁷

The people do not contribute science, but they do contribute one element of the virtue of prudence, an intimate knowledge of the facts of the case. And Diet discussion insures that all facts get known.

When both popular and elite processes are examined in the light of the functionalism inherent in the communicatio consilii, it becomes evident that the Politica does not know the modern divisions of government into branches and functions even though it does recognize the modern view of

⁸⁷. xxxiii, 29.

legislation and leadership. The legislative process it envisages involves as partners both Diet and magistrate, each of whom has a proper contribution to or function in it. The end product of the cooperative act is a law that expresses the best evaluation of interests that the group can produce. Perhaps the most profound analysis of the Diet-magistrate relationship can be found in this idea that the lawmaking process is carried on by two elements both of whom make the judgment, but from different points of view. One is primarily concerned with the interests that are regulated, the other with the norm that regulates. The principle of group rule, it seems, is expressed concretely in the cooperation of the participating components of the group. As distinct from Hobbes and Rousseau and in conformity with the Medieval view of sub-group life, Althusius insists that given a healthy citizenry and a competent elite, sub-group interests will not destroy the common good. With the aid of their own virtue and under the skilful leadership of government, the group will be able to subordinate private to public interest, i.e., to answer the right question.⁸⁸ The problem he attempts to solve in the elite process is

88. One suspects that the almost exclusive pre-occupation with power that marked political thought until recently is responsible for the distrust of private interests in principle. It is the decay of political virtue that makes the pressures of private interest distorting; that and the lack of access for any but dominant interests to the legislative process.

that of getting an impartial approach to the standard of valuation: the common good. From this point of view, competence is equated with impartiality toward private interests, an impartiality that does not produce neutrality toward these interests, but a firm purpose of determining what is due to each and of demanding from each what it owes to the common good.⁸⁹ Thus the search for just law in symbiotic life is not an abstract a priori adventure, nor is it an empirical balancing of interests on the basis of sheer command or compromise. Rather it is an attempt to adjust the demands of actual private interests to the imperatives of principle. Law, the evaluation of interests, operates at the point where the imperatives of principle meet the imperatives of the contingent world. Its achievement is to integrate both so that justice is done to all.

The problem in constitution making that follows from this is that of the integration of the two processes of elite and popular rule. Insofar as the magistrate proposes policy impartially, he checks each estate. Or perhaps a better description of his action is that he guides each estate to a proper consideration of its task vis-a-vis

89. Krabbe, Modern Idea of the State, registers an effective criticism against the liberalistic demand for an "impartial law," which at the least, demands that in a democracy the citizens refuse to consider private interests in voting for a law. Simon, Philosophy of Democratic Government, ch. 1, "The Volition of the Common Good," points out that the common good itself cannot exist unless private interests are fostered and preserved.

the common good. We have here an application in the existential order of the principle that sovereignty is intrinsically limited by natural law. For the magistrate represents this limitation as it impinges upon the group to whom belongs the ultimate power of lawmaking. It is significant that in this regard there is no conception of a balance of power. The fundamental conception is that of leadership. That is, the magistrate proposes an evaluation of interests without the political right to compel obedience by all, but with the political authority to direct and lead decisions according to intrinsic limitations which, by definition, he is best able to see. The Diet has no right to sacrifice the common good to private interests; this is against natural law. The function of the magistrate is to help the Diet see clearly what the common good requires. The Diet's ultimate sovereign approval and consent is based on its own sense of right as that sense is informed and directed by the elite. One suspects that the reason why so many equalitarian democrats fear majority rule is because in their system there is no logical way to protect the few against the inevitable excesses of unchecked power. Althusius' value on this point is that he forces upon our attention the idea that power may be checked by something besides "an equal power." Popular power can be checked (in the sense of directed) by leadership.

Chapter VI

GOVERNMENT BY CONSENT: THE INTEGRATION

Elite rule, while solving the problem of right determination and good law, re-introduces the problem of self-determination. In the light of Althusius' conception of the popular and the elite processes, it should be evident that the problem he faces is that of preserving the identity of each while integrating them. Between leadership and consent there is no intrinsic opposition.¹ Indeed, each concept involves the other. Yet there is real danger that this relationship will degenerate into a command-obedience one in the order of tyranny, or into the more subtle paternal rule-passive obedience relationship. The problem is

1. This is quite obvious when leadership is defined as something specifically different from sheer command, tyranny and the like. Seligman, "The Study of Political Leadership," APSR, XLIV, 913, points out that, "Leadership is a function of acceptance by followers." Hollister, Government and the Arts of Obedience, p. 12, points out that the nature of the internality that constitutes acceptance, itself constitutes a problem. And he identifies at least seven different kinds of it. As we shall show later, Althusius is speaking of only one kind, the kind Hollister calls representative. xxiv, 32: "A king rules willing subjects; a tyrant dominates unwilling ones."

to sustain in the society a true leadership in which the elite set the tone of the laws, and a true consent in which the people agree in a positive fashion on the desirability of each law. This is a much more difficult problem than that supposed by Collingwood who does not advert to that characteristic of elite rule (or at least Althusius' idea of it) whereby it bases its claim to rule on inadequacies among the people whom the democratic principles think worthy of participation in the political process.² Some sociologists also fail to stress the real contribution of leadership. It is not simply that of concretizing vague policy desires of the people.³ Frequently it involves directing what Barker and others call the general will, i.e., the citizens' will that the state exist.⁴ This more fundamental and significant function is frequently overlooked because of the habit of not distinguishing the ways in which something may be

2. See, R.G. Collingwood, The New Leviathan (Oxford, 1942), ch. xxvi, "Democracy and Aristocracy."

3. As suggested by Tead, The Art of Leadership.

4. Bagehot struggles with this possibility in his Parliamentary Reform. See also, E. Barker, Political Thought in England, p. 28, and MacIver, The Modern State, p. 200. The Politica contains this idea of the function of leadership, xxiv, 41-42. In the chapter in which Althusius advises the magistrate on the methods of preserving concord, he defines concord as: "Concord and tranquillity among the citizens consists in peace and good will both among the subjects and between subjects and their magistrate which is directed to the conservation of the commonweal without any dissimulation or mutual hatreds," xxi, 1.

"inchoate" in the mind of the people.⁵ The difficulties of this problem exist solely on the existential or operational level of political life. The chief source of them is found in the broad scope of governmental authority. In the Politica, the magistrate occupies the strategic position in the structure of authority. In his leader function he is prime mover of legislation; in his statesman function he reaches into the most intimate aspects of human life;⁶ as executive he possesses extensive discretionary power to adjust law to the individual situation. And these powers, it must be remembered, are exercised in a positive state where the only limitation on law is that it must be just according to the mind of the people. To say simply that

5. Maritain, Man and the State, p. 137, points out that: "In what can be called the common psyche of the people there is a huge variety of levels and degrees." Because of this a ruler can rule in accordance with the will of the people even when he incurs their disfavor. See also MacIver, The Modern State, p. 201. The concept of the real will is undoubtedly susceptible of abuse, but this does not change the fact that it has a real basis in life. Rousseau gets at this idea by insisting that although the general will is always right, there still remains the problem of getting it enlightened. Social Contract, Bk. II, ch. iii.

6. Figgis, Studies, p. 141, points out that Althusius agrees with Hobbes and Rousseau on this point. The extent of authority will be discussed below in Chapter VII. At present, it is sufficient to note that as Althusius sees it, xvi, 6: "Therefore we ought to devote everything to its (the republic's) safety, for whom we have been born and educated." The state controls property, xxv, 16; general business life, ii, 29-35, and especially ideas, xxx, 30. In this regard, the state should "put out the sparks before the conflagration occurs," vii, 50; viii, 39.

the magistrate acts with the consent of the people, does not face up to the danger to consent inherent in a situation of extensive authority. Positive provisions must be made to insure real self-determination and to avoid that simple submission which has only the appearance of freedom.⁷

The importance of this problem cannot be over-estimated. On its solution depends the validity of Althusius' entire thought on the question of self-determination. The solution to it given by the popular process is not complete because it depends essentially on the possibilities of participation in the act of making law. As analyzed in Part II, Chapter IV above, the participation in question was participation in the activity of the Diet. It appears now that the effectiveness of the Diet as a popular institution depends entirely on the relationship that exists between it and the magistrate. That is, granted Althusius' position that the popular processes become operative only under the leadership of the magistrate, the question arises whether participation in the activity of the Diet constitutes a real participation in the making of law. If there is any one point on which the structure of Althusius' thought rests, it is on this question of integrating people and government, ruler and ruled, Diet and magistrate. If the Diet does not

7. 1, 12. G. D. H. Cole, Self-Government in Industry, 5th rev. ed. (London, 1920) comments on the problem of the choice and control of leaders in a democratic system.

achieve real participation, then the popular process does not solve the problem Althusius thinks it does. A real self-determination arising from interior conviction can hardly be achieved by an act of consent which, in view of the central activity of the magistrate could easily become a simple act of submission. The unrealism of a purely theoretical appeal to the consent principle is enhanced by the consideration that the real tension of the problem does not center solely upon the question of the broad scope of the magistrate's power. According to the principle of competence, these powers are exercised in accordance with expert knowledge. When the executive is a mere agent, no matter what the quantity of his power, the only problem is to control the exercise of discretion in execution. When he is a leader, a completely different problem appears.⁸

8. The executive clarifies popular opinion in the process of executing the law; the leader, in addition, creates that opinion. Conservative British writers from Burke to Eliot are aware of this quality in leadership. For recent expressions of the idea see T.S. Eliot, Notes On a Definition of Culture. Sebastian De Grazia, The Political Community and Veblen, Theory of the Leisure Class, offer studies of the ways in which opinion is created by an elite in non-legal areas of life. In addition to a willingness to revolt, Althusius also discovers a willingness to obey on the part of the people, a willingness that is the basis in the people for the leadership in ideas found in the elite. xxiii, 31: "It is almost a law instilled by nature in the people that all the deeds, words and customs of the prince are carefully imitated.... The prince is a mirror placed on high in which all look and from which they acquire their norms for living.... Whence the proverb, qualis rex, talis

Althusius' solution to this problem turns on provisions calculated to insure that the consent of the people will constitute a true interiorization of the magistrate's leadership. In accordance with the course of his thought as analyzed thus far, the solution is sought not in an attempt to adjust the people to the ruler but the ruler to the people.⁹ His general approach is itself a major indication of the profundity with which he holds to the theory of popular sovereignty. The mind of the people, the popular sense of right, is the permanent and unyielding factor. The mind of the magistrate, the principle of informed and scientific knowledge, is the factor that must be adjusted. Part

grex." Again, 1, 32: "I add to the above the fact that it is inborn in the stronger and the more prudent to rule and command lesser men, just as it seems to be inborn in the lesser to obey. Thus, in man the soul rules the body and the mind the appetites, which offer obedience."

9. One of the more frequent admonitions Althusius directs to the magistrate is that the stability of his rule depends on his adapting himself to the people. This is offered indifferently as advice concerning the preservation of government or advice concerning the preservation of good order. See, vii, 41; xxi, 7, 17; xxiii, 14, 20; xxiv, 9, 19. The union of both ideas is evident in a typical statement from Irving Babbitt, Democracy and Leadership (Boston, 1924), p. 27: "According to Aristotle a government, if it is to endure must reflect the ethos or body of moral habits and beliefs of the governed." Krabbe, Modern Idea of the State, p. 51, expresses the idea basic to Althusius: "Practice must content itself with a legal system whose rules are based upon a defective sense of right, that is, a sense of right which is more or less encumbered in the members of the community." The analogies with the wild horse, or the ferocious animal, or the wary bird used in the places cited above illustrate quite a different point from that of the analogy with the ship, v.g., xviii, 33.

of his expertise is to "know the customs and temperament of those whom he is over so he can adapt himself to them and know by what things the people are wont to be moved and pleased most easily."¹⁰ The basic need is for prudence in the ruler. That is, granted that the ruler has the philosophy necessary for good rule, it is still necessary that he have the knowledge of men and action that will enable him to cope with and adapt his rule to these facts. He does not, therefore, seek integration by strengthening and enlarging the power of the Diet beyond the limits its nature fixes for it. Nor does he seek a solution by lowering the intensity of magisterial power below the danger level.¹¹

10. xxiii, 14. See also, ibid., 20.

11. The laissez-faire theory solves the problem by an interpretation of the purposes of the state that restricts authority to an easily controlled minimum. It is significant that this theory denies in a most profound way the need for leadership. Mill, for instance, seems to think the people, as they develop, will outgrow the need for leadership, Representative Government, pp. 222-224. For Althusius, progress is a consequence of intelligence and planning, operations that require leadership no matter what the stage of development in the people. On a deeper level, progress is identified with the intensification of the symbiotic bond. See Maritain, Les Droits de l'Homme, pp. 5 ff., and Collingwood, The New Leviathan, ch. xxiv for an analysis of this idea. Nevertheless Althusius thinks there is an upper limit to safe power. xix, 8: "The less the power of those who command is, the longer and more stable does the imperium stand. For that power is safe which places a limitation on power and which commands willing subjects, which is circumscribed by law lest it grow savage and run riot to the detriment of the subjects and degenerate into tyranny.... Therefore Aristotle...rightly claims that the fitting arrangement is for the king to have enough power and strength to be stronger than the individual

For this would be to solve one problem by refusing to recognize the equally pressing problem rising from the imperative that governmental authority must be adequate to achieve its purposes. Basic to his thinking here is the principle that: "The magistrate must have sufficient power to rule with authority."¹² Nor could the solution be sought in a more equal division of authority between Diet and magistrate.¹³ His solution, ultimately, is to organize the executive elements in law in such a way as to counteract the corrupting influences and difficulties of authority by the balancing and directing forces of Advisors and Ephors.¹⁴ Integration

subjects, but weaker than the whole multitude.... For he who uses the plenitude of power destroys the restraints by which human society has been fostered."

12. xxv, 20.

13. In general Althusius does not tend to check and balance the two. Herman Finer's description of executive-legislative relations in his Theory and Practice of Modern Government, rev. ed. (N.Y., 1949), p. 620, is not Althusius': "A set of men who strive their utmost to get things done and another set who do their utmost to obstruct them." See, ibid., p. 22, for a more positive statement of the relations between the two sets of men.

14. The problem of the relation between executive and legislative functions is a central one in every constitution. But the significance of the relationship finally selected is decided by the general theory or attitude within which it is proposed. The conception of conflict between the two, the historical heritage of opposition to the prince, casts the process in one form. The conception of cooperation expressed, v.g., in Barker, Reflections on Government, casts it in another. It should be obvious that Althusius' mentality is essentially one of cooperation. The advisors and ephors whom he expressly says, "check and balance" the magistrate, (xviii, 49) nevertheless also advise and aid him. Thus they

of elite and popular elements is sought by defining and organizing the elite powers in such a way as to insure that the proposals the magistrate makes will be sufficiently in accordance with the group's sense of right to be capable of true interiorization. Thus integration is sought in the organization of the elite process itself. And here Althusius follows the method of solution used in his organization of the Diet. In Chapter IV above, we analyzed the organization that insured an active and representative Diet. Now we must analyze the organization calculated to insure an informed, prudent and representative elite process.¹⁵

Since the problem is an existential one, Althusius seeks on that level of reality the facts on which a solution can be based. The first movement of his thought at this point outlines a most impressive empirical analysis of leadership in which he sets up on the level of psychology the relationship between ruler and ruled previously established on the more abstract level of the consent theory.

do not limit him in the sense that it is not a limitation to keep authority properly ordered to its end. xxiv, 38: "quando turpiter agit contra potestatem concessam, id non potestatis, sed impotentiae dicitur."

15. Note the co-relation between the parts of the solution. To insure prudent leadership is to insure the opportunity for consent. While to insure consent involves the necessity of providing prudent leadership. If leadership breaks down, chaos results, xxxviii, 17. If consent breaks down, tyranny results, xxxviii, 5-7. In both cases freedom is lost and symbiosis becomes impossible. See, xviii, 34-37; xxxviii, 1-4.

On this latter level, he established the "ought" situation, namely that the people ought to be sovereign. Now he establishes the fact situation, namely that governmental authority, to be operative, must be adapted to the concrete acceptances of the people.¹⁶ His fundamental perception is that the authority of government must be described in terms of the acceptances of the people.

This authority (of the magistrate)...is a reverent judgment concerning the supreme magistrate and his status conceived by and impressed on subjects or externs. One that has been engendered in the mind of subjects or externs by the administration of the realm. It is the life and soul of the realm in that it brings it about that one spirit presides over so many thousands of men.... Moses was armed with such authority before Pharo. The powers, therefore, of government lie in the consent of those who obey. Consent, indeed, comes from the good opinion of the citizens; its contrary is contempt. This favorable judgment is called Majesty in the supreme magistrate, in others Highness or Excellence or Serenity. This authority consists of admiration and fear. Both come from the form of governmental power or the customs of the one ruling.¹⁷

16. Althusius asserts this frequently throughout the last half of the Politica. In chapters xxiv and xxv he gives the empirical reasons for it.

17. xxv, 1-3. It should be evident that even on this empirical level of analysis, Althusius stays within the area of the relevant situation. One meets here a most interesting problem in methodology in the empirical parts of political science. It is now understood that the way the homo politicus acts is deeply influenced by the socio-political situation within which he exists. See Hollister, Government and the Arts of Obedience, for a description of the action patterns of man in varying political complexes. The discovery by the anthropologists of the extensive influence of the total cultural context on the most unexpected aspects of behavior makes one wonder whether the generalization Catlin wants must not be modified by the kind of

The benevolence and reverence that constitute authority in government, therefore, is a product of good government; it derives from the people's experience that the government truly seeks to serve the common good.

This attitude of the consociated body toward its magistrate is that which is directed toward rulers as a result of the administration of the realm....¹⁸

According as (the magistrate) rules well or ill he begets benevolence or opposition on the part of the people.... A benevolent attitude rises from the good will the subjects develop toward the magistrate.... The support of a magistrate must be found in the charity and benevolence of his citizens rather than in his armies. And the prince rules his subjects easily when their will is prepared to obey spontaneously.... The magistrate earns this benevolence by mildness, beneficence and the desire to serve the republic well....¹⁹

And he rules for a goodly time who instills into the souls of the citizens, not fear through brutality, but love through goodness. A king rules willing subjects; a tyrant dominates unwilling ones....²⁰

thinking Lindsay proposes. At any rate, it is becoming clear that generalizations concerning political psychology must include as limiting factors a description of the social context within which the generalization is made.

18. xxiv, 1. Immediately before, Althusius had said: "Thus far we have examined the first kind of attitude toward government, that of engendered and accidental benevolence. Now we take up the other type, that of reverence which begets authority." Aristotle's idea of friendship between ruler and people involves honor and obedience being given the ruler.

19. xxiv, 14-17. At Ibid., 33, Althusius observes that a magistrate begets good will in two ways, (1) when he shows by his actions that he is in fact a servant of the realm, not its master, and (2) when he shows in fact that his rule is directed to the glory of God and the good of the realm.

20. xxiv, 32.

Looking at the situation in a purely psychological, non-moral fashion, that is, authority or the ability to get things done by something else than force is indistinguishable from obedience or the willingness of the people to follow the lead of government.²¹

The term obedientia as Althusius uses it is not adequately translated by the English, "obedience."²² For it denominates not so much the habit or virtue of obedience as it does the psychological basis of that habit.²³ In the earlier sections of the Politica, where he simply identifies a ruler-subject relationship, Althusius seems to equate it

21. Marshall Dimock, J. Gaus and L. White, The Frontiers of Public Administration (Chicago, 1936), express the idea as follows, p. 39: "Authority, in short, follows the successful exercise of function; the role of the administrator is to achieve a reconciliation of the interests involved, and requires the winning of consent by the accumulation of exact and relevant knowledge. Mary Follett, Dynamic Administration: the Collected Papers of Mary Follett, ed. Henry C. Metcalf and L. Urwick (N.Y., 1942) expresses the same idea. In modern writing on political authority, this principle is applied to the need of a party in power to retain the support of a majority. See MacIver, The Modern State, pp. 197, 201.

22. See xxiv and xxv for Althusius' treatment of this concept. Hume's observations concerning government based on opinion are enlightening at this point. Essays on Human Nature, ch. iv.

23. Austin's "habitual obedience" is a jurisprudential concept. See Watkins, The State as a Concept, pp. 35 ff. It simply identifies a political condition. Althusius' obedientia identifies the cause of that condition. To do so it breaks the idea down into its component elements: experience which begets benevolence and reverence for the ruler. See, Politica, pp. 4, 10; for Althusius' distinction between jurisprudence and political science.

with a command-obedience situation. As, for instance, when he says: "The prefect...or one who commands, by administering...commanding, warning, or by forbidding, forcing or restraining, directs and governs with authority the activity of social life."²⁴ But when he comes to analyze this relationship, we find that it is much more complicated.²⁵ Indeed, given the context of Althusius' conception of authority, the simple command-obedience interpretation could hardly suffice. In that context, the element of force has little significance. The dominating elements are found in the two ideas of a right-duty relation and a representative authority.²⁶ The

24. i, 13.

25. i, 12: "For all government is summed up in command and subjection.... But if there is the same agreement and will between those who command and those who obey, their life is made happy and blessed." This idea of the need for harmony between ruler and ruled is repeated frequently, v.g., i, 36; xix, 23.

26. With a few exceptions that can be explained in another context, Althusius thought of coercive authority in terms of the "forced to be free" context. Free here means to follow the good actually recognized by one's better judgment, xxi, 31; x, 11; xix, 23; xxv, 4. The idea is well expressed in Krabbe, Modern Idea of the State, p. 65. When the people are symbiotically united and the law reflects the group sense of right, coercion forces a man to follow his own reason. For a criticism of this idea, see Simon, Philosophy of Democratic Government, MacIver, The Modern State and Green's interesting discussion in his Lectures. Nevertheless, Althusius does not depend on coercion for the realization of state purposes. xxiv, 19: "There is nothing that more impels men to obey than the known equity of the ruler, and nothing that makes the magistrate more lovable and pleasing to others than kindness. For too many penalties are not less disgraceful for a prince than are too many funerals for a doctor...."

analysis carried on under the rubric obedientia reasserts the theory of popular sovereignty on the empirical level of analysis. By it, the concept of delegation of authority is given a new dimension. For delegation, primarily a legal, constitutional idea, is here presented as a psychological one.²⁷ Where formerly popular sovereignty was developed as a logical implication of the nature of symbiosis, it is now asserted as a factual situation in the symbiotic context.²⁸

By thus translating the abstract, theoretical concept

27. Consent is not a legal concept, xxv, 2: "The powers, therefore of government lie in the consent of those who obey. Consent, indeed comes from the good opinion of the citizens; its contrary is contempt." This does not contradict the more abstract statement of xviii, 18: "The rector ...of a civil society cannot be established justly and without tyranny by any but the republic itself. For by natural law all men are equal and subject to the jurisdiction of no one except by their own consent and voluntary act whereby they subject themselves." While it is true that the benevolence of the people is "engendered" by the ruler, yet as Lowell points out, Public Opinion, p. 13: "A belief although adopted on suggestion of authority without mature consideration, may nevertheless be a real opinion and not a mere prejudice or meaningless impression. For the line between what is opinion and what is not is by no means the same as the line between what is personally thought or consciously rational, and what comes in other ways."

28. Involved here is the idea of a willingness of the people to revolt, i.e., to spell out the consequence when the people lose their willingness to obey as a result of bad rule. An analysis of undefined situations indicates that such a willingness is rare. Althusius supposes it to exist only in the defined situation. In this he agrees with Rousseau, Considerations on the Government of Poland, in which the assumption is that certain democratic qualities can exist only in certain social situations. For Althusius, see Gerbrandy, National...Stability, pp. 35-36. The Ephors represent an organization of the natural forces in the society.

"consent" into the factual psychological concept obedientia. Althusius sets up the specific problem the magistrate must solve in the process of governing the group: that of winning the reverence and good will of the people. The total problem of prudent government has three parts: (1) the problem of knowing what the good is objectively, (2) the problem of discovering the means (laws) that will implement the virtues, harmonies and unities that constitute the good symbiotic order, and (3) the problem of retaining the free obedience of the people as expressed in effective consent while realizing the form of symbiosis.²⁹ The last two problems are solved simultaneously in that the obedience won is obedience to the laws that preserve symbiosis. The first problem is examined but it is not major.³⁰ The solution to the last two occupies a large amount of Althusius' attention.³¹ His thinking on the subject is devoted to discovering the rules of prudence whereby a magistrate may win the obedience of the people. At one point he equates this venture with political science itself.³² The real tension

29. The thing Plato calls the "art" of governing. See his Statesman, 310.

30. Although in one sense the entire book is devoted to the solution of it in that it attempts to establish the social conditions which the magistrate must seek to realize.

31. xxi-xxvii are devoted to this problem.

32. xxi, 7. Elsewhere he gives a more general definition, i, i, 25. Friedrich's reading of the meaning of political science in the Politica draws heavily on this part of Althusius' thought. See, "Introduction," p. lxiv.

point is between people and government.

In this administration of justice the obligatory norm is that moderation be used, that in the republic the right of each member be preserved and be neither diminished nor increased to the detriment of others. The authority of the king out not to be extended so that the liberty of the people is oppressed, nor should the estates and orders so enlarged that they condemn the king and violate the people. The popular license should not be indulged to the extent that it attacks the dignity of the king and unsettles the affairs of the republic.³³

And the problem it raises is not that of expert knowledge of the good, but expert knowledge of the people. The obedientia concept stresses the fact that in the last analysis authority cannot be handled as a legal right to command, nor can it be handled realistically, even as a moral right to command. Right exists in fact only when it is recognized. And Althusius here struggles with the problem of engendering in the people a recognition of the individual magistrate's right to obedience when he commands. Through obedientia Althusius indicates that this recognition -- a condition of mind -- is composed of equal parts of reverence and good will -- psychological qualities. The task therefore of winning obedience to the laws, becomes the problem of engendering in the people these psychological qualities. A problem whose successful solution requires a deep awareness of the predictable effects of certain kinds of action on the people, a knowledge, that is, of the action and reaction

33. xxix, 2

of the homo politicus.³⁴ Thus the main problem of political prudence is not that of deciding what laws will best realize the demands of objective justice, but rather that of discovering what manner of rule is best calculated to win the support of the people while at the same time it leads them to a degree of justice they might not have been aware of previously.³⁵ The function of the political scientist in this connection is to organize the empirical truth about these matters.

To discharge his obligation as a political scientist , at this point Althusius begins the empirical, value-free

34. Althusius is concerned only with the political habits of man, with his attitude toward authority. His generalization, therefore, should not be enlarged beyond this scope. xxiii is concerned with a slightly broader examination of the people, but still restricts itself to the political aspect. xxiv expressly limits the examination by beginning: "This, then, is the nature and temperament of the people as it concerns the magistrate; there follows an examination of the attitude of the universal consociation or consociated body as it concerns the magistrate from the nature of his rule, or in response to his exercise and administration of it.... Such an attitude has two aspects, one innate, natural and unchanging, the other accessory, accidental and changeable." Catlin's basic generalization, Science and Method of Politics (N.Y., 1927), p. 237, would be acceptable to Althusius: "The fundamental motive in political action is the impulse to make one's will prevail with, over, or against one's fellows." Althusius, however, would hold that the only situation compatible with freedom is one in which the "over" and "against" is avoided in favor of the "with." This empirical conclusion is not in contradiction with the philosophical conclusion, 1, 3: "The end sought by the political, symbiotic man is a holy, just, pleasing and happy community lacking in nothing."

35. We have indicated earlier, pp. 71-75 above, how such knowledge serves effective leadership.

analysis of the behavior patterns of homo politicus. It would not be particularly useful to occupy the reader with an extended summary of the empirical findings he makes concerning the "nature of the people." We have already noted, pp. 284-86 above, the lack of science in the people and their tendency to act from habit and custom rather than conscious reflection. To this must be added a tendency in the people to be restive under authority.³⁶ But counterbalancing this is the tendency to imitation and conformity noted earlier in this chapter.³⁷ And finally there is the tendency of the group itself to establish group characteristics which are extremely important insofar as the magistrate ultimately must establish concord and harmony among groups rather than individuals.

These are the circumstances the ruler must know if he is to rule prudently.³⁸ They determine not so much the

36. xxiii, 21; xxiv, 6. See also, Friedrich, "Introduction," p. lxxi.

37. See p. 311, n. 2, above. See also, xxiii, 31 where Althusius adds: "And therefore, we need not so much government as example."

38. xxiv, 14: "Whence government has two characteristics: one pleasing and excellent to the subjects, the other hateful, hostile and burdensome. It is of the greatest importance that the magistrate know both and understand their causes, so that in as far as he can he may seek the first and entirely flee and avoid the second. Government is made pleasing...to the subjects by the magistrate when he excites and develops an attitude of benevolence and reverence among them." Althusius then stresses the two aspects of knowledge that are necessary: to know the principles of rule and to act according to them. See also, xxi.

content of the law as the modality of rule. From them Althusius derives a set of prudential rules to guide the conduct of the magistrate. Again, there would be no point in an exhaustive summary of the "advice" given to the ruler. This advice may be summarized in three basic points. First, the magistrate must employ a certain sternness in his rule, for such sternness begets reverence and also enhances the basic self-discipline of the people.³⁹ Yet the basic ingredient of good leadership is mildness for mildness begets allegiance and support.

Mildness consists in humanity in word and deed toward the subjects who can bear neither complete servitude nor complete liberty. So that they seem to be masters rather than servants, and as a consequence there is a temperate subjection and temperate liberty, and thus peace. A kind ruler enjoys more obedient subjects... and kindness strengthens his resources and his position and enlarges the realm. There is nothing that more impels men to obey than the known equity of the ruler and nothing that makes the magistrate more lovable and pleasing than kindness.⁴⁰

But this willingness to follow cannot be equated with a blind following of the leader. One of the basic rules of action Althusius proposes for the magistrate is that of adaptation to the existing mind of the people. For:

39. xxiv, 21. See also, xxxvi, 5, 7, 8, where Althusius suggests that the military discipline of army life may profitably be used to develop discipline and sternness in the citizens.

40. xxiv, 18.

the people must be handled and governed as a wild and indomitable horse. If the horseman gentles him and treats him gently in the beginning he has his obedience. If he rules him arrogantly, the wild horse punishes the error and throws his rider off. For if the people are driven to obey commands suddenly and as soon as given, they kick, buck, grow heated and are very busy seeking to overthrow the government. Where, however, they are ruled with benevolence and, as it were reasonably and for their own utility, they become most obedient.⁴¹

The consent of the people must be gotten as explicitly as possible. To this end Althusius introduces the idea Plato develops in his "preface to the laws" approach.⁴² Leadership does not dispense with consent, it is the art of winning it. In this context, the Diet itself, which is established on the basis of popular sovereignty, is also projected as an institution justified on prudential grounds as a method for winning the consent of the people by reassuring them concerning the proper exercise of authority.

For when the subjects see...that they are called to participate in the care of the realm, and when they reflect upon the public needs, they will yield obedience more readily than if they are pressed without having any knowledge of public affairs.... (When the ruler acts in union with the Diet and the people) there is a moderation and symmetry in the polity.⁴³

Yet in all this, the purpose of Althusius' advice is not that of preserving possession of the government against

41. xxiv, 19.

42. See Plato, Laws, Bk. IV, 723.

43. xxiv, 14.

unruly and passionate people, but that of gradually increasing the rationality and evenness of symbiotic life.⁴⁴ It must be remembered that Althusius never considers men apart from their group life, which means that he considers them politically only insofar as they live in an organized society. Gerbrandy suggests:

By the people he understands the totality of the citizens, but always in the light of the group organization which it possesses. The jus majestatis does not reside with the masses, which are inconstant, violent, lacking in judgment, credulous, envious, wild, turbulent, frivolous, ungrateful, changeable and aping those who govern them. It resides in the organized people. It belongs to it as the soul belongs to the body.⁴⁵

That is, Althusius does not suppose that the members of symbiotic life will act in the turbulent fashion he describes. What he says is that in ruling men, the government must recognize that these potentialities lie in man, and that they must be taken account of if the government is to produce an orderly and stable people.⁴⁶ It is only by overcoming

44. Stability of government is necessary. But because Althusius' objective is to establish and preserve concord and harmony (communio) among ruler and people, he never advises the ruler after the fashion of Machiavelli. The latter's approach seems to be based on the acceptance of a power relationship as the basic one. Althusius admits as the only political relationship, a right-duty one.

45. National...Stability, p. 28

46. Collingwood, The New Leviathan, ch. xxxii, in his analysis of Hobbes suggests the idea that the civil society is constantly struggling to draw the total membership up from the state of nature to the state of civil order. Lindsay, Modern Democratic State, p. 37, has substantially the same idea.

these basic patterns that the citizens develop the life of virtue that perfects them.⁴⁷

It is only within the context of this statement of the problem and Althusius' basic solution to it that one can grasp the significance of the constitutional check and balance system Althusius erects about the magistrate.⁴⁸ The background it supplies saves us from reading into the Politica a too exclusive dedication to the Monarchomachic opposition to the Prince. It saves us, further, from attributing

47. Althusius clearly distinguishes between an attitude toward authority that is innate, "natural" if you will, and one that is developed by good rule. He describes the innate attitude as follows, xxiv, 7: "Thus also it is settled by nature that what seems happy, august and beautiful is also desirable. And in proportion as it is more beautiful and so more desired by everyone, it is protected with more difficulty, especially in the case of something desired by everyone. The principate, however, is desired by all and cannot be obtained and possessed by all. Therefore, he who is now in a position where he enjoys the principate must inevitably have as many enemies and enviers as he has men moved by desire and ambition to covet his power..." The "engendered" attitude is simply a response to the goodness or the badness of government, xxiv, 15.

48. xviii, 91: "The duty of the Ephors is to take care lest the supreme magistrate degenerate morally by doing or omitting something contrary to his duty. Thus also the duty of the supreme magistrate is to take care lest any of his Ephors use their limited authority to the detriment of their subjects or the realm. This mutual correction, censure and observation between the magistrate and the estates or Ephors keeps the state of the realm protected." For the Ephors' duty, it is that of "protecting the compact entered into between the supreme magistrate and the people," xviii, 49. See also, xxxix, 24-29. But xviii, 70, although the magistrate is superior to the Ephors taken individually, still, taken as a group, they are superior to him. viii, 53-54, here power is checked against power.

to the system the more subtle laissez-faire context of distrust of the executive authority.⁴⁹ The controls Althusius suggests for the magistrate are offered for the purpose of stabilizing the solution to the problem of leadership implicit in his analysis of obedientia and prudentia. The government that possesses this prudence will recognize the limitations placed on it not only by natural law, but also by the conditions indicated in the analysis of obedientia.

The solution to the problem of the relations between people and rulers is found in the political prudence which by the principle of functionalism must reside in the government rather than in the people. The problem, however, is: how can one insure that government will possess this prudence, this power of self-limitation based on the knowledge of men and affairs. Althusius sees that it would be unrealistic for anyone who attempts to grapple with "this ocean of

49. Although he does develop a system of checks and balances, Althusius never reaches the idea of separation of powers. This is probably because, as Finer says, Theory and Practice, p. 85: "The object (of separation) is plain: to render government as nearly powerless as is compatible with the most urgent dictates of associated activity." And he notes, ibid., pp. 95-96, that the objective of separation is moderation. Althusius counts on leadership to achieve concert between government and people. As a means to this he checks and balances the magistrate internally. For ultimately it is the rapport established by obedientia as much as the idea of an objective lex naturalis that influences his thinking here. Althusius knows that power is dangerous; he also thinks that it is necessary.

human affairs" to trust that the ruler will possess prudence of his own powers.⁵⁰ He is quite aware that there are no philosopher kings in the world, that the chances of any man possessing the prudence necessary to rule well are negligible. Two basic obstacles stand in the way of the possession of such a quality. First, in the intellectual part of the virtue there is the difficulty of understanding the complexities of human psychology as it touches political life.⁵¹ Secondly, in the volitional part of the virtue there is the danger inherent in the exercise of power itself.⁵²

50. Althusius agrees with Plato that "Republics are blessed in which kings are philosophers, or in which learned and wise men rule," xxi, 9. See also, xxiv, 5. His frequent use of the doctor and the navigator simile suggests a personal rule based on science. But, like Plato, he also knew there were no philosopher kings. Indeed, xxxviii, 96: "An evil life in the ruler does not deprive him of his office and dignity unless the evil is such as destroys the foundations of consociation and turns the society from one of men to one of robbers and exceedingly evil men." Thus the stability of the government does not depend on the personal integrity of the ruler. See, xix, 73 ff. The tension Althusius faces here is peculiar to the Platonic rule of the best approach. See Krabbe, Modern Idea of the State, p. 151, for Plato's solution. Any system of thought that recognizes at least potential evil in men and also thinks this element significant for the political order, has to develop some system for neutralizing the evil. Althusius' attempt to neutralize the evil in rulers is ordered primarily to the liberation of the good in them. vii, 31, rulers must be good men. xxi, 7, only political science can insure a good society. But since no one man has sufficient virtue or science of himself, the problem is to organize a process that pools all knowledge and simultaneously neutralizes the wayward elements in man.

51. This element is treated in xxiii, xxiv.

52. This element is treated in xxiv, 30 ff., and xix, 5.

Althusius, of course, has the Diet as an instrument of limitation. But evidently the Diet is fixed in his mind as an institution of participation, or communicatio.⁵³ There is, if you like, a division of power between magistrate and Diet, but this is not thought of in terms of check and balance but in terms of proposing and approving, in terms of implementation of consent. Ultimately, Althusius seeks the solution to the problem of prudential leadership by incorporating within the leadership process itself, a system of checks and balances. Thus in his mind this technique is applied only to the relations between the magistrate on the one hand and the Ephors and Advisors on the other.⁵⁴ By it, he seeks

53. xxxiii, 29-30, reveals how thoroughly Althusius' conception of the Diet-magistrate relation is cast in terms of participation rather than check and balance. Moreover, there is in his thought the basic idea of the Vindiciae Contra Tyrannos, that the deposition of a ruler is a public act requiring leadership. Finally, Althusius has not clearly disengaged the idea of responsible government from that of limited government. For the idea of limitation in government is involved in the idea of responsibility to the truth, while the idea of responsible government does not involve any limitation of jurisdiction, but simply the idea of participation through the Diet and Ephors. See J.R. Pennock, "Responsiveness, Responsibility and Majority Rule," APSR, XLVI (1952) for a discussion of these ideas.

54. It is important to note that the checking occurs within the executive "branch." xviii, 1-22 proceeds on the assumption that the Ephors are part of the process that cares for the common good as such, which is the distinctive function of government. See also, xxxix, 8. Thus Althusius does not envisage a checking and balancing of legislature against government, v.g., as in the case of Machiavelli's balancing of people against elite in a context of egoism and power. Finer's analysis of the check and balance system in Montesquieu, Theory and Practice, pp 95 ff., illustrates how important

political stability through a set of institutions whose chief purpose is to regularize the prudence of the magistrate by organizing it in a stable political process. That is, he does not trust to self-limitation in the magisterial process. Thus he institutionalizes as constituent elements of the magistracy itself, the Ephors who neutralize the danger of corruption deriving from the possession of power and the Advisors who contribute to the knowledge of circumstances and human psychology. And it is our conviction that the key to this system is found in a conscious attempt by Althusius to institutionalize the rapport between magistrate and people by introducing into the magistracy itself elements representative of the popular mind.

There is no contradiction between this kind of a solution and the principle of elite leadership on which the magistracy is based. A just estimate of Althusius' theory of elite leadership requires that it be distinguished carefully from that based on a deficiency theory such as is usually adopted by paternalistic thinkers on this point. Althusius explicitly rejects paternalism, saying:

the context of the principle is for understanding what problem it is expected to solve. It must be noted that Althusius has no conception of a separation of powers in the modern sense. At xxix, 4, legislation is defined as an act of the magistrate. And at xxix, 29-30, courts are part of the executive process. A contrast to this approach is found in Ford's work, Representative Government which is based on the separation of powers idea and the power relations basis of process.

The prince is metaphorically said to be the father of the country because he ought to embrace his subjects with a fatherly love. But this metaphor proves nothing, it merely illustrates, as the Logicians say. Whence arguments derived from the metaphor are defective. He who is a father is one by nature. A magistrate is not one by nature but by election and inauguration.⁵⁵

He avoids an uncritical paternalistic theory by virtue of his careful restriction of the limits of the deficiency on which the elite function is based. It is a deficiency only in the "science" of politics, and not a complete immaturity of thought and action, of man as man.⁵⁶ In private matters, Althusius evidently believes the people sufficiently competent for direct democracy.⁵⁷ Moreover, his organization of the Diet with its insistence on the existence of an operative consent indicates that the deficiencies that require an elite government are not such as exclude the people

55. xxxviii, 78. This, in the course of an argument precipitated by Althusius' position that citizens have a right to withdraw from a society with which they cannot agree.

56. Graham Wallas, Human Nature in Politics, makes it clear that judgments about the "non-rational" behavior of man in political life cannot be generalized as judgments about man in general. Catlin, Science and Method of Politics, p. 215, proposes a political counterpart of the economic man in the political man, "who seeks so far as possible to direct the wills of others in accordance with his will and as little as possible to be thwarted or controlled by their wills." He restricts his generalizations on human behavior to this formal view of man.

57. Thus in the most elementary group levels, Althusius, although he insists that political science has a place in them, nevertheless supposes, v.g., that the members of a collegium can rule themselves by direct democracy in all that pertains to their craft or profession.

from participation in the lawmaking process.⁵⁸ Where "interests" are concerned the people are competent to judge. It is only where the question centers upon the organization of corporate action for the common good that Althusius finds an inadequacy in the people.⁵⁹ One must, consequently, make a distinction. There is the pure paternalism of the theory that equates the ruler-ruled relationship with a familial one. Quite different from this is the theory of government that lodges in an elite the function of leadership for a society organized to preserve its own autarchic advancement toward perfection. Once the function of the political order is identified as that of supplying the context within which man may develop the good life, the distinction between the familial and the civil society becomes much more subtle than

58. xxxiii clearly indicates that the people as a whole may be wiser in some matters than government. Here Althusius repeats the idea of the political capacity of the people found in Aristotle, Politics, Bk. III, ch. xi, 1281b-1282a and ch. xv, 1286a. In basic matters the people have capacities. xxi, 19-22, they know the principles of justice; xix, 19, they grasp the knowledge of basic detail not available to the government. Behind this lies the truth stated by Aquinas, 7 Ethic, lec. 13. that when all or most of the people agree about something, it cannot be entirely false. It is entirely possible that these qualities are predicated of the people only when they are organized symbiotically as Gerbrandy suggests, see p. 327 above. At any rate, the kind of leadership Althusius seeks requires the kind of people described as symbiotic. See Finer, Theory and Practice, pp. 90-93 for the difference between dictatorial and democratic leadership.

59. Competence in basic things and even in knowledge of detail precisely as detail is not the same as competence in the techne of government.

the traditional distinction between vivere and bone vivere. The social order rests on and even consists in qualities in the citizen which, being perfective of him as well as constitutive of the social bond, can hardly be isolated as either exclusively private or exclusively public.⁶⁰ And it is this condition that makes the consent principle logical even when applied to the area of elite activity and expertise, even though thereby the major prudential problem of the elite is created.

Moreover, it must be remembered in this attempt to distinguish the deficiency basis on which the elite function rests, that Althusius identifies a deficiency in the members of the elite themselves against which the society must be protected. The concept of check and balance in the Politica rises from the fallibility and defectibility of the elite. The elite represent only the most informed, not the perfectly informed members of the society. Thus Althusius' conception of the elite is not simply that of those who know as against those who do not. Rather it is based on a

60. Because of his vivid perception of the group orientation of interests, Althusius' use of private and public is not involved in the distinction between individual and social. Rather it is used to indicate a difference in subgroup interests. No interests are individual from one point of view. vii, 27: "A private activity is one that directly serves the special and private consociation." And, ibid., 28: "A public activity is one that directly serves the life of the whole province." ii, 1, Althusius is concerned primarily with public and private groups. For a commentary on this type of approach, see Krabbe, Modern Idea of the State, p. lvii.

conception that supposes a corporate action for the common good involving a relationship between those who know more about the common good (i.e., the form of symbiosis) and those who know more about private goods (i.e., the content of that form expressed in terms of private good).

The concept of the elite, therefore, while it excludes the kind of popular participation achieved through the Diet, does not automatically exclude all cooperation with the people. We submit that the Ephors and Advisors must be understood as applications of the principle of popular participation to the leadership function although in such a way as to leave the leadership process distinct from the popular one. The two are kept distinct by virtue of a difference in the application of the representative principle in each case, and by a consequent difference in the nature of the popular participation realized in each.

Because of the weakness of the human will under the seductions of power and the limitations of the human mind when faced with practical problems, there is a constant danger that authority will be misused. Two possibilities are envisaged: (1) error: the magistrate will not achieve that delicate balance between the popular mind and the ontologically best policies which justify his existence and on which the conjunction of leadership and real consent depends, and (2) abuse: the magistrate will seek personal goals.⁶¹

61. See, xix, 5 and xxiii-xxiv.

The Ephors and Advisors protect the symbiosis against these two dangers. The primary function of the Ephors is to protect the symbiosis from the abuse of power.⁶² And here Althusius accepts the principle that only power can check power. "For great power cannot restrain itself within its limits without some power of coercion and moderation being given to others."⁶³

His problem, therefore, is to discover in the symbiosis the powers that can be balanced. And once again his fundamental pluralism is the basis of his solution. Throughout the Politica he insists that "the fitting arrangement is for the king to have enough power and strength to be stronger than the individual subjects, but weaker than the whole multitude."⁶⁴ The idea seems to be that the totality of power in the commonwealth is divided among magistrate and sub-groups with the totality of the sub-groups possessing

62. xxxviii, "On Tyranny and Its Remedies." Althusius defines tyranny in terms of moral neglect or abuse. The remedies are found, ibid., 29, in resistance and the overthrow of government. And, Ibid, 29, these two functions pertain to the Ephors. xviii, 47, 48-56, the magistrate must have two qualities: love for the republic and ability. Advisors supplement ability, and Ephors see to it that the first quality is present. xviii, 63-65, lists the functions of the Ephors.

63. xviii, 65.

64. xix, 8; xviii, 110-111. Some Ephors have a general, others a special function. It would seem from xviii, 90, that Althusius has the latter in mind when there is a question of revolt against the magistrate. For, being rulers of a province, they have the power necessary for successful revolution.

the predominance.⁶⁵ The Ephors, as heads of the provinces, control the power in the sub-groups. When they act collegially, therefore, they will always be able to check the magistrate.⁶⁶ But the magistrate, as head of the whole, will always be able to control any single Ephor. We have in this arrangement, it would seem, an interesting attempt to solve the problem of power by a thinker whose thought is cast completely in terms of pluralism. The individual member must abandon the right to use force.⁶⁷ But the Hobbesian conclusion is not drawn, primarily because the Hobbesian monism is rejected. The basic principle for the distribution of power is that it must be commensurate with function. The Ephors have in the province the same function as the magistrate in the state.⁶⁸ They have, therefore, power commensurate with this function. They possess power by reason

65. Indeed, xviii, 103, of himself the king has nothing: "To this end, the people transferred to him (the magistrate) as much authority and power as they thought necessary." Mesnard, *L'Essor*, p. 600, thinks the Ephors are the sovereign power in the state.

66. xviii, 62, Ephors by majority rule decide when to act. In cases of rebellion by individual members, the College of Ephors must defend the magistrate.

67. This is involved in the idea that anarchy exists when obedience is abandoned. At xxxviii, 65, Althusius simply asserts that private individuals cannot resist the tyrant "because they have neither the use (a factual situation) nor the right to use (a right situation) the sword, and therefore cannot exercise the right of rebellion."

68. viii, 53-54.

of this function, although Althusius seems to say at times that the "right to use the sword" is given "in order to discharge the duty given to them" to make war and to correct the magistrate.⁶⁹ At any rate, Althusius thinks that since the Ephors have a stake in the rights and the existence of the sub-groups, they can be depended on to check tyranny in the magistrate without postulating in them an immunity from the seductions of power. His picture of the resulting system is as follows:

This right which we said the Ephors have as Ephors over the administration of the Imperium or the universal realm is quite different from that which they have over the possession of provinces and definite places as Dukes, Princes or Rulers of a certain region or province. The former is general, the latter special and restricted. It must be noted here that the duty of the Ephors is to take care lest the supreme magistrate degenerate morally by doing or omitting something contrary to his duty. Thus also, the duty of the supreme magistrate is to take care lest any of his Ephors use their limited authority to the detriment of their subjects or the realm. This mutual correction, censure and observation between the magistrate and the estates or Ephors keeps the state of the realm protected, safe and in good health, and frees it from all dangers, evils and inconveniences.... The realm...ought to be in the power of the best men and regulated by the liberty of the multitude...⁷⁰

The check and balance technique, however should exist more as a threat of revolution or correction than as a continuing and operative element in governmental functions

69. xviii, 66.

70. xviii, 90-91.

and processes.⁷¹ If Diet and magistrate, people and leader are to integrate and communicate with one another, it is necessary that power be not abused. But this achieves nothing positive. It is necessary also that the leadership of the magistrate be acceptable to the people. If this condition is preserved, there will be no need for power techniques. It seems that this line of reasoning is implicit in the functioning of the second institution Althusius incorporates into the magistracy: the Advisors.⁷² Where the Ephors cure defects probable in view of the weakness of the human will, the Advisors cure those likely in view of the fallibility of the human mind. The central consideration here is that policy must be acceptable to the people. This requires not only that it must be objectively good, not only that it must be formulated on the basis of good will, but in addition that it be formulated with a

71. xviii, 66, the Ephoric function is, positively, that of "aiding the magistrate by their advice and help." The negative function, xviii, 63, evidently becomes operative when the political process breaks down. Althusius did not develop any organized idea of a veto power because, it would seem, the idea would not have fitted well into his conception of the discussion process. Moreover, the veto power relates executive and legislature, while the Ephors who check the executive within that branch are not considered to be part of the formal discussion process. See xxxviii.

72. Althusius has a chapter, xviii, on the Ephors and another, xxvii, on the Advisors. It is significant that xviii comes immediately after the treatment of the establishment of the magistrate, while xxvii comes immediately after the treatment of the need for knowing the mind of the people. In xviii, 109 ff., Althusius uses the term Ephor to designate all officials connected with the magistracy.

clear view of the mind and mentality of the group and be adjusted to this subjective factor. The Advisors supplement this competence of the magistrate.

Prudence and virtue are the highest qualities a king can have. Without them he can neither win at war nor rule in peace. Yet it is not possible for one man to know all that must be known about the realm in order to rule it well. Therefore the king must have wise advisors whose wisdom he can use.... Advisors are those who being faithful and skilled in the affairs of men and things, offer salutary advice and as skilled sailors in the storms of the sea, help to steer the helm. However, they have no power, civil authority or jurisdiction.

The Advisors exist, therefore, precisely because the magistrate is not a philosopher king. But as in the case of the leadership function generally, here an operational need is given a further significance by its symbiotic function and the problem it solves in the symbiotic context. With regard to the Advisors, their central significance seems to lie in the fact that they must be selected from each of the three estates. Of them Althusius requires:

they be not chosen who are allied to a particular interest, but rather those be chosen who do not have a personal interest in the things that are done. Nor should those be chosen who owe allegiance to another ruler or who possess power or authority.... It is advisable that the Advisors be chosen not only from among the nobility and the ecclesiastics, but from the people or plebs also and, in general, from all the orders and estates to avoid the possibility of one order or estate doing anything because of prejudices or dislike for the other.... It is advisable, further,

73. xxvii, 33-35. An extended treatment of the function of prudence is found at xxvi, 5.

that the Advisors be chosen from each province to avoid the development of dislike, distrust, contempt or anger against the ruler by a neglected province. This arrangement, finally, will insure that the nature of the people and the needs and burdens of each province will be made known to the ruler by the Advisor.⁷⁴

This leads one to the conclusion that the problem the Advisors help solve, the competence they supplement, is the problem of competence in prudentia, in the problem, concretely, of knowing the pattern of acceptances in the people.⁷⁵ We have noted that the largest single factor in the problem of prudence is that of knowing the mind of the people. Althusius suggests various sources from which this knowledge can be gotten in a factual way.⁷⁶ The Advisors function not as supplying the magistrate with factual knowledge, not as reporting the mind of the people, but as evaluating policy, and this involves among other things an estimate of its acceptability. There is no conception here of

74. xxvii, 33-35.

75. The treatment of the Advisors occurs in the following context: (1) an analysis of the nature of the people with regard to authority, (2) from this emerges the problem of prudence, i.e., of securing acceptance of rule. After this, xxvii opens with the concept of "borrowed prudence," that is of a prudentia that is aliena. "Proper prudence is that possess by the magistrate himself, a rare thing but more necessary than wealth and power. Borrowed prudence is that which he seeks and acquires from advisors, administrators and friends."

76. The problem of discovering the state of mind of the people is a major one in Althusius' treatment of the art of governing. xxiii, 33-37, the Diet provides it and the magistrate can get it from a system of observers.

representation based on election or private interest.⁷⁷ The Advisors are selected by the magistrate. They are prudent men, i.e., members of the elite. They are to advise with an eye to the common good alone.⁷⁸ But Althusius realizes that the consideration of the common good will always be colored by one's point of view. By selecting Advisors from each estate he hopes to give the mentality of each estate an opportunity to influence policy in the making, and so insure its acceptability on the most basic level when it is presented to the Diet.

In his treatment of the Ephoric functions Althusius attempts to solve what is really the problem of responsible government. But that problem exists in and is colored by the context within which he states it. The consent theory requires responsiveness on the part of government, but the elite theory requires a like responsiveness on the part of the people.⁷⁹ The distinctive feature in Althusius' solution

77. Our treatment of the Diet suggests that the prudence they have exists in their ability to evaluate policy from the point of view of its impact on private interests. This is a different thing from the prudence the magistrate needs to insure leadership.

78. xxvii, 7 ff.

79. Fennock, "Responsiveness, Responsibility and Majority Rule," *APSR*, XLVI, 790, points out that: "The word 'responsiveness' is less frequently encountered in the literature of political science than either of the other terms under discussion, but the idea is central to any study of politics. It is the counterpart of influence. The person or group that exerts influence is influential; the person

is found in the fact that he seeks to integrate these two imperatives on the basis of an organization of the elite process. The government is kept responsible largely through the agency of the Ephors and Advisors. But responsibility, as Althusius conceives of it, is not achieved through opposition but through participation. For through the Ephors and Advisors the mind of the people reaches into the leadership process itself.⁸⁰ Thus the problem of responsible government is solved through a principle that wells up from the deepest level of the symbiotic concept, that of communicatio.

It is evident immediately that contradiction is avoided in such a situation only if the meaning of participation in this case is different from that given to it in the case of the Diet. For in the latter situation popular participation is incompatible with the function of leadership. However, an examination of the Ephoric institutions reveals that the participation achieved through them is by no means

or group on whom it is exercised is responsive.... In the context of democracy, and as applied to government as a whole, the primary meaning of responsiveness might be defined as 'reflecting and giving expression to the will of the people.'"

80. It is significant that Plato never really achieved the concept of popular participation. For even in the Laws a Legislator, not nature, infuses the knowledge of good into the people. Althusius' deep acceptance of the popular sovereignty principle pressed him to avoid such passivity. Consequently, in place of the philosopher king and myths of the Republic and the Legislator and Nocturnal Council of the Laws, he prefers to modify the leadership function itself by tying it as closely as possible to the popular mind expressed either explicitly in the Diet or by way of mental tone and coloring in the Ephors.

the same as that achieved through the Diet. The first element that points to this conclusion is found in the fact that although the Ephors are clearly members of the elite part of society, they do not constitute a distinct class.⁸¹ Rather, they are drawn from all the classes so that, although members of the elite, they still belong to various estates. Althusius is quite clear that even Advisors and Ephors can be influenced by private interests. The second element that suggests this interpretation of the Ephoric function is found in the representative character Althusius attributes to them. We have already noted that the magistrate is conceived of as a representative of the common good of the people. We find now that the Ephors, like the magistrate, must be conceived of in similar terms. Althusius repeatedly indicates their representative character:

These administrators and rectors of the universal symbiosis represent the body of the universal consociation and the whole people by whom they have been established. And they bear its person in the things they do in the name of the republic or realm, although they have less authority and power than those by whom they have been established. 82

For to these Ephors the people safely entrusted

81. This is particularly important. When the elite is conceived of as a social class, the problem of the political integration of people and elite is completely different from that which Althusius faces. See Bagehot, Parliamentary Reform or Eliot, Notes On a Definition of Culture, for the problem as it exists when the elite is a class.

82. xviii, 26.

themselves and transferred all their actions to them, so that the whole people are seen to do what they do. And this is done because of utility and necessity. For it would be most difficult...to require individual votes from all citizens and those who are parts of some republic. And on this account it is agreed that the multitude of the people discharge the public business through their best men.... Therefore the votes of these men must be esteemed according to that law by which the consensus of all the citizens (with which they are equated) should be esteemed.⁸³

Althusius incorporates into his system of politics the principle of representation found in the Huguenot thought in France and the early Puritan thought in England. And although he did not devote a special place to the analysis of the idea, it is clear that this representation is no longer based on a "natural" but on a delegated authority.⁸⁴

83. Ibid., 56. See also, xxxix, 7-8.

84. Laski comments in his Preface to A Defense of Liberty Against Tyranny, Vindiciae Contra Tyrannos, tr. J. Brutus (London, 1924), p. 6: "The corporate people does not mean the mass of individual citizens. It is taken to mean the representative men of the nation." As Laski suggests, in the theory of the Vindiciae, the unanalyzed position of the "natural" representatives may be a result of the fact that the Vindiciae never really asks itself where the community comes from. The fact that this is one of the central questions in Althusius may have led him to expand the idea of the representative character of the Ephors a bit. Certainly the reduction of the nobility to the position of another estate not identified with the ruling class, precluded the easy acceptance of a principle of "natural" representation. xviii, 123 proposes that where there are no Ephors the people act by vote. The Ephors are elected by the people, xviii, 59. Where the magistrate selects them it is by the consent of the people. But unlike the representatives of the Diet, there is no instruction given to them. Latently there is an instruction, in the sense that the Ephors protect the fundamental law.

First, on the theoretical level he interprets it as the delegation of authority to protect the interest which precisely because it is common to all is the interest of the people.⁸⁵ Secondly, on the empirical level he depends largely on the Ephors being tied to the mind of the estate by psychological bonds. In this sense the representation is "natural."⁸⁶ But it is obvious that this "natural" representation does not mean that these men are born with the

xviii, 6: "Elected ministers accept...the administration given to them according to the law by which it is given." But here the election is made by the whole group, not by the individual estates. For the ephors represent primarily the integral civil consociations even though they cannot be completely separated from the linear interest organizations called estates.

85. There is no doubt that the power of the Ephor, like that of the magistrate, is derived from the people. xviii, 10, the power is delegated. xxxviii, 35: "Whence it is evident that the power of the king in this matter is not equal to the power of the people, which the people transferred to their Ephors." See also, xxxviii, 123. The idea is that if leadership is always representative, then one must delegate to a checking body the power to insure that it be what it ought to be. The Ephors are rooted in the limitations that surround the magistrate. Fundamentally, the people have delegated to them the exercise of the right of rebellion.

86. Althusius uses the figure of the ward and the tutor in explaining the relation between magisterial officers and the people, xviii, 13: "For as a ward...can do nothing without the consent and authority of his tutor...so neither can the people...exercise the sovereignty of the realm without the consent and authority of their rulers." At vii, 21, Althusius indicates that his idea of the "best" involves the idea that they are "naturally" superior. Thus action in the name of the people can be said to belong to the natural representatives of the people, i.e., to those equipped by nature and talent to represent the people. But, i, 18, no one rules by "innate" authority.

the power to represent or that they have it on the basis of some paternal relationship to the estates. Rather it indicates a judgment to the effect that they will, by virtue of constant and observable laws of human psychology, tend to reflect, even in their superior wisdom, the minds and interests of the groups to which they belong. It might be argued that representation in the Diet has the same basis. And this would be partly true. But Althusius taps two different consequences of the self-intergration of sub-groups. In the Diet he orders his system to the direct reflection of the sub-group as it thinks out from sub-group interests. In the Ephors he orders his system directly to the elucidation of the best mind of the whole, but counts heavily on the tendency of sub-group origins to influence even the judgment of the best. Both private and public interests are interests of the people. Therefore those agencies who care for public interests represent the people just as really as those who care for private interests. And in every application of the representative principle Althusius supposes that the principle of participation is thereby realized. In the Diet, the people have direct access to decisions concerning the common interest. In the Ephors they have indirect and remote access but still access. Indeed, one might say that the Ephors exist to give reality to the access and participation supposed in the statement that the magistrate himself represents the people.

As is well known, one of the major tests of the stability of any constitution lies in the way in which government is integrated with the popular elements of the state. It would seem that the primary significance of Ephors and Advisors, from this point of view, should not be sought in their checking and supplementing functions but in a further goal sought through such functions. On one level of analysis, their function is to limit and direct magisterial action. But a deeper analysis shows that this function is ordered to the integration of people and rulers. The elite must think more clearly than the people, but within the same context of emotion, culture and all the non-intellectual elements that constitute the life of the group. The elite must not only avoid a will different from that of the people, but, positively, must possess a will suffused with the same tonalities as those found in the people. In his own vocabulary of communicatio and communio Althusius gets at the idea that the ruler must have a connatural knowledge of the people.⁸⁷

87. See Simon's analysis of this type of knowledge in the ruler, Philosophy of Democratic Government, pp. 220 ff. Maritain, Man and the State, pp. 130 ff., also examines this idea. Henry S. Kariel, "Democracy Unlimited: Irving Babbitt's Classicism," R. of Pol., XIII (1951), pp. 435-436, finds the idea in Babbitt. On a more general philosophical level, see Jacques Maritain, "On a Knowledge Through Connaturality," R. of Meta., IV (1951). Most elite theories concentrate on the fact that the elite inform the people. Althusius adds to this the idea that the people also inform the elite. The Diet cannot impart this special knowledge to the magistrate. As Krabbe observes, Modern Idea of the State, p. 153, the legislature acquaints

And it is our contention that the Ephors and Advisors are the means used to insure this connaturality in elite thought.

Such an interpretation is consistent with the express analysis of Ephoric characteristics in the Politica. It alone seems to account for the use of check and balance to achieve the "prudence" necessary for government. And more importantly, it indicates how Althusius gives institutional significance to his deep realization that since leadership is a function in the group, it must be integrated with the group. Althusius is clear that government as one part in a group that achieves autarchy through various processes, must achieve a communio with all the other parts:

In a republic, the union and society of those who command and those who obey is like the most sweet and lovely chord that comes from lutes of different pitch Thus it is thought to be one of the signs of divine wrath when this harmony...is absent and there are no ministers and leaders.⁸⁸

the executive with the mind of the people in an abstract or theoretical way, not in a real, i.e., connatural way. The Ephors and Advisors are calculated to give the ruling elite an operative knowledge of the popular mentality.

88. i, 35-37. See xxi, 23 for the same expression. Compare this from the point of view of implementation with xviii, 91: "The realm, he says, ought to be in the power of the best men and regulated by the liberty of the multitude.... Thus it happens that some are made strong by the help and aid of others, and all are bound together by the indissoluble bond of society." The integration of ruler and people is further indicated at xx, 9: "Because of this trust and obedience and service...which the people promise to and offer their supreme magistrate, he is said to have innumerable eyes and ears.... Whence the magistrate is said to be powerful, strong, rich, prudent and aware of a multitude of things and to represent the whole people."

The basic concepts of the Politica -- symbiosis, communi-
catio, concordia, communio -- are applied to the relations
between ruler and people just as they are to the relations
among the estates. The Ephors and Advisors spell out the
constitutional implications of delegation and limitation,
but in doing this they also implement the symbiotic unity
that must exist between ruler and people. This unity is ex-
pressed most formally in the functionalistic conception of
a communicatio consilii between people and ruler. We have
indicated in Chapter IV above, how this communicatio consilii
is implemented in the Diet. Althusius' basic approach with
regard to the ruler is that the state must be pervaded by
reason and that this involves the domination of an elite group.
But he does not think that the pervading reason comes exclu-
sively from the elite. So that Barker's criticism of Plato
cannot be made of Althusius: "The fault lies...in (Plato's)
application to the State of a separatist conception of mind
and an autocratic conception of reason."⁸⁹ The reason of
both people and ruler is involved in the corporate search
for good law. In this endeavor the elite contribute the
element of competence but not the totality of the reason
that directs the state. A citizen in the Politica, like a
citizen in the Politics, is one who has a share in government.

89. Greek Political Theory, p. 174. Althusius accepts the
Platonic idea of reason ruling appetite, v.g., xviii, 22,
but not as starkly as Plato.

It is to be noted that the first stage in the establishment of an elite function is to differentiate between those whose contribution centers on the defense or material well-being of the group and those whose contribution is to rule.⁹⁰

But after establishing this distinction, Althusius modifies it with the idea of popular participation in rule, first through the Diet and secondly and more indirectly through the Ephoric institutions. It is claimed that the peculiar contribution of the Ephors is to insure the union in inner life between ruler and ruled. For here as in the basic symbiosis of the group, communicatio consilii between two or more cannot occur unless a prior communio and concordia exist among them.

The significance we attribute to the Ephoric institutions with regard to the concordia between ruler and ruled, can be developed best by contrasting the interpretation suggested here with the opposite interpretation implicit in Gierke's reading of a dual sovereignty theory into the Politica.

Our interpretation of the symbiotic relationship between ruler and ruled in the Politica disagrees in a most important way from the dual sovereignty interpretation made by Gierke. His reading of Althusius led him to the conclusion that:

⁹⁰. This functionalism seems generally to be handled as a communicatio operarum or division of duties, xvi, 28 ff. The communicatio consilii concept is reserved to identify the group nature of lawmaking, i.e., the pooling of ideas.

Althusius worked out far more distinctly and more deeply than his predecessors the thought that the State is a social body organically ordered and articulated and having a personality of its own. And often when he describes this 'corpus symbioticum' as the 'subject' of sovereignty he seeks to go over to the idea of State-sovereignty. But the theory of contract which he himself so greatly sharpened carries him at once far away from his goal. His idea of the contract of rulership forces him to divide the single personality of the State and to identify the sovereign body with the separately personified 'universitas populi' as contrasted with the governing body. And his idea of the social contract makes him take the view that ultimately the people like any other 'universitas' is nothing but a 'consociated multitude'...a multitude connected by various mutual legal relations and in this conjunction regarded as a unity.⁹¹

This interpretation of the Politica derives ultimately from the same preoccupation with group personality that produced the distortions in Gierke's interpretation identified earlier in this work. In the case of the dual sovereignty interpretation a short and inadequate outline of Gierke's reasoning will run as follows. First, there is his general thesis that the infiltration of Roman and Greek concepts destroyed the organic unity of the germanic-medieval system.⁹² The destructive factor is found in the emergence of the idea of sovereignty which raised profound problems with regard to the relationship between law and authority.⁹³ The same development of theory produced a difficulty about the locus

91. Development, p. 163. See also, his Natural Law, II, 257.

92. Development, p. 15. See also, his Political Theories, pp. 67 ff.

93. Political Theories, p. 73 ff., and Development, p. 310.

of sovereignty. Now this development, Gierke thinks, profoundly affects the relation between ruler and ruled in general theory and in the pages of the Politica. Gierke sees clearly enough that in the pinch the people are superior to the ruler. But this point is not the central one in the present issue. What must be decided is the relations that exist between ruler and ruled. Gierke restricts them to the purely legal. We have insisted that the legal, constitutional relations are based on and express a fundamental real and pre-legal relationship. The difference is extreme and cannot be reconciled. Gierke's reading fits consistently into his idea that Althusius is a monarchomach concerned with popular sovereignty and the right to revolt. The alternate interpretation offered here is, it is believed, consistent with the basic thesis that Althusius is a political scientist concerned with determining the distribution and integration of authority necessary to preserve and foster symbiotic life. In the first interpretation conflict is placidly accepted as a constitutional element solving tyranny. In the second it is reluctantly accepted as the last appeal when the fundamental political processes collapse. It is claimed therefore, that Gierke's reading of dual sovereignty is a serious mis-interpretation of the Politica. The analysis offered in this chapter contains much of the evidence in favor of our interpretation. A closer analysis of Gierke's argument will produce further evidence to the same end.

The central question is whether the sovereign is legibus solutus.⁹⁴ The answer to this question is affected by the shift in the theory of law from the intellectualism of the Middle Ages to the voluntarism of the fifteenth and sixteenth centuries.⁹⁵ And "with such an opposition of principles the doctrine must also split into two different schools in answering the question whether and to what extent the state power stands above the laws."⁹⁶ Bodin, Hobbes and others give one answer: the sovereign is absolute and above law of any kind.⁹⁷ Althusius belongs to the group who reject the absolutistic approach and attempt to preserve the state-right theory of the legal and constitutional state. Now to achieve this in the individualistic theory (i.e., the non-real person theory), they had recourse to the idea of a fundamental and limiting contract.⁹⁸ At this point Gierke bases the dual sovereignty reading of the Politica on the presence of a contract of rulership in the work.

Here also Althusius was the first to draw the full consequence of the principle (of contract of rulership). He worked out the idea of a mutually binding contract of employment, whereby the people as proprietor transfers the exercise of the right of majesty which it cannot wield directly to a chief manager

94. Development, ch. iv.

95. Ibid., p. 308.

96. Ibid., p. 309.

97. Ibid., p. 311.

98. Ibid., p. 315.

with an independent right of management within the scope of his mandate, following in every detail the forms of private law.⁹⁹

Two factors are central: (1) the contract limits, and (2) it is mutual, i.e., involves two separate persons. The people's power is limited by the social contract; the ruler's power is limited by the contract of rulership. The result is that the unity of the state is split. Two groups appear: people and ruler. No one, therefore, is legibus solutus because no one is absolutely sovereign.¹⁰⁰ Gierke, to illustrate a contractual approach other than this, mentions that Hobbes and Rousseau were contractarians who avoided such a split; one by making the ruler the only sovereign, the other by admitting only a social contract.¹⁰¹

Gierke's reading of the Politica on this point is closely bound up with his reading of individualism into the same

99. Ibid., p. 155. At p. 97, Gierke says: "But in whatever way this act might be performed, so long as it is a contract it must provide a contractual right for the ruler himself. And thus even the Monarchomachi granted a permanent right of rulership to the instituted ruler...a right which could indeed be forfeited by breach of contract but until then must be respected by the people." In the Politica, chapter xx offers some basis for Gierke's idea of a "mutually binding contract of employment." But if one compares the analysis of the idea of "trust" in Ernst Barker's comments on Locke, it is difficult to distinguish the idea of trust from Althusius' idea of the contract of rulership. See Barker, "Introduction" to Social Contract, pp. xxviii, xxix

100. Development, p. 310.

101. Ibid., pp. 97, 155. For Rousseau see Gierke's Natural Law, I, 53. The core of Gierke's criticism of the contract of rulership is found in his Natural Law, I, 42-53.

work. So close is the relationship between the two readings that the one falls with the other. Yet on the specific issue of duality in the contract of rulership, an examination of the error in his interpretation on this point will enable us to clarify the last point in our examination of Althusius' conception of leadership and the constitutional system he proposed to implement it.

It must be admitted immediately that from the legalistic point of view one may cull many texts from the Politica that carry a surface connotation of duality. "The magistrate does not deliver himself to the multitude, but prudently acts in unison with them."¹⁰² Frequently Althusius speaks in terms of two parties between whom contractual relations exist.¹⁰³ The contract binds the people so that if they attempt to break it without cause the ruler may use force to compel obedience to it.¹⁰⁴ But with regard to such texts, it must be remembered that once government exists there is an inevitable dualism of government and people, a dualism that must be expressed in a legal and constitutional allocation of rights and duties. This, however, is not the

102. *xxiii*, 32.

103. *xxxviii*, 2. The phrase used is "in fide ultro citro-que a corpore consociato et rege data," i.e., a mutual pledge between the consociated body and the king. See also, *v*, 22-23. For a formal treatment of the contract of rulership, see *xix* and *xx*.

104. *xix*, 14.

same thing as dual sovereignty. The former is simply an existential condition of separateness. The latter is a theory giving significance to this separateness.¹⁰⁵ For it is ultimately a theory concerning the division of authority expressed in the seventeenth century terminology of jura majestatis. The characteristic mark of the dual sovereignty theory can best be seen in Bodin, the man whom Althusius attacked above all others, where the sovereign, when he is distinct from the people, exists independently of them.¹⁰⁶ In some way power and authority exist outside the group. Such a situation is, we believe, absolutely incompatible with the guiding ideas of Althusius' political theory.

It would seem that Gierke's basic error, apart from the pre-judgments deriving from his position on group personality, lies in his exclusive concentration on the legal aspects

105. See, Maritain, Man and the State, ch. ii for this distinction. Rousseau, whom Gierke agrees avoided the dual sovereignty situation, points out that government is distinct from the people, Social Contract, Bk. III, ch. i.

106. See Jacques Maritain's article, "The Concept of Sovereignty," APSR, XLIV (1950), pp. 348 ff. For Bodin's idea of the relationship of ruler to group, see his Method for the Easy Comprehension of History, tr. Beatrice Reynolds, No. XXXVII of the Records of Civilization, Columbia University (N.Y., 1945), pp. 201 ff., and his Six Books of the Commonwealth, tr. R. Knolles (England, 1606), pp. 42 ff. Yung Chi Hae, Origins of Parliamentary Government (Shanghai, 1937), p. 210 remarks: "For Bodin sovereignty does not exist in the government; and it inheres in the State only in habitu... in order that sovereignty can function in actio there must be found or created a 'staatsorgan' wherein sovereignty as a homeless, inarticulate being can conveniently and usefully actualize itself."

of the relations between ruler and ruled. The legal dualism involved in a distinction between ruler and ruled is not the reality that occupies Althusius' attention. In the analysis of the pactum we indicated how the concept of pactum was used primarily to get at the real relations on which civil society and authority rest. In the present case the same condition obtains. The legal, constitutional relations between magistrate and people are but reflections of the more important and determining real relations between the two. Here as elsewhere Althusius thinks primarily in terms of real relations. And on this level there exists not the duality and separateness supposed by a dual sovereignty but the unity supposed by the concept leadership, or, in the vocabulary of the Politica, the unity supposed in the identification of auctoritas as a condition of obedientia in the people. Unless this is seen, the functions discharged through the Ephoric institutions become intelligible only in the legal, constitutional terms of limitation, representation and sovereignty, and they will have no particular relevance to the basic symbiotic approach of Althusius. And consequently the more obvious check and balance function of the Ephors will be interpreted in the conflict context of John Adams or Alexander Hamilton rather than in the context of participation and communicatio proper to Althusius.

The context of real relationship suggested in the concepts obedientia and prudencia, when related to the idea

that Ephors and Advisors implement the prudentia of the magistrate, underlines the fact that in the Ephoric institutions Althusius is struggling against dualism and seeking to unite people and ruler in the unity of the group. This struggle is evident even in the purely legal frame of reference. The contractus mandati does not suppose two independent subjects of rights as regards sovereignty. Throughout his treatment of the magistrate Althusius insists that the leadership function is discharged by means of delegated authority. The tension in such a position is obvious: delegation involves the subordination of the delegate to the one delegating while leadership involves the superiority of the leader over those led. But here, it would seem, Althusius has simply stated in a more vigorous way the tension inherent in the very idea of government by consent. Contradiction is avoided only because the two ideas of delegation and leadership are predicated of government in different frames of reference. When he speaks in the legal, or perhaps better the theory, level of discourse, Althusius is almost tiresomely insistent that the power delegated by the people is a subordinate power and that, consequently, the legal and theoretical situation is that the power of the magistrate is not sovereign, i.e., ultimate.

But the rights of sovereignty are never given...to another as regards ownership, a position Bodin advances when he distinguishes between the sovereignty of the realm and that of the ruler. But if according to Bodin sovereignty is double: that of the realm and that of the king, I ask which of them is greater than

and superior to the other. It cannot be denied that that is greater which establishes the other.¹⁰⁷

There is only one possessor of sovereignty: the people.

And this power:

is always a single, never a multiple power, as one soul not many commands in a physical body. The administrators of this power can be multiple with each individual exercising part of the care of governing, although no one has the plenitude of power. And these individuals taken together do not possess the supreme power, but they all recognize one such in the agreement and amity of the consociated body. Whence the lawyers think the rights of sovereignty and of the realm are undivided, incommunicable and interrelated in such a way that he who has one of them also has the rest.¹⁰⁸

This sovereign people exists apart from the magistrate.¹⁰⁹

107. xix, 24.

108. ix, 19. See also, xix, 2; xxxix, 3, 16. One must be careful not to discard as "unrealistic" this distinction between the possessors of sovereign power and those who exercise it. The first thing to be asked of such a distinction is: is it true? If it is, some practical arrangement can be discovered to implement it. It would seem that in the Ephors one may discover an attempt to insure that the theoretical possessor of the right of sovereignty will be given proper consideration in the practical order. Maritain, Man and the State, p. 135, comments aptly on the distinction: "The people are possessed of the right to govern themselves in an inherent and permanent manner. And the rulers, because they have been made into the vicars of the people... are invested per participationem...with the very same right and authority to govern which exists in the people per essentiam."

109. viii, 8; xviii, 8; xix, 6-7, 18, 22; xx, 6. Foster, The Political Philosophies of Plato and Hegel, pp. 26 ff., notes that thinkers like Hobbes define the state in such a way as to give it the power to bring itself into existence. The real basis of a dual sovereignty theory can be found in the Platonic concept of techné which seems to involve the idea of the statesman as one who imposes the form of the state on the members. The divine right of

The magistrate himself possesses only competence; everything else is given to him.¹¹⁰ It is true that there is a transfer of rights from people to ruler, for men "subject themselves to another's command, and transfer to another their rights which no other can claim for himself without a just title gotten from their owner."¹¹¹ But it is the subsidiary right to rule, to exercise the sovereign power, not the right to the sovereign power itself. Insofar as the magistrate exists apart from the people, i.e., as an independent agent, he has the power only of leadership -- a concept existing in a totally different order of thought from that of delegated authority. The concept of the Statesman, for instance, as analysed by Plato does not concern itself with the source of authority but with the function to be performed and the qualities necessary for the task. Althusius has seen that the unity of the body politic is something that is being

kings theory is a clear dual sovereignty theory. As Allen remarks, English Political Thought, p. 4: "It has been well and truly said that the utterances of James I, spoken and written, disconnect the King in idea from the law and custom of the realm and from the Houses of Parliament and so, even from the commonwealth itself." The essence of a dual sovereignty theory is found in the independent existence of a ruler with authority.

110. xviii, 103. See Mesnard, L'Essor, pp. 599, 605.

111. xviii, 18. It must be remembered that the right in question is the right to rule. There is no idea of a relinquishment of a set of pre-existing rights, as is sometimes involved in the individualistic interpretation of the social contract. See Anton Herman-Chroust, "The Origin and Meaning of the Social Compact Doctrine," Ethics LVII.

achieved constantly rather than something realized perfectly once and for all. For this there must be a process and someone in the group must discharge a function, in this case the function of leadership. Of himself, the magistrate (considering the magistrate as a group) possesses competence. He holds authority by commission and trust, i.e., by a contractus mandati.

The basic idea communicated by this term is not that of a duality of rights, but that of the delegation of power for a function.¹¹² Moreover, the contract approach is used expressly to emphasize the fact of limitation in that power, a fact implied in the idea of delegation. Althusius has achieved the idea, striking for his time, that the degree of governmental authority can or must be adjusted to needs, and that fundamentally, the delegation of this power is made by law rather than by contract.

One must note diligently and accurately a point we made above: just so much right and power is transferred to the magistrate by the people or consociated body as is expressly stated in the laws and prescribed conditions according to which the magistrate takes his oath.¹¹³

112. xix, 7. The contractus mandati is an act of delegation. It establishes the magistrate. It is this aspect of the general act of consenting to government, when the act is that of a sovereign people, that seems to have led Rousseau to say that government is established not by a contract but by law, or by an act of commission. Social Contract, Bk. III, chs. 1, xvii.

113. xix, 47.

The fundamental law governs the question of the authority of the magistrate, and by implication also establishes him.¹¹⁴ The fundamental error in interpreting the "contract of rulership" seems to be that of supposing it to require the existence of two persons between whom a contract is made.¹¹⁵ In fact, Althusius supposes a sovereign power that establishes an organ to meet one of its needs.¹¹⁶ The contract idea is introduced only to emphasize the fact of limitation and responsibility in the magistrate. "The eighth reason (for the right to revolt) is derived from the 'contractus mandati' by which the government of the magistrate is established by the people in order that the republic be aided, not injured."¹¹⁷ As Gerbrandy remarks, "The mandate is not a commission to carry out what the mandators want, but rather an everlasting reminder that their power is limited by its origin."¹¹⁸ The contractual expression which pictures the

114. xix, 49 ff. It should be remembered that for Althusius the social contract is concerned with the modus imperandi, which clearly involves a decision about the possessor of sovereignty. But in view of his insistence on the naturalness of government and the intuitive knowledge the people have that government is necessary, the social contract also involves a decision about the establishment of government.

115. The establishment of an institution must be distinguished from that of selecting a ruler.

116. Althusius expresses the idea of delegation and limitation in the idea of representation. See above.

117. xxxviii, 39.

118. National...Stability, p. 91. See, xxiv, 50.

the people promising to obey and the ruler promising to rule according to a lex fundamentalis cannot be pushed too hard. The fundamental facts are: the election of a ruler or his inheritance of the throne and the existence of a constitutional law. The formal ceremonies of establishing the ruler and pledging him obedience spell out the implications of the law but add no new obligations.¹¹⁹

The fundamental error of the dual sovereignty interpretation, therefore, is that it disregards the context of conceptualization within which Althusius handles the magistrate. The idea of leadership involves the view that there is a working relationship among the members of a group.¹²⁰ Althusius expresses the view perfectly in his analogy between a state and a ship: the magistrate is the navigator, the citizens are the sailors who obey him only as long as he rules well.¹²¹ The authority of the magistrate exists primarily as a set of attitudes in the people. The Ephors insure that the attitudes of the people will never be profoundly contradicted. The Advisors insure that the use of the magisterial power will be restricted not by opposing power but by virtue of its being exercised within the spirit

119. See xix and xx.

120. See Seligman, "The Study of Political Leadership," APSR, XLIV, 912.

121. xviii, 33.

of the laws and the common life. The ultimate effect is communio and concordia between ruler and ruled.

This close examination of the concept of dual sovereignty was necessary because on the relations between government and people depends the solution to the problem with which Althusius begins: how to unite men politically so as to preserve social life among them. If the dualism of ruler and ruled were accepted as the basic reality in the constitutional system Althusius sets up, he would have failed to solve the problem as he proposed it. In a dual sovereign, social life, it is true, is preserved, but ultimately by an agency outside the group. And basic to Althusius' approach is the idea that the power to preserve social life is itself the final element in the concept of an autarchic or self-sufficient society. This power must belong to the group if it is to be a self-sufficient group. And, therefore, leadership or government, since it is the preserving factor, must be a function exercised within the group and in union with it.

The constitutional system in the Politica is ordered to autarchy. This objective is not to be confused with the concept of popular sovereignty. Althusius is not arguing that the people should be sovereign and therefore the constitution as he presents it is the proper one. Sovereignty, i.e., the right to make the ultimate decision is accepted as one of the truths upon which the constitutional structure

is based. And it seems quite obvious that the Diet is organized to insure the ultimate supremacy of popular over elite functions. But the problem of the Politica is not how to insure the sovereignty of the people, but how to insure the autarchy or self-sufficiency of the group. And self-sufficiency is not identical with popular sovereignty. This latter is but one part of autarchy; in addition to the element of self-direction, there is also the element of right direction, i.e., self-direction which is properly ordered to the goal sought. The concept of a completely autarchic group, on Althusius' own showing involves both the popular element of self-constitution and the elite element of the ability necessary to preserve oneself in existence. For this reason the concept of dual sovereignty, if Althusius had held it, would have constituted a fundamental contradiction in his system.

Sovereignty today is a confused and confusing idea primarily, it would seem, because it is conceived of in a power rather than a moral context. Autarchy as a concept in the Politica is relatively clear and simple. It does not involve absolute independence from other states. Althusius admits without difficulty that his republic will have to engage in trade with other states and will also have to enter into military alliances with them. Moreover, he sees quite clearly that this sort of thing involves an element of communicatio proportionate to the communio established

by such interdependence. These things do not destroy the essence of autarchy which might be defined as the power to establish and preserve a group way of life in the Aristotelian sense of a koinonion which, as far as the group is able to see, is the morally best way. In any group there must be a material basis for life and there must be the ability to assert oneself against an aggressor who threatens to destroy the group from without. These are elements of autarchy. But Althusius avoids bringing them to the center of reference in his thinking. Therefore he avoids the mercantilist and power fallacies of his period. Autarchy, in its fine point of significance, looks inward not outward; it is basically a moral self-sufficiency. Moreover, it is a self-sufficiency lodged not in any part of the group, but in the totality of the parts: in the group itself.

So that on its deepest level the problem the constitution solves is that of insuring the political expression of the elements of autarchy in such a way that the consequence is not internal strife but internal harmony. And harmony or concordia, when it is considered as something more than a mere "peace order," is, positively, a "right" order and social life itself.

The secondary problem this objective sets up is the problem of integration. On both philosophical and empirical levels of thought the laissez-faire context of constitutionalism is rejected. Althusius treats as tensions and polarities

the situations which the individualist treats as incompatible. Thus he conceives of the organizational problem as a problem of discovering the avenues of participation through which tensions can be eased and polarities properly balanced. While authority must be distributed, it must also be integrated. This problem of participation, as we have already noted, can be translated into the problem of access. So that the basic realities Althusius considers are the people and the ruler. Between them the basic polarity exists. Institutionally, the people become the Diet and the ruler becomes the magistracy. Participation problems occur with regard to the Diet, but the solution of the problem here is but the first part of the total solution whose last part is sought in the integration of Diet and magistrate. And since the problems of participation and access are solved in both cases on the basis of the concept of representation, it may be said that the constitutionalism of the Politica expresses in a most profound way one of the first modern interpretations of representative government.

In this conception of the problem, the fundamental consideration is found in the idea that the sovereign authority expresses and constantly evaluates the life of the group in terms of the values the group recognizes. The authority of the state, consequently, is made responsible not by checking and balancing it -- this would destroy it -- but by insuring through a system of group participation that

it is exercised in accordance with the accepted standards of the group. Thus the unlimited scope of authority is a fundamental element in the constitutionalism of the Politica. In the following chapter we turn our attention to the specifically political considerations that led Althusius to the conclusion that the scope of authority must be unlimited.

Chapter VII
THE SCOPE OF AUTHORITY

Values are achieved in fact through authority. So after considering the institutions and processes of government, we turn our attention to the scope of authority needed to achieve the purposes assigned to government. To the extent that the problem the Politica formulates can be solved by the organization of processes and institutions, the constitution just analyzes is Althusius' solution. The approval evident in the analysis is sufficiently justified by the coherence with which Althusius integrates the empirical and value factors he considers relevant, and by the consistency with which he adheres to his objective of participation and free consent. When one considers the structure he approves, two aspects of the problem of preserving social life present themselves as determining factors in it. First, the system is obviously influenced by the idea that the unity of social life can be preserved only through the singleness of the ultimate authority. So that one of the basic constitutional problems of the Politica is that of uniting, in proper subordination, the two decisional processes Althusius

finds necessary for achieving the goal of authority. Secondly, the system is influenced by the idea that the preservation of social life requires an organization of authority which insures that social life will be: (1) self-imposed, (2) rightly ordered, and (3) self-preserved. Here again, one meets the tension between leadership and popular processes and the problem of integrating the two recurs. In both aspects of the problem, the two poles of the tension are those of the voluntariness and the rightness of the order established and preserved. It is suggested that if the constitution is judged solely on the basis of these problems, there is little that can be said which has not already been clearly indicated in the analysis itself. But this is not the only aspect from which evaluation must be made. To achieve the goals set, the processes must channel and organize an authority whose scope is not determined by the capacity of the institutions and processes, but by an independent estimate of the logical demands of the autarchic goal.¹ Thus, the ultimate problem of consistency in the Politica is not solved by the coherence of the structure through which the processes of discussion, delegation and

1. Although, as the functional basis of representation indicates, some consideration of the scope of authority had to accompany the planning of institutions, Althusius never subjects his institutions to the question whether they can handle the authority he envisages, or whether their existence is compatible with unlimited authority.

consent operate, but in the compatibility of these processes with the inclusiveness of the authority which plays upon the people considered not as sovereign but as subject. As Laski points out, the lawmaking process is itself a part of the social relation.² The scope of authority, therefore, will to some extent affect the basic communio or social context upon which Althusius bases his institutions. These latter, therefore, if they are to be evaluated adequately must be viewed with regard to the effects of the scope of authority upon the social situation which the institutions presuppose. The purpose of this chapter is to identify the conclusions concerning the scope of authority which Althusius reached, and to isolate the considerations that lead to them. When these are seen, the ultimate integration of his thought can be grasped.

Since, according to the concept of symbiosis, every aspect of human activity is caught up in societal relations, it follows that every human action must be ordered by authority. "Civil activities are those that maintain the just life in the consociation and provincial symbiosis. Whence it includes everything touching on the enjoyment of social life...and the member of the group is bound to

2. Grammar of Politics, p. 242. Althusius seems to suppose this in his identification of the communio legis as part of the communio that constitutes consociation. See chapter III, above.

to fulfill. These include the duties of love whereby he gives each his own and does not do to his fellow members what he would not want done to himself."³ Law itself is involved in the communicatio symbiotica, not as one of the substantive elements shared -- for this would suppose that some social intercourse occurs apart from law -- but as the determining and ordering aspect of the act of sharing itself. "The partnership of law is the act by which the members of the group live the common life, ruled by laws which establish just relations among them."⁴ It is not enough to say that no aspect of man's life is de jure exempted from political regulation. The adequate statement is that all aspects of life must be regulated.⁵ So that all the real relations that constitute social life are suffused, and by that fact stabilized and preserved, by authority. The scope of authority, in the thought of Althusius, is unlimited.⁶ Stated

3. vii, 8.

4. i, 10. At each level of group life this basic idea is applied. In the province, v.g., vii, 3: "The partnership of law is the condition whereby, through the offering and sharing of services and goods, everything by which the pious and just life among the members of the provincial symbiosis is fostered and preserved is administered in behalf of the need and use of the province."

5. Much the same as in Plato. See his Laws, Bk. I, 631.

6. We deliberately avoid the use of the term "total" because, in the last part of our examination, it would get us involved in the question of "totalitarianism." At present, although all agree that certain states are totalitarian, there seems to be almost absolute diversity

positively, the social and political are coterminous.⁷ Like Plato, Althusius thinks that a good man can exist only in a good state, and, conversely, that a bad citizen cannot be a good man. And he thinks so for the same reasons, which in his thought are summarized in the terms symbiosis and consociation. In contrast to laissez-faire individualism which accepts the same objective of authority -- the preservation of the social order -- Althusius cannot conceive of a voluntary area of private action within which man advances to virtue and a mandatory area of social action within which he restricts his action and conforms it to law in order to be able to enjoy the voluntary area in security.⁸ For

of opinion concerning the formal nature of totalitarianism. See the attempt of Robert Nesbet, "Rousseau and Totalitarianism," J. of Pol., V. (1943), and compare it with that of Diana Spearman, Modern Dictatorships (N.Y., 1939)

7. This is why political science is interested in the family. See, iii, 42. Yet Friedrich seems to be extreme when he says, "Introduction," p. lxxxvi: "This state is characterized by the fact that in the last analysis it devours the entire community, becomes one with it."

8. See Barker's description of this position in the Introduction to his translation of Aristotle, The Politics of Aristotle, p. lv: "In modern times we distinguish between state and society. The one is the area of politics proper, of obligatory rule and involuntary obedience; the other is the area of voluntary co-operation, conducted in and by a variety of societies, educational, ecclesiastical, economic." See also, Mill's attempt to make this distinction, On Liberty, ch. i. Basic here is the fact that Althusius does not identify "obligatory" with "coercive." Both obligatory and voluntary are subsumed under the idea of "duty." Positive law as an extension of natural law simply specifies a duty that exists independently of the legal order. It must be remembered that for Althusius, law is not by its nature

him, social is imply another aspect of personal.⁹ And law makes man both good and free. Indeed, in order to be free, man must be wholly subject to authority.¹⁰

In determining this scope of authority, Althusius argues neither from the objective of goodness nor from that of freedom, although authority must be organized so

a coercive instrument to preserve a "peace order" in the stoic sense. The order he seeks is the Greek-medieval pax civilis. Gewirth, Marsilius, I, 94 ff., says "Marsilius of Padua had the coercive approach to the idea of preserving the "peace order." For Althusius, xxxi, 2, the "peace order" is one of fraternity. See the analysis of the nature of peace by Francis E. McMahon, "Peace," The Thomist, I (1939)

9. Mill's idea that public service demands a sacrifice from the citizen who serves is alien to Althusius. For him, the activity of ruling makes fundamentally the same demands on the citizen as does the activity of teaching or growing crops. Different talents require different activities. See, vii and ii, 28 ff., for an analysis of the difference between private and public (official) duties. Mill seems to accept Plato's idea that the Guardians may have to be unhappy to make the whole happy. See his Utilitarianism, ch. ii, where the distinction is made between the noble man and the happy man. The former sacrifices himself for the greatest happiness of the greatest number. Mill, ultimately, is willing to sacrifice the individual, however reluctantly, for the common good. Althusius, however, stubbornly clings to the idea that the common good is not only the good of all but also the good of each. If the moral good of one man is sacrificed in principle, the good sought is not common.

10. See, i, 14-16; xvi, 3. At xvi, 6, Althusius approves Cicero's idea that: "The republic...is the name of the whole city for which we should die, to whom we ought to give everything and in which we ought to place and, as it were, consecrate our all. For it is advantageous for all that the republic be safe, by whose benefits we are so deeply obligated. Therefore we ought to devote everything to its safety, for whom we have been born and educated." See also, vi, 32; vii, 13; ix, 28; xix, 28; xxi, 16; xxx, 11. Althusius objects to a citizen being useless to the state.

as to insure both. The formal objective that determines scope is the "purely" political one of autarchy.¹¹ So that in this part of his thought the concept autarchy occupies the position of central importance with the concepts popular sovereignty (i.e., freedom) and leadership (i.e., rightness) occupied in his construction of processes and institutions. To conceive the autarchic society, as Althusius envisages it, either as the "self-sufficient" or the "sovereign" or the "independent" state is not quite adequate. Especially is this so in view of the economic and international preoccupations that have impregnated these modern terms and in view of the power rather than moral significance they have been given.¹² For in the Politica, the autarchic state is self-sufficient only in the Aristotelian sense that it must contain within itself the substantial elements necessary for the good life.¹³ And it is independent to the extent that the group is the only

11. Gewirth, Marsilius, I, 94, shows that even an individualistic thinker can reach the conclusion of unlimited scope when he argues from the autarchic goal for authority.

12. See xxv, 20 ff., and xxxiii, 122, for an analysis of confederation, alliance and federation, and the relations that exist among allied states.

13. See ix, 15, for a good description of autarchy. It is achieved through sovereignty. i, 3, man enters social life because alone he lacks autarchy, i.e., the means necessary for existence and virtue. vi, 5, sharing is ordered to cure this defect. See the comments of Mesnard, L'Essor, pp. 279-280. Barker's observations on Aristotle, Politics of Aristotle, Bk. I, ch. ii, n. 2, are very useful.

one who has a voice in its own internal affairs.¹⁴ These elements of the group's life, however, do not constitute autarchy. The formal essence of this quality consists in the unity and order established and preserved among them. For the group exists only to the extent that it is one with itself.¹⁵ This power of establishing and preserving order in the group is autarchy; whatever is necessary for it falls within the legitimate scope of authority.¹⁶

The first determination of the scope of authority that follows upon the application of this norm is made by determining the politically relevant parts that must be integrated to form the whole society.¹⁷ From this point of view, the parts are simply the functional groups of the community, i.e., those groups whose activity supplies the elements of the good life. In reaching his conclusions here

14. vii, 27, a full union of two states requires an act of constitutive sovereignty for it is in effect a new social compact among the peoples involved.

15. Chroust, "The Corporate Ideal and the Body Politic in the Middle Ages," R. of Pol., IX, 448: "The very essence of the social organism consisted of the principle of unity." Althusius' frequent use of the human body as an analogy for the body politic makes this point.

16. Mesnard, L'Essor, p. 505, remarks that autarchy is an existentialist interpretation of the scholastic idea of the perfect society.

17. There are two conceptions of "part" in the Politica. One is based on functionalism and the other on integration. The function meaning is the one used here. The precise relation between these two conceptions will be examined below, Chapter IX.

Althusius follows out a logic that in modern times is applied only to the military. The basic conception is quite simple. Three things are necessary for the existence of the consociation: (1) the material basis of life, (2) the power of defense against external attack and (3) the elements of education that feed the mind and will. Since each part, although of different dignity, is equally important for the existence of the whole, it follows that each part must be equally subject to regulation. For its contribution to the life of the community must be determined in the light of community needs, and must be balanced precisely with the contributions of the other two parts. Regulation, therefore, includes two activities: (1) that of fostering the development of each activity, and (2) that of adjusting it to the needs of the group.

The union of citizens is perfect when each has the attitudes and actions proper to his estate in accordance with the nature and principle of his vocation and function.¹⁸

There seems to be little need to examine the regulation of military life, except to point out that in Althusius' system it involves the regulation of the nobility who are the military leaders.¹⁹ More revealing, perhaps, is the use Althusius would make of the military to train

18. viii, 56.

19. viii, 41 ff. The state should also see that the nobility be preserved by insuring possession of ancestral estates, purity of family lines and the like, iii, 29.

citizens to public spirit, temperance and obedience.²⁰ For here he applies a principle the consequence of which will be seen more clearly in the regulation of economic and educational activities: that each part must be regulated according to the needs of symbiosis, not according to considerations of the efficiency or effectiveness of the function itself.

With regard to the regulation of economic life, the first function of authority is to foster it by creating and preserving the conditions necessary for trade. On the state level this means imposing uniform systems of coinage and weights, keeping roads open and the like.²¹ The basic determination of such things as prices, wages, conditions of work is the affair of the sub-groups, primarily the collegium.²² The city, province and state have the right to review collegial decisions. Althusius is quite clear, and no one today would dispute it, that the fostering of a "private" interest in this manner is justified by its relevance to the common good. The existence of the society depends on its

20. Althusius agrees with Machiavelli on this point although in a completely different context of thought. xxiv, 4-10; xxvi, 3: "For nature alone begets a few energetic men, but by diligence and good institutions she begets many." Here military discipline is the object of the comment.

21. xxxii, 1-34, 66 ff.

22. iv, 4. The collegium is a guild whose members are of the same craft, pursuit in life or profession. *Ibid.*, 12, the guild regulates the craft. vi, 32, the various guilds are brought into contact with one another in the city.

having the material means of existence. But Althusius applies this principle of relevance completely, so that the state must regulate economic life in all the aspects of it that are relevant to group life. It is possible to have too much economic life or economic activity carried on in a harmful manner, or to extend money-making into activities which the community would be better off without. Since, therefore, economic activity, being itself a moral activity, has many non-economic relations to group life, it must be regulated on the basis of these relations as well as of the purely economic ones.²³ Authority should prohibit some money-making activities because they are vicious. It should discourage service and entertainment activities, not because they are non-productive, but because they cater to a sense of luxury and so undermine the morality of the group. Slums should be prohibited because they tend to produce discord and hatreds.²⁴

23. This means economics are subject to the requirements of virtue, ii, 33; vii, 38-39; ix, 5. viii, 45-49, the various estates are organized to insure the provision of the various elements necessary for the common good. In the Diet, their representatives evaluate estate activities in the light of the common good.

24. ii, 26, economic functions are necessary for the state, but certain economic activities tend to produce factions, intemperance and the like. The total activity, therefore, must be carefully regulated. ii, 33: "The skills that are impious or devoted entirely to idle curiosities, or harmful to pious habits in men, or not servicable to human life, should not be tolerated in the republic." vi, 7, factories in large towns are not good for the society.

In this area of life, therefore, activity is subject to authority because it has a relationship to the existence of the community, and the regulation goes forward on the political basis of group need. Society is not a function of economics, but rather economics is a function of society. The mode of production does not determine the social order, rather the needs of the social order will determine, within limits, the mode of production and the area within which economic activity may advance according to its own internal norms. Thus, the regulatory approach of Althusius is closely identified with the idea that a fully developed symbiosis must consciously impose upon itself the form of community.²⁵ Politics is the supreme science because it is the science which, since it organizes the knowledge necessary for the self-imposition of this form, must regulate the activities that take other sciences for their immediate norms.²⁶ And since the ultimate value is expressed in

25. This is the difference between the "city of swine" and the "feverish city" in Plato's Republic. In Althusius, the difference seems to be between private and public consociation. That is, the problem of politics emerges in the city -- the first public consociation -- even though it exists in the private ones. See M.B. Foster, The Political Philosophies of Plato and Hegel, pp. 4 ff. The Polis is an organic thing, but must have more than organic unity.

26. See Foster, ibid., pp. 18 ff., for an analysis of the idea of techné in Plato. In Althusius, the problem of self-imposition of form is present for every consociation, since consociation is always established by a pactum. But technical, scientific knowledge seems to be necessary only for the public groups.

terms of human spirit rather than state power, there is not the slightest trace of mercantilism in the Politica.²⁷ Moreover, since the goal is not expressed in terms of economic security or maximization of production or the solution of a distribution problem, neither is there the slightest element of socialism in the work.²⁸ The fact is, Althusius has a deeply stoic attitude toward wealth and luxury. The spirit of luxury, once loosed in the community, will inevitably destroy it. For with it comes greed, arrogance, envy, dissipation and all the other vices that destroy the temperance, fraternity and consensus that constitute the basis of symbiosis.²⁹ In regulating economic life Althusius is "hindering the hinderances" to the life of virtue. His application of the principle but illustrates the discovery of Green that even this negative function results in an extensive development of the scope of authority.

27. Heckscher, Mercantilism, II, 155, remarks: "Mercantilism was indeed a new religion, and in deifying the state it opposed the medieval religion which had worshipped at quite other shrines." The end of mercantilism was power, not virtue. A greater difference could hardly be imagined in political science.

28. Friedrich, "Introduction," uses such terms as "collectivist," p. lxxxvii, and "socialized," "socializing," p. lxxxvi. At p. lxxiii, he identifies the concept communicatio as, "the collectivist idea of socialization." Althusius' vocabulary simply does not carry the suggestion contained in these words that economic regulation proceeds on the premise that economic justice is the basis of all other justice.

29. xxx, 10; xxxi, 16.

Althusius' norm for the scope of authority, however, is not Green's negative one. For Althusius expects of his economic regulation a positive result: the development of a spirit of austerity which is the chief protection for the vital virtue of temperance.³⁰ This positive goal and the consequent problems it raises are best seen in his conception of the relations between civil authority and religion. This point is confused in the Politica to such an extent that a clear and decisive interpretation would probably distort Althusius. Yet it seems that the meaning of Althusius can be gotten at with more clarity than it has been by the few writers who have treated the matter.³¹ To achieve more clarity,

30. See Barker's comments on the function of temperance in Plato, Greek Political Theory, pp 176 ff. Since the estates in the Politica are self-directing, not merely obedient, this virtue is even more important in the Politica than it is in the Republic.

31. Friedrich, "Introduction," p. lxxxiii, will not commit himself to a positive interpretation, suggesting that there seems to be an element of the "civil religion" approach in Althusius, but that this is not in keeping with his generally religious attitude. For he notes, p. xcvi, that in the Politica, religion is in its own right the basis of the Althusian society. Friedrich's position is made more difficult by his interpretation of natural law. Thus, p. xxviii, he suggests that the civil authority's power to declare the content of the ten commandments is a religious power. This does not follow. It is a moral one, but the "will of God" is revealed in nature as well as in revelation. Gerbrandy, National...Stability, p. 14, says that religion influences Althusius' idea of symbiosis, but does not say how. Gierke, Development, p. 40, makes the unsatisfactory comment that Althusius united church and state. Wolf, Grosse Rechtsdenker, pp. 194-195, says the chief contribution of Althusius was the development of Calvinist theology into a political philosophy and a program of political action.

however, it is necessary to leave the pre-conceptions in the modern church-state discussions at the door and enter the Politica satisfied to find our meanings for terms from the book itself.

Althusius' conception of the relations between these two authorities is determined by three premises: (1) that civil authority has jurisdiction over everything pertaining to autarchy or the existence of social life, (2) that religion is one of the primary social bonds and (3) that religious authority has no jurisdiction over the external actions of man, i.e., over communicatio. The confusion in his thought results from his failure, first, to state each of these premises precisely and, secondly, to work out a reflective operational integration of them. Our author, perhaps, should not be censured too vigorously for this, since it is questionable whether a clear and consistent integration of three such premises is possible.

In approaching this problem of the relations between religion and politics, Althusius uses the same principle he applied in the economic and military spheres of life. Just as in the case of economics and the business man, religion and the clergy are subject to civil authority on the basis of their intimate involvement in symbiotic life. The religious element is involved in the very definition of symbiosis which is the life organized for the pursuit of the vita pia as well as the vita justa. Althusius

identifies at least three counts on which religion has a profound relation to symbiotic life.³² First of all, it is the basis of fraternity. Almost every time Althusius points out the need for fraternity, he cites scripture, and the reason seems to be that the teaching of Christianity is primarily a teaching of fraternity.³³ Secondly, it pertains essentially to consensus. It must be remembered that consensus on moral principles, v.g., the ten commandments, is essential to symbiotic life.³⁴ Although a pagan state can know these principles because they are of reason and nature,³⁵ still, a Christian state that is divided religiously could hardly agree about them with sufficient unanimity.³⁶ Finally, and here he departs from the political point of view, the state has an obligation to promote and enforce the Calvinist version of religion precisely because it is true and,

32. The basic statement of the relevance of religion to symbiosis is found in xxvii, 8: "For a sincere worship and fear of God in the republic is the cause, font and origin of all public and private happiness."

33. V.g., i, 23: "Pertinent to this idea (love of neighbor) is the whole of the second table of the decalogue: love your neighbor, do to others what you wish to be done to yourself." See also the passage on fraternity, ii, 9.

34. Without this consensus about the ratio vivendi, there can be no social contract. See De Grazia's comments, The Political Community, pp. 21, 49, 90.

35. xxi, 41. The presence or absence of faith constitutes the difference between the justice of the christians and that of infidels and pagans.

36. xxxi, 20, differences in religion is one of the causes of sedition.

therefore, the will of God. That is, Althusius' formal argument here is not that the state should enforce Calvinism where it exists and another religion when it is dominant in another society, but simply that since Calvinism is the will of God, every state has an obligation to enforce it.³⁷ There is no doubt that the supreme magistrate, i.e., the civil authority, not only has jurisdiction over the clergy and religion, but even uses the clergy in their religious capacity to realize the purposes of civil authority.

In analyzing Althusius' thought on this subject, it is particularly necessary to remember that it is carried on in effective isolation from the debate between Catholicism and Protestantism. If there is any influence operating

37. V.g., xxviii, 55. This is the problem of every religious man. The will of God imposes obligations. If He has revealed a way of worship to man, then everyone has an obligation to follow it. Yet Althusius cannot be said to have simply constructed a model of the Calvinistic state as Gerbrandy, National...Stability, p. 22, and Gierke, Development, p. 69, think. Friedrich's "Introduction," p. xviii, denies he reasons from Calvinist theology, and Wolf, Grosse Rechtsdenker, p. 169, thinks he combined Calvinism and humanism. The balanced statement seems to be that Althusius set out to construct the state according to natural reason, but his concept of symbiosis, the vita pia et justa, would not let him disregard religion which he integrated into his system by virtue of giving the civil authority religious jurisdiction.

38. The censors in the state are clergymen, but their function is treated in its political aspect, xxx. The authority of the magistrate over religious activity is all encompassing. The magistrate is the head of the church; the civil authority passes on all matters concerning the church. It sees that the clergy do their duty: viii, 50-53; xxvi, 46; xxviii, 5, 32; xxx, 28-29, especially xxviii, "On Ecclesiastical Government."

on his thought apart from the logic of his ideas it is that of rationalism. Seemingly, this exists in his thought as a premise with which he constantly struggles because he has never expressed it to himself. In this regard, it is revealing to note that Althusius and Marsilius of Padua have substantially the same idea of the relations between church and state.³⁹ The similarity is not due to hostility to religion but to: (1) the basic Protestant view both have of the "church" and (2) the fundamental assertion that the primary objective of politics -- social union -- gives politics jurisdiction over the entire life of the group. In the case of Althusius, the argument can be stated quite simply. Authority is concerned with everything pertaining to social unity. Since religion is of all factors the one that touches symbiosis most immediately and deeply, it follows that all religious life must be subject to the sovereign authority. By this argument, it would seem that the religious order is clearly placed under the political.⁴⁰ Yet, if this position is thoughtlessly thrust into the familiar dichotomy of theocracy versus total secular state, Althusius' thought will be

39. Gwirth, Marsilius, I, 101 ff.

40. It is not difficult to see why Althusius was condemned by Rome during his own life time and was engaged in vigorous controversy with his own Calvinist theologians. The condemnation of Althusius by Rome still stands. Index Librorum Prohibitorum (Typis Polyglottis Vaticanis, 1948). See Friedrich, "Introduction," pp. xxviii, xli, for Althusius' relations with Calvinist theologians.

seriously distorted.⁴¹ He fits into neither category.

The reasoning behind the relations between religion and politics and especially behind the relations between clergy and government is particularly delicate. The crudest analysis of it, which finds the supremacy of the state over the church in the classification of the clergy as an estate and therefore a "part" of the whole, no more explains Althusius adequately than it does Marsilius.⁴² On this basis alone political authority, by virtue of its purpose, regulates religion. But Althusius is not a militant rationalist. His approach to the problem occurs in a Protestant rather than a Medieval context; his pre-occupation was not with asserting a distinction or a supremacy, but in achieving an integration of two authorities, and this in a context which derives ecclesiastical as well as political authority from a sovereign group. Althusius is a deeply Christian thinker and consequently could never speculate in the political order

41. One could hardly direct against Althusius the judgment Irving Babbitt made about Lutherans and Calvinists, Democracy and Leadership (Boston, 1924), p. 54: "Practically both the Lutheran and Calvinist state tend to run together the things of God and the things of Caesar, and to leave the individual without any civitas Dei in which he may take refuge from the civil power."

42. As Gewirth points out in the case of Marsilius, in reading these men who write in the context of a sacral society, there is need of precision when determining their ideas. Marsilius, I, 92. Maritain points out, Man and the State, p. 110, that in a sacral society, it makes sense to have a religious creed as a condition for citizenship.

as though the church were simply a corporation, a sub-group, in man's social life.⁴³ On one level it is equal, if not superior, to the state. Yet, because of his concentration on unity and his basic assertion that only one ultimate authority of any kind may exist in any group, he cannot admit a distinction between religion and politics, or between church and state, that would establish two independent sources of directive authority in the society. On the other hand, as a convinced Calvinist he cannot admit that civil authority, which is of a lesser dignity than the religious, is the supreme or exclusive authority in human life. Faced with this dilemma, he seeks a solution in an application of the Medieval concept of one society and two orders of jurisdiction. The decisive element in this application is that of the sovereignty of the people.⁴⁴

Now it cannot be said that this sovereign authority is exclusively either a political or a religious one; it is both because "the people" is both a church and a state.⁴⁵

43. Before any church can be treated simply as a sub-group in the state one must accept the premise that religion has no pressing relevance to social life. Laski, Grammar of Politics, pp. 59-60, nicely illustrates the politique mind working in modern thought.

44. Gierke, Development, pp. 40-41.

45. ix, 28-29: "This right of the realm (sovereignty) is twofold: the first is that which extends to the salvation of the soul, the second that which extends to the care of the body. Both these rights of the realm... consist in a universal symbiotic partnership and its administration."

In a new context of popular sovereignty and Protestantism, the old problem of the sole sovereign that disrupted Medieval thought so profoundly receives a new solution. In the Medieval period, the ecclesia was the corpus fidelium et Christi, i.e., the corpus mysticum. In this context of thought religious authority could never be related to the concept of popular sovereignty precisely because it derived from Christ through sacramental channels and not from the people by way of delegation.⁴⁶ All this changes in Althusius. With the Reformation it now becomes possible to have one sovereign people possessing both authorities. With the sovereign religious and political authority united in the people, one could be either an extreme papalist, an imperialist or a moderate according to the minor premise one selected.⁴⁷ And the question of the division of jurisdiction between clergy and government loses the position of centrality it had in the Medieval period. Figgis observes:

46 The basic intellectual development that prepared for the conception of the people as the source of religious as well as political authority can be found in the Protestant attacks on the sacramental theology concerning Holy Orders. Witness the ideas in Luther's Address to the German Nobility. The "baptizing" of the political authority ultimately made possible Althusius' idea of the sovereign people. Cowirth, Marsilius, I, 260 ff., makes the same point with reference to Marsilius.

47. Figgis' disappointment over the failure of the Conciliar Movement is possible only on the premise that the Catholic doctrine of Holy Orders is erroneous. See Figgis, Studies, pp. 31 ff., and his "Political Thought in the Sixteenth Century," Cambridge Modern History, III, 736 ff.

Roughly speaking, what Luther did in the world of politics was to transfer to the temporal sovereign the halo of sanctity that hitherto had been mainly the privilege of the ecclesiastical; and to change the admiration of men from the saintly to the civil virtues, and their ideals from the monastic life to the domestic... It was largely an accident that for the next two centuries these ideals redounded to the advantage of the monarchy, and made the prince an autocrat in his own country. It only needed a change in the depository of the sovereign power to make the same conceptions of the holiness of the state and the duty of non-resistance apply to the citizens of a democracy united according to the ideals of Rousseau.⁴⁸

In the case of Althusius, this change in the depository of the sovereign power has occurred. And he is among the first to spell out the logical consequences of such a change.

At any rate, the objective of social life: the vita pia et iusta, indicates that in Althusius' mind symbiosis is this undifferentiated consociation for the purposes of life. And at this point a difficulty emerges which indicates that by uniting religious and civil authority in a sovereign people Althusius has neither

48. Studies, p. 72. Gewirth, Marsilius, I, 291-292, notes the same position in Marsilius: "Since in the 'fully developed' (iam perfectae) communities the universitas fidelium is largely or entirely identical with the universitas civium, the church is identical with the legislator, and consequently, the supreme authorities in the church and state are identical. Hence, in all the phases of ecclesiastical control discussed above -- excommunication, election of priests and head bishops... -- where the supreme authority over each of these has been assigned to the universitas fidelium or 'church', this authority belongs by the same token to the legislator."

avoided nor solved the problem of their relationship. For this sovereign authority must be delegated as to its exercise to two different bearers of authority.⁴⁹ Thus the two aspects of life, temporal and eternal, still have to be differentiated. There may seem to be a question begging factor in the reasoning that establishes the government as superior to the clergy because the former regulates the whole of which the latter is a part. Why should the clergy be an estate? With almost equal logic, it could have been made the superior authority with the governors an estate. It would seem that the classification Althusius accepts is influenced in part by the fact that he was a political scientist and a public official rather than a clergyman. This act of pure preference is expressed implicitly in his definition of political authority and so in his definition of political science.

But the division of jurisdiction Althusius accepts is explained much more surely and clearly by the fact that

49. This is a necessity of the contingent order. Althusius is not too clear on the position of the clergy as an estate. From one point of view, there are three estates: clergy, nobility and people. But from another point of view, there are two basic estates: secular and ecclesiastical with the secular divided into people and nobility. The basic difficulty is found in the fact that while Althusius treats the the clergy as a functional part, like the nobility, he also treats them as a governing part, like the magistrate. xxviii, 5, the clergy have an officium demandatum from the people. See viii, 14; vi, 29, in the city there are two estates, civil and ecclesiastical.

it represents his attempt to assign to each order the activity proper to it. The basic problem he faces here is to determine how the sovereign people should allocate the authority they must delegate to each order. His solution is based on a distinction between the vita pia and the vita justa. The clergy exercise authority over the former, the government over the latter.⁵⁰ The vita pia is the life ordered to the worship of God. It "requires a right knowledge of God and a sincere worship of Him. A right knowledge of God must be sought in the articles of faith and sacred scripture. A true worship of God is drawn from those rules and examples of the divine word which teach and illustrate either love of God or charity toward men."⁵¹ The vita justa is concerned with man's contact with man. "Civil activities are those that maintain the just life in the consociation

50. vii; viii, 28 ff., and xxviii, contain the bulk of Althusius' thought on this matter. A theoretical distinction between political science and theology at xxi, 41, concludes as follows: "For the matter of the decalogue is also political to the degree that it directs the symbiotic life and prescribes what must be done in it.... Theology, which is the guide to Christ, rightly claims for itself the pious and salutary doctrine of the decalogue conducive to eternal life." This idea is expressed more concretely at x, 31: "The symbiotic fellowship of the universal realm is both ecclesiastical and secular. The former deals with religion and piety or the whole first table of the law. The latter deals with justice, the giving to each what belongs to him, which consists in the second or other table of the decalogue, and looks to the body and the things of this life. In the former, everything is immediately referred to the glory of God. In the latter, everything is referred immediately to the utility and welfare of the people consociated in one body."

51. vii, 4-6.

and provincial symbiosis.... Whence, it includes everything touching on the enjoyment of social life."⁵² From this a division of function follows. In all matters pertaining to doctrine and scriptural interpretation the clergy are superior to the magistrate who is "subject to the government and power of the clergy in matters concerning censures, admonitions and whatever concerns eternal life and salvation."⁵³

This distinction, although easily made on the basis of definitions, does not work out well in the operational order.⁵⁴ For when Althusius attempts to implement this definitional level of his thought on the operational level he discovers that his distinction between ecclesiastical and civil jurisdictions cannot be observed precisely because he cannot, within the context of his thought, admit separate jurisdictions over the internal and external life of man. In every case where the distinction does not work, Althusius decides the conflict in favor of the magistrate. As a consequence the jurisdiction over external matters gradually expands over into the internal life of man. The method of extension, however, does not consist in a gradual limitation

52. vii, 8. This includes the last seven commandments of the decalogue.

53. viii, 32.

54. Here we have probably the single clear case in the Politica where Althusius fails in the attempt to integrate definitional and operational ideas consistently.

of clerical activity, but rather in the gradual absorption of the clergy into the system of civil government.

A number of examples will illustrate the course of his thought. First, there is the matter of education. In principle the clergy possess jurisdiction over education as of right. In discussing the matter proper to ecclesiastical government, he lists that of teaching the word of God. In pursuance of this duty the clergy must draw up articles of faith, select the best men as members of the clergy, erect schools and provide teachers for them.⁵⁵ Yet schools are also, "the workshop of good and pious citizens, the seminary of the arts and good customs, indeed the armory of church and republic, from which arms of all types are produced, not only for defending the true and sincere worship of God against the heretics, but also for defending and conserving the well being and safety of the republic."⁵⁶ Therefore, the magistrate has jurisdiction over them as he has over every other activity directed by the clergy.⁵⁷ Secondly, there is the matter of the clergy's duty to oversee the moral life of the people. Here we have the clearest

55. viii, 20-41; xviii, 28-45.

56. xviii, 33.

57. Ibid., 20-21, the listing of clerical activities is made from the point of view of the duties that devolve thereby on the magistrate to see that these things get done properly.

example of a religious function of the clergy being closely integrated into the civil purposes of the magistrate. In the institution of the censorship Althusius' attention is centered primarily on the symbiotic needs such a censorship of morals serves:

Censorship is a search for and punishment of those customs and excesses that are not forbidden and punished by the laws, by which, nevertheless, the souls of subjects are corrupted and their goods consumed uselessly, and which (when neglected) completely destroy the republic.⁵⁸

In Chapter xxx, "On Censorship," the orientation of the thought is not to the vita pia but to the vita iusta, i.e., to the area of secular authority:

For Seneca rightly says that luxury in eating and dressing are signs of a sick, indeed, of a dying city. For these things induce novelty or change into the republic and lead youths whose ancestral wealth has been dissipated, into evil deeds. For who does not see that poverty results from lavish feasts, from poverty desperation, and from desperation major crimes, and thereby the republic falls into a time of crisis.... And so in the republic there appears a seed bed of Catlines. And Aristotle rightly says...changes begin in a republic when men consume their goods by living lavishly. For such men seek changes and either become tyrants themselves or call others to it.⁵⁹

The clergy in this function act as agents of the magistrate.⁶⁰

58. xxx, 1-2.

59. xxx, 23. What is treated here is the question of the civil functions of religion. And for Althusius, if the function has civil significance it is subject to the magistrate.

60. This despite the fact that this function of censorship is called, xxx, 23: "the guardian of faith, the wall and bulwark of piety, the sinew and bond of the church."

Finally, even in the matter of doctrine and magistrate is superior to the clergy because he is their head.⁶¹

Thus the clear distinction between the life of piety and the life of justice made on the definitional level, does not, in fact, offer a basis for the distinction between church and state. In the examples mentioned, the basic conflict -- which Althusius consistently solves by orienting the clergy to civil objectives -- is found in the theoretical denial to the civil authority of power over internal matters and the simultaneous assertion that if the civil authority is to preserve symbiosis, it must regulate the internal life of man. Faced with this dilemma, Althusius uses the religious authority to achieve objectives which he, as a political scientist, considers essential to the realization of the objectives of political life.⁶² Thus, in a sense, he never contradicts his position that civil authority

61. viii, 39. The ecclesiastical synods should handle the question of heresy. But if they cannot cope with it, then the civil Diet takes the matter over. At xxx, 6, Althusius makes no distinction between heresy and drunkenness as dangers to the republic which the censors must put down.

62. Thus, xxviii, 8, he suggests the use of religious authority to get at the internal life of man. Chapters xxx on the censorship and xxxi on the preservation of amity, both deal with civil concern over the internal life of man. xxx, 1, explains the censorship as a means of a search for and punishment of things not handled by law. In vii, 50 Althusius is more explicit, explaining that the censors get at "those vices which cannot be punished by the laws or the judgment of magistrates."

cannot handle the internal life of man.⁶³ He gets around the limitation by incorporating into the civil authority the entire area of religious jurisdiction which by definition is ordered to the internal life of man.⁶⁴

The ultimate extension of the scope of political authority is revealed in this union of civil and religious jurisdictions. But the true nature of that extension and the necessity of it are not properly understood until one realizes that in thus subjecting religion and the church to the objectives of political authority, Althusius in no sense argues from the concept of a "civil religion." This concept so clearly present in Rousseau, Machiavelli and Hobbes, involves the subordination of the church and religion to secular authority in a secularistic context of thought. That is, the institution of civil religion seems to involve, at least in those who have proposed it, the following premises: (1) that political authority is purely secular and has nothing to do with religious authority and (2) that the establishment of religion can be proposed with complete indifference to the question of man's relation to God, and

63. xxviii, 64 ff.

64. It is interesting to note that the modern secular state which is theoretically restricted to external action alone because civil law cannot reach the interior of man, and is theoretically divided from religion thereby because religion is purely internal, comes into existence simply by a constitutional separation of religion and politics.

concern simply for the politically valuable effects of consensus and the fear motive for obedience.⁶⁵ In the thought of Althusius, however, even at the point where he most clearly uses the clergy for the realization of political objectives (the preservation of virtue by the Censors), that objective is only formally distinct from the religious objective. Thus, in explaining the religious functions of the magistrate Althusius argues in effect that there is a thing called religion which the magistrate must foster because it is the will of God. But even apart from this reason, reasons can be found in nature alone which would lead to the same conclusion, namely that the magistrate should foster religion. "The argument from reason, apart from the will of God and the examples already given (from scripture) are grave and compelling"⁶⁶ Furthermore, to keep clear and vital the truth that Althusius does not cynically "use" religion to achieve political goals, one must keep clear in one's mind the divisions: church and state, clergy and government, and finally, religion and

65. Allen, "Marsilius of Padua," in Social and Political Thinkers, p. 180, remarks that in Marsilius, "The true function of the priest, in fact, is to supplement the action of police and judge by the fear of hell." This, in a basically secularistic context, is civil religion. This conception of religion amply justifies the conclusion that it is the "opium of the people."

66. xxviii, 8. The political reason given is that religion is necessary for autarchy, i.e., secure social order.

politics. In Althusius, the difference between the terms of each dichotomy tend to blur. Yet, as between one pairing and the others, there is an important difference. The basic reality is that of the sovereign people in whom the religious and political authority is undifferentiated. The church is this people plus the clergy; the state is this same people plus the government. The fundamental law, which is the product of the whole group acting unanimously, is the ratio vivendi of the group in both its religious and political aspects. Now to the government is delegated the power to govern the group in all that pertains to social life, while to the clergy is delegated the power to teach and preach the revealed truth. This division is not the same as that wherein the government is said to rule all that pertains to the temporal order and the clergy that which pertains to the eternal.⁶⁷ This distinction, we hold, is not in the Politica. Now, in such a system of thought it makes no sense to say that either church or state is subject to the other. At most in the Politica, the clergy are subject to the civil authorities even in religious matters. And the only color of title for holding that this

67. See Lindsay, Modern Democratic State, ch. iv, for a discussion of the protestant attempt to inject the supernatural into the political. In Althusius, it becomes evident that such an attempt was not due to enthusiasm, but rather was rigorously demanded by his deepest conception of what symbiotic life is and what the object of authority should be.

arrangement constitutes a civil religion can be found in the fact that Althusius gives, among others, political reasons for such an arrangement.

But even here, this does not mean that a religious organization is subject in a purely instrumental way to political authority.⁶⁸ For the magistrate himself possesses a real commission to protect and foster the church by virtue of an express delegation from the people. This is a religious duty entrusted to him and for which he is held answerable. The conception here is exactly the same as that found in the Vindiciae: a contract of rulership, the terms of which correspond almost verbatim with those expressed in the Vindiciae.⁶⁹ In keeping with this delegation of authority from the people in their capacity as possessors

68. Wolf, Grosse Rechtsdenker, p. 178: "Aber auch im Werk des Althusius bedeutet die formelle Unterstellung des Klerus unter den 'Summus Magistratus' keine politische Herrschaft des Staates ueber die Kirche, weil die Traeger der Staatsgewalt kirchliche Maenner sind."

69. See Laski's analysis in his Introduction to the Vindiciae Contra Tyrannos. In the Politica, xxviii, 15: "This double duty the magistrate with the members of the realm promise to God by a religious pact. This they do by common agreement and with solemnity in the assembly of the realm. The promise is that both the magistrate and the members of the realm will take care that God will be known and worshipped always by each and every member of the entire realm. And on this condition, they recognize that their realm belongs to God, and promise Him fidelity and obedience as subjects and vassals.... In this religious pact, the debtors are those who make the promise, namely the supreme magistrate of the realm and its ephors together with the whole people; the creditor is God to whom the promise is made."

of supreme religious authority, the magistrate is rightly the head of the church.⁷⁰ And to implement this contract and keep the magistrate responsible, Althusius proposes a Synod of Ecclesiastics who are superior to the magistrate in religious matters. Thus, the church is not the passive instrument of the magistrate but rather one of the institutions through which the people provide for their needs. In the Synod there is provision for the communicatio consilii in religious matters which the Diet provides for in civil.⁷¹ This principle of conciliarism fits as logically into the conception of symbiotic life as the parliamentary principle does. And the existence of the two indicates both the nature and scope of political authority. Of the estimates of the Politica on this point, that of Figgis seems best:

(In both Althusius and Grotius) it is not a church with civil officers that they mean by a

70. Figgis, Studies, p. 183: "In Althusius despite his federalism, we have no hint of any sort of independence for the Church; it is not envisaged as a separate society. Its officers are merely a part of the general machinery of the state. The latter, indeed, is conceived as holy. The author's view of the state is thus definitely that of Luther, the Anglicans, Zwingli, Erastus, as opposed to that of the Jesuits and Presbyterians, the difference being that in his case the sovereignty over religious matters is inalienably vested in the people..."

71. xxviii, 6: "In the administration of ecclesiastical goods, the magistrate may do nothing without the consent and advice of the clergy based on the word of God." xxxiii, 26 ff., the ecclesiastical Synod differs from the civil Diet only in the matters discussed.

Christian commonwealth, but a state with ecclesiastical among other ministers. In this respect again, they display their kinship to other German princes. What Althusius contemplates is the ordered life of the community as a whole, consecrated to civil ends with education, like religion, cared for, with all possible provision for leading the good life, and for correlating the smaller activities of town and provincial life with that of the state.⁷²

This union of religious and civil authority in the people on the one hand, and in the magistrate on the other, raises for Althusius the problem of toleration in its most acute form. The solution he proposes for it illustrates both the extreme scope of authority he proposes to allow, and also the fact that "in the pinch" when a choice has to be made between religion and civil peace, the "political" orientation of his thought leads him to sacrifice orthodoxy for tranquillity.

Althusius discusses the question of toleration on the basis of three different premises concerning the social

72. Figgis, Studies, p. 184. Gewirth's summary of Marsilius' teaching is also a good summary of Althusius on this point. Marsilius, I, 300: "What then, in the final summation is Marsilius' solution of the conflict between 'Church' and 'State'? We may divide his solution into two parts: (1) the priesthood (not the church) must be subject to the coercive authority of the government (not the state) in all temporal affairs, both on the temporal grounds centering in the preservation of the state and on the spiritual grounds of divine command.... (2) The universitas must have supreme authority in any social question affecting it, whether temporal or spiritual. It is here that the universitas civium, the 'legislator' of the Marsilian state, since it is numerically identical with the universitas fidelium, the 'Church' comes to control the church and the priesthood even in spiritual affairs and on spiritual grounds."

situation within which the problem arises. For each situation he has a different solution. And each solution seems to be contradictory of the other unless one realizes that the solution for each situation is intended for that situation alone. In the ideal symbiotic situation, the principle of toleration is not admitted. Here the situation is that the entire group is Calvinist; the ruler is orthodox. When in such a situation, heresy or dissension begin to appear, the magistrate must pluck it out while it is a "seed" or a "spark."⁷³ "The magistrate destroys factions when he plucks the seeds that cause them.... For when a small spark is neglected, it starts a great fire."⁷⁴ Now, among the causes of sedition and faction is numbered in the sixth place differences in religious profession and opinion.⁷⁵ With regard to it, "The magistrate is to see that the laws of religion be inviolable. And whatever is controverted among the churches should be freely discussed in council, the errors proscribed and mutual disagreements composed."⁷⁶ The second situation he envisages is one in which there is

73. This is the situation supposed in xxxi. He is speaking, as he tells us, of the case where there is a religion established by the people who remain loyal to it. The task is that of preserving this harmony and consensus.

74. xxxi, 10.

75. Ibid., 20.

76. Ibid., 44.

an original element of religious disunion:

In a realm where the true worship of God does not flourish, the magistrate should take care not to arrogate authority over the faith and religion of man. This resides only in the soul and conscience and God alone has authority over it. We cannot command religion because no one is forced to believe against his will. Faith must be persuaded not commanded, taught not ordered.... Therefore, Francis Burghardus errs, and the Jesuits with him, when they think the magistrate cannot tolerate different religions in a realm.... In such cases, we say, the magistrate who cannot remove the differences of religion and creed without danger and perturbation to the republic must tolerate the non-conformists for the sake of public peace and tranquillity.⁷⁷

There is a consistency here. In the first situation, conditions are such that the group could enter the religious pactum with the magistrate and so, presumably, the ruler would have jurisdiction in religious matters. The situation would permit the ideal operation of authority from the point of view of the political objective of autarchy. But in the second situation, presumably there could be no religious pactum because it, like the social pactum, presupposes unanimity among the people. In such a situation, where the civil authority exists alone, its inherent limitation to external matters becomes operative.⁷⁸

77. xxviii, 64.

78. C'Entreve's observation, Natural Law, p. 87, that Thomasiaus (1665-1728) lays the foundation for modern toleration with his theory of the externality of law, must be modified. Here, before 1625, we have in Althusius a man with a clearly stated theory of the externality of law.

The final situation envisages a people united in religious matters but faced with the possibility of an heretical ruler ascending the throne. Here, a "purely political" concern with tranquillity leads Althusius to advise the acceptance of such a ruler for the sake of peace, provided assurances can be gotten that the ruler will not interfere with religion.⁷⁹ In this case also, the principle of toleration applied to the second case above applies for the same reasons. Yet concern with religion as such is evident in his willingness to advise revolt if the required assurances cannot be gotten. This struggle with the competing demands of religion and tranquillity could not by the nature of the tension be resolved cleanly and clearly. For any compromise with the ideal situation requires more of Althusius than a simple balancing of religion against tranquillity; he must balance a much more complicated set of factors: the danger to existence in a society split by religious differences against the dangers to existence in a society rent by religious wars. We think, therefore, that he ultimately handles religion from this "political" point of view of autarchy. But he does so in a context in which "political" is at times only formally different from "religious."

With government in possession of such extensive authority, the question arises whether in Althusius' thought the

79. See xix, 73-87.

state swallows up society. We propose to answer this question below in Chapter IX on "Freedom and Pluralism." But it will be useful to close our examination of the scope of authority with a brief review of the way Althusius handles the distinction between "public" and "private," a distinction which today is treated as vital to the question of freedom, and is generally employed in theories that restrict the scope of authority. At one point in the Politica these two terms are used simply to distinguish two ways in which the citizen serves the state: "public" means "official" while "private" means "non-official."⁸⁰ But in both cases, whether a citizen is a magistrate or a merchant he is serving the state by his activities.⁸¹ A second meaning of the terms is determined by the context of pluralism. With regard to the state, the

80. Gerbrandy, National...Stability, p. 8, notes that the distinction between public and private is lost in Althusius. iv, 17-20, distinguishes between what is held "commune" and what is held as "meum," but this is simply two ways of possessing something. See the idea in ii, 12.

81. See vi, 28-32. The passage closes: "Crafts are the private activities that especially serve the good of the craftsmen and, as a result, the public good of the city or all the citizens. Since these crafts can offer mutual services to one another for their mutual preservation, it is necessary that they be brought into contact with one another." For the principle of mutuality, see vii, 13, where the figure of the human body is used: each part has a private end, but each end is integrated with the end of the whole. vii, 11, both public and private activities are duties toward the group. At i, 4, a man who lives "privatim" is not living the social life. ii, 5, private action is that: "by which the consociated members of the group exchange all the aid and assistance the symbiosis needs."

interests of the province are "private." This distinction is carried down to the family with regard to the Guild. "Private" here means simply "partial" with regard to some whole.⁸² A final use of the terms approaches, but by no means carries, the modern connotations. Here "private" means an end which the citizen seeks immediately for himself, while "public" means one he seeks with others immediately for the group. But even in this case, the distinction is made not to limit authority but simply to indicate two degrees of relatedness to the common good.⁸³ For Althusius, the difference between a private and a common interest is simply the difference between two interests each of which is personal.⁸⁴ The basic limitation in the distinction is this: authority, while it may regulate private interest for the common good, cannot regulate private interest for another private interest. There is authority only to realize the common good.

82. This idea is applied to inter-group relations. In the public groups the member sub-groups are related to each other much the same as individuals are in the private groups. Thus, the end of the city is private with regard to the end of the state because it is but a part of that larger end.

83. xi, 1. At vii, 27: "A private activity is one which directly serves the special and private consociation and symbiosis, and is ordered to the common good and utility of the members of the province."

84. For this intermingling of private and public in Rousseau's thought, see Social Contract, Bk. II, ch. i. Both Rousseau and Althusius, like Aristotle, cannot consider either independently of the other. See McIlwain, Growth of Political Thought, p. 55, for Aristotle.

Thus, in the determination of the scope of authority Althusius succeeds in keeping to the strictly political formality of his thought: the establishment and preservation of social life among men. Even at the point where he accepts the Medieval definition of government, this concept, which stresses the ethical function of government, never distorts the political aspect from which he studies political processes and purposes. To keep thus disciplined in his science constitutes a signal achievement for Althusius. One must remember that in symbiotic life, the legal and moral tend to coalesce, and the objective of law is difficult to distinguish, in its material aspects, from the objective of the individual person in society. Yet Althusius studies this authority, whose scope is coextensive with the scope of human choice, only to the degree that it pertains to the problem of group unity.

The significance of Althusius for the science of politics can be found in two points. The first of these is precisely his rigorous application of a "political" definition of political science. The second contribution is closely related to this first one. For the unlimited authority which he accepts as a logical conclusion from the premise of group autarchy impinges upon the ultimately personal objective of all human action to constitute the real tension in the problem of freedom and authority basic to his thought. In his solution to this problem Althusius shows that his

political approach which postulates regulation of the individual on the basis of group need is not incompatible with an ethical concern for freedom and the needs of the individual. In the final section of our examination of Althusius we wish to turn our attention to these contributions.

PART III
THE CRITICAL SIGNIFICANCE
OF ALPHUSIUS

Chapter VIII
THE SCIENCE OF POLITICS

The task of critically evaluating the thought just analyzed is determined in both its scope and direction by the nature of the venture in which Althusius engaged. For the science of politics, when organized as Althusius organizes it -- as a value-implementing venture -- is not open to certain types of evaluation. The strategic consideration is found in the non-logical factor present in the integration of facts and values. Such a venture must be considered, as Easton points out, "an art rather than a science."¹ And Sabine identifies, in other terms, the same reason why a single norm of criticism cannot be applied to such a science: "In combining these two kinds of factor (allegations of fact and ascription of value), a political theory puts together propositions for which there is no common logical measure and which all the

1. David Easton, "The Decline of Modern Political Theory," J. of Pol., XIII (1951), p. 49. Easton's thought on methodology is given a full development in his The Political System, An Inquiry into the State of Political Science (N.Y., 1953)

dictates of clear thinking require to be distinguished."²

And he adds: "When the two kinds of statement (causal and evaluational) occur in conjunction, as they continually do in political theories, the beginning of critical judgment is analysis, the discrimination of the two kinds and the application to each of the tests appropriate to it."³

The point these two writers make is basically the ancient one that a prudential judgment, in the last analysis, contains in it a non-logical element;⁴ that its truth is determined not so much by reference to objective data as by reference to the kind of judgment the ideally wise or good man would make. Thus, while such judgments are either true or false, the truth or falsity of them cannot be gotten at by logical criticism. The example Easton gives with

2. George Sabine, "What is a Political Theory," J. of Pol., I (1939), p. 12. By their definition of truth the pragmatists attempt to establish a value-implementing science that does not suffer from this limitation. See W.Y. Elliott, The Pragmatic Revolt in Politics (N.Y., 1928), Part I. It is obvious that the historicist approach can be evaluated for its truth like any other historical work. See Easton's analysis of historicism in The Political System, pp. 253 ff.

3. Sabine, "What is a Political System," J. of Pol., I, 13.

4. Aristotle, Nich. Ethics, Bk. I, ch. iii, 1094b. Aristotle's criticism of Plato in his Politics, Bk. II, ch. ii, 1261, is a criticism of the definitional level. S. de Madariaga's criticism of modern liberal thought, Anarchy or Hierarchy (London, 1937), Part I, is based on the assertion that the liberal principles used on the definitional level and those used on the operational level are mutually contradictory.

reference to Locke uncovers the difficulty.⁵ The values Locke seeks are indicated in his natural rights theory. The basic implementation of that objective is sought in the political order, and one of the primary rules for the organization of that order is found in the provision for the separation of the legislative and executive powers. This provision may be called an applied principle. Now the separation of powers is based on a causal theory which supposes "an invariant relation between the division of powers and the impartial formulation and execution of laws." This causal theory, in turn, represents a generalization about a factual situation, man's relation to power, which leads to the conclusion that the simultaneous possession of both legislative and executive power will corrupt man. With regard to critical evaluation of such a theory, it is possible to apply the principles of logical criticism to Locke's theory of values, and it is possible also to evaluate his generalization about the factual situation from the point of view of its objective truth. But what type of logical test can be applied to the prediction that a separation of powers will insure the protection of natural rights? This is not simply a descriptive statement; it is a prediction about the actions of man. Moreover, it is a prediction

5. Easton, "The Decline of Modern Political Theory," J. of Pol., XIII, 39 ff.

that possesses many of the qualities of a prudential judgment. For the applied principle of divided powers does not follow from empirical and valuational principles as a conclusion follows logically from major and minor premises.⁶

It would seem that the critic, if he disagrees with the judgment, can do nothing more than offer an alternate judgment about the means of implementing the values. And this possibility remains open even though the critic may agree with both values and the empirical conclusions upon which the original judgment and prediction was made.

In the analysis of the Politica made thus far we have attempted to indicate the values and the empirical considerations upon which Althusius bases his organizational implementation of value. It would seem that the basic prediction Althusius makes is that the values of freedom order and virtue, summarized in the idea of symbiotic life, can best be implemented through a system based on the principle of participation:

6. This condition of the science seems to be supposed in Barker's objection to the term "science" in political science. Study of Political Science, p. 3: "I am not altogether happy about the term 'science.' It has been vindicated so largely, and almost exclusively for the exact and experimental study of natural phenomena, that its application to politics may convey suggestions and excite anticipations, which cannot be justified. If I am to use the designation of political science, I shall use it as Aristotle used politike episteme, to signify a method, or form of inquiry, concerned with the moral phenomena of human behavior in political societies. I should prefer to call such a method or form of inquiry by the name of Political Theory."

in Althusius' terminology, on the principle of communicatio. His total approach is immeasurably more complicated than Locke's, and although the magistrate is distinct from the Diet, he does not implement his values on the basis of a division of powers.⁷ Perhaps the best approximation of Althusius' system can be made as follows. His basic descriptive factual statement can be found in his analysis of human psychology:

The desire for one's own good is inborn in everyone so that each pursues it with great intensity and avoids burdens and inconveniences or tries to shift them to others. This devotion to one's own good takes various and diverse forms following upon the diverse temperaments and desires of man, his established way of life, . . . From it arise various and diverse judgments about the one who rules so that what is advantageous to some is hurtful to others, or seems to be. ⁸

The values of justice, freedom and order may be achieved in this context by insuring that every man participates in the making of the law:

It is advisable that these special and general orders and likewise the various special orders be united according to definite procedures and principles and depend upon each other, and that each have need of the aid and counsel of the other. Then, it is advisable that each order be restrained within its own limits so as not to be able to injure another, and that each have definite remedies whereby one may

7. See the analysis of the legislative authority the magistrate possesses, Chapter VI, above. The distinction between Diet and magistrate is not introduced as a purposefully organized system, but as an empirical imperative deriving from the characteristics of large groups.

8. xxv, 66.

be guarded against injury by another. Namely, that the ambition of the ecclesiastical order, the insolence of the equestrian and the license of the plebian order may be restrained and the injury of one against the other may be forestalled.⁹

Althusius comes to the same conclusion as Locke on the empirical question of the effects of power on man.¹⁰ But this applied principle, let us say his constitutional principle, is not that of limitation of power by its dispersion, but that of limitation by the participation of all in its exercise.¹¹ Consequently his "causal" theory is that there is a predictable relation between participation in power and the formulation of just law. The precision of his thought is revealed in the meticulous way in which he identifies the circumstances within which participation will produce the predicted just formulation which he seeks: in the circumstances of symbiotic life under the guidance of an elite.

Each of these aspects of his thought could be examined

9. xviii, 113. See also, the treatment of dual sovereignty, Chapter VI, above, for the application of the participation principle to the authority of the magistrate.

10. See the argument for the existence of Ephors, xviii.

11. We shall look at this more extensively in the next chapter. See the analysis of participation in Chapter IV, above. The participation element may be seen by comparing Althusius' willingness to permit two estates to carry the day in the Diet, with Calhoun's use of the same method of representation to achieve an effect of limitation by veto. See the latter's analysis of "concurrent majority," A Disquisition on Government, Political Science Classic (N.Y., 1947).

and tested for their truth and validity. And if it were discovered that substantial error exists in any element, then the total thought of the Politica would be invalidated. In the course of our analysis, however, there has been an implied approval of the values and the empirical data Althusius considers to be relevant to his problem.¹² Consequently, at the close of our treatment, it will be much more useful to attempt some further evaluation of Althusius' thought. Therefore, instead of attempting what seems to be the self-defeating venture of subjecting this total system of thought to logical analysis, we shall attempt to examine Althusius from the point of view of the perennial and inherent elements of the problems he raises. Although an earlier writer may not legitimately be read to discover a solution for modern problems, he may be read to discover his solution to the problems of the science itself, at least to those problems which, on his own showing, he may be questioned about. This requires that between the reader and the author a "conversation" occurs. The reader must inquire of the author whether he is consistent, and whether he has really

12. In view of the influence of the relevant situation analyzed in Chapter II, above, it does not follow from this approval that the writer thinks the conclusions of the Politica should be applied immediately to modern life. They should be applied only to societies that realize the social situation Althusius supposes. Moreover, in view of the logical problem involved, approval of each factor separately does not ipse facto involve the acceptance of the causal theory upon which they are integrated.

solved the problems he himself raises.¹³ But, in return, the reader must be willing to criticize his own thought in the light of the writer's insights.

The first major point at which a critically significant element in Althusius' speculation is found occurs in his conscious struggle to keep political science distinct from the science of ethics. He is quite explicit on this point:

I have observed that according as each of these teachers of politics was devoted to this or that discipline, he brought from his own science into ours much that was inapplicable and foreign to it. ... Among the philosophers I noticed that from ethics they selected many ethical virtues with which they wished the citizens and prince to be adorned.¹⁴

Therefore, to the extent that the content of law and the decalogue is theological, ethical or juridical, and lends itself to study by those sciences, to that extent those sciences hold as proper to themselves the things they take for use from the decalogue and the law. But to that extent also, I have nothing to do with the content of the decalogue and the law, considering such matters to be foreign and extraneous to political science.¹⁵

As is evident from the analysis thus far, both his explicit theory concerning the science and his practice of it indicate that political science is formally concerned with organizing political processes and, to that extent,

13. The attempt is to discover what Easton calls the "general equilibrium" of a theory, The Political System, pp. 268 ff. This seems to involve more than Sabine looks for in his application of "appropriate tests."

14. Politica, p. 1.

15. Ibid., p. 7.

is not formally concerned with the ethical problem of making men good. Our point is that he draws a clear, albeit an extremely delicate distinction between these two sciences both of which are evaluative and normative. Our point is not that Althusius' politics is value-free;¹⁶ this, at least in the thought of the Politica, is not involved in the idea that politics is not ethical in its formal point of view.¹⁷ With regard to this latter point,

16. While Althusius keeps value-free in his empirical observations, he does not by any means admit of a value-free use of these observations. He emphatically denies the Machiavellian concept of statecraft as characterized by Herbert Butterfield, The Statecraft of Machiavelli (London, 1940), p. 105: "It may be said that the discussion of the problems of morality does not concern a handbook of practical statecraft, a collection of technical precepts; for the author may be presumed to be arguing: 'If you desire this end it is essential that you should use this method,' and he is not to be taken as necessarily approving the postulated end, unless the mere selection of this point for treatment may be argued to constitute a kind of approval."

17. A major source of confusion in a discussion of this kind is found in the meaning of the term "ethics." With regard to the nature of ethical thought, Felix Kaufmann, "The Issue of Ethical Neutrality in Political Science," J. of Pol., XI (1949), points out that those who equate ethics with "subjective preference" must automatically exclude it from any scientific study of action. But among those who agree that ethics achieves objectivity in its speculation, there is a great deal of disagreement on the question of what the science speculates about. Barker's position that any study of ends is ethical, i.e., pertains to the science of ethics, means, as he shows, that politics is a part of ethics. See his introduction to his translation of Gierke, Natural Law, pp. xxvi-xxviii. Maritain, Man and the State, p. 62, holds that politics is a branch of ethics because it studies the subordinate end of man, the common good, while ethics (moral theology) studies the ultimate end of man. This, it seems to me, does not express the thought of Althusius precisely because

the meaning of the term "value-free" is difficult to fix clearly. At any rate, it is clear from Chapter II above, that the science of politics is not for Althusius a purely empirical science, and this meaning of the term "value-free" is clearly excluded.¹⁸ If Althusius' ideas are compared with those of David Easton in his The Political System, it would seem that the two are in substantial agreement; although Easton's analysis is far more sophisticated than Althusius'.¹⁹ In one sense, therefore, the science of the Politica is value-oriented rather than value-free.

There is another meaning of value-free, however, that lacks the crudity of the first meaning indicated above. And it is with regard to it that the ultimate precision in the meaning of value-free and value-oriented can be established. Willmoore Kendall has given us one of the more sophisticated

it does not identify the formality under which this common good is studied, i.e., not as to its content, but as to its existence. Cassirer, Myth of the State, thinks Plato distinguished ethics and politics in terms of the object of rule. Here he approaches Althusius' idea, but in doing so makes ethics the science of governing self. See p. 77: "Ethics shows us how to rule over emotions; how to moderate them by virtue of reason and temperance. Politics is the art of unifying and organizing human actions and directing them to a common end." Our point here is not to decide who is right, but simply to identify as accurately as possible what Althusius' position is.

18. It is a meaning proposed by G. Catlin, Science and Method of Politics, and by Harold D. Lasswell, Politics, Who Gets What, When, How (N.Y., 1936)

19. pp. 223 ff.

attempts to define this meaning of the term. At the fine point of its meaning, his interpretation seems to depend essentially on the assertion that the values which government seeks are not what Althusius would call a "homogeneous" part of the science. The political scientist, on this showing, is prepared to establish processes for any number of value orientations. Thus Kendall says:

For the task of political theory vis-a-vis the problem of the method of making community decisions is, though distinct from, parallel to its task vis-a-vis that of the standard of legitimacy; it must identify and analyze and compare and contrast the alternative methods of making decisions among which a community must choose and, at the margin, must show which method is indicated on this or that value-premise or set of value-premises, i.e., it must confine itself to judgments regarding the relation between this or that value-premise (on whose validity it has, qua political theory, no means of pronouncing) and this or that method of decision-making.... It must therefore, treat the majority principle as one of an indefinite number of alternative methods of decision-making that a community may use for the making of such decisions as it is going to make, just as, shall we say, economic theory treats the pricing 'principle' as one of an indefinite number of alternative methods that an economy may use for deciding how to allocate its factors of production among those goods and services it is going to produce.²⁰

As a concrete example of what he means, Kendall tells us that "Rousseau's methodology is unexceptionable from the point of view expressed in this section."²¹ Now this

20. "Prolegomena to Any Future Work on Majority Rule," J. of Pol., XII (1950), p. 708.

21. Ibid., p. 709. In the same issue of the Journal, an article by Dankwart Rustow, "Some Observations on

idea was elicited in rebuttal of an article by R. McClosky.²² The objection to the article is that McClosky attempts to base politics on ethics to the extent that as a political scientist he attempts to establish content norms for just law. Now, if we compare Althusius' position with Kendall's, it would seem that Althusius agrees that the political scientist is concerned with process rather than with content. But Althusius would disagree that the political scientist, at least on fundamental processes, is permitted by his science to consider "an indefinite number of alternative methods of decision-making." The Politica proceeds on the premise that there is one proper process for symbiotic life. Althusius is concerned with one kind of group only, and this group is defined in terms of the ethical content of its objective as well as in terms of the type of unity it achieves. The processes he sets up are calculated to preserve the unity of a society that seeks the values he defines. Thus to the extent that Althusius excludes ethics from his science, he agrees with Kendall, but to the extent that he insists that politics is concerned with a definite set of values,

Representation" is projected on this idea of the role of the political scientist. As another example, it seems to us that to the extent that Lindsay is willing to accept his value-premises from the society he studies, he must also subscribe to the Kendallian conception of the value-free quality of political science.

22. "The Fallacy of Absolute Majority Rule," J. of Pol., XI (1949)

he disagrees with Kendall.²³

Thus although politics is not ethics, it does seek values, specifically the value summarized in the term symbiosis. It is evident from the definition of political science that politics is formally concerned with the "purely" political problem of the existence of this symbiosis.²⁴ Its preoccupation is with the establishment and preservation of social life. The strategic quality in this end is that it is not sought as the final end of human action, but as a means to such a final end. Politics is not concerned, as is ethics, with the terminal point of human action. Moreover, by virtue of this definition the means through which politics realizes its purposes are fixed. Politics is not concerned formally with the content of human action but with its organization into processes and institutions. The preservation of social life is realized by preserving unity. This unity is preserved by the integration of the actions of the members of the group. Now Althusius does not seek such integration by deciding himself what the group should do, but by organizing processes which, it is declared, will enable the group to achieve a single decision, and so

23. Basic to Althusius is the idea that there is a law of structure which is determined by the nature of things. See Gierke, Natural Law, I, 39.

24. See Gewirth's analysis of Marsilius of Padua, Marsilius I, 83 ff. and I, 275.

integration of action, in any course of conduct they may pursue.

A conscious avoidance of entanglement in the question of the ethical content of law is indicated in many ways. The most impressive of these is that although he is clearly a natural law thinker,²⁵ who on the definitional level defines positive law in terms of its conformity to natural law, i.e., in terms of its content, still, he does not attempt to decide what that content is. On the operational level, law is defined in terms of its source. That is, law -- a morally binding directive -- is whatever the group assents to by constitutional processes.²⁶ This seeming indifference to content led Friedrich to conclude that "the so-called law of nature is not a predominant aspect of Althusius' thought."²⁷ This conclusion is drawn from the observation that Althusius recognizes a "virtually unlimited"

25. xxi, passim, makes clear beyond all doubt that there is a natural law which must be grasped by human reason. For further passages in which objectivity rather than simple will is regarded as the decisive element in law, see the proposition that liberty is restricted to the good, xxi, 21-22. See also xxxviii, 72. At xxiv, 46, Althusius speaks of the degree of the knowledge of natural law. At xviii, 42, just law is equated with conformity to natural law.

26. Government is the only source of unjust law in the operational order. The group can be wrong, indeed the reason for leadership is that the group is seldom perfectly right. But granted the consensus situation, the group mind always represents the judgment of conscience and so is morally binding.

27. "Introduction," p. xcvi.

power of the community.²⁸ Friedrich seems to think that this unlimited power in the community is in direct conflict with another principle in the Politica: that the ten commandments, i.e., natural law, is part of the constitution.²⁹ It seems that Friedrich has confused the philosophical and empirical levels of Althusius' thought. On the former level Althusius is clear that sovereignty is limited by natural law.³⁰ But the precepts of natural law are not part of the constitution in such a way that the political scientist can determine their specific meaning for a given society. The mind of the group makes this determination through the sovereign power. There are no general truths in the ethical order which every constitution must have because they are true. The constitution is an organization of empirical data on the basis of a causal theory about the relevance of that

28. Ibid., p. xcvi

29. Ibid., pp. xcvi-xcvi. It must be remembered that the constitution expresses both the ratio vivendi and the modus imperandi. Althusius' point is that there is a modus imperandi which alone is the right one and the political scientist can identify it. With regard to the ratio vivendi, the precise content of it certainly limits government. But that content is determined by the group, not by the political scientist. Moreover, it can change whenever the group's mind changes. There is no constitutional limitation on the ultimate authority of the people. xix, 29, suggests that the contents of the "Golden Bull" are acceptable constitutional provisions. They are mostly concerned with the modus imperandi.

30. This is the major premise for chapters xviii and xxviii. But it is significant that violation of natural law by government is synonymous with violation of the popular mind.

data to the values authority seeks. The problem of the Politica in this area is precisely that of reconciling the empirical imperative that the community determine what is just with the theoretical proposition that equates law with that which conforms to the ontological imperatives of nature.

This is not to say that the political scientist is indifferent to the content of law, but simply to say that it is not his function to determine what is just or unjust. In his interpretation of elite functions we have Althusius' deepest penetration into the question of content. And here also, we have the clearest example of his non-ethical approach to the problem. Althusius evidently thinks the people alone would not do a very good job of lawmaking, either from the ethical point of view of the conformity of legislation to natural law, or from the political point of view of the aptitude of legislation to preserve social life.³¹ His solution is not to do the job of legislation himself, but to utilize the empirical facta concerning elite rule for the purpose of enhancing both the moral and technical excellence of the law.

31. Althusius would agree with Rousseau that the will of the people is always right, but for the reason that the people intuitively grasp the first principles of justice. This is made clear at xxi, 9: "From the knowledge impressed on man by God, which is called conscience, man knows and understands the law, as also what must be done and omitted in order to obey this law." This for the ethical aspects of life. For the political, the people also intuitively grasp the outlines of political structure, xix, 21.

That is, he sets up a process to solve the problem of content.

As a final observation on this point of Althusius' ethical neutrality, it might be remarked that in his handling of the right to revolt, the operative norm he accepts is that the government may be ousted when it acts contrary to the mind of the people. This holds even though he thinks that the objective norm of unjust government can be found only in natural law and revealed truth.

When Althusius is handling the processes of decision-making, he successfully hews to the non-ethical line of thought which he marks out in his explicit definition. But it is questionable whether he always succeeds in keeping the ethical and political points of view distinct in his treatment of the definition of freedom. As was pointed out in Chapter II above, freedom involves a certain content, as well as a modality of action. This content, which can be handled from the political point of view as the qualities of the relevant situation, tends to get treated frequently from the ethical point of view as qualities perspective of the individual.³² The reason for this shifting of formalities

32. For this tendency to lump ideas together, see i, 30: "The end of politics is the enjoyment of a fitting, useful and happy life, and the common welfare.... The end also is the conservation of human society, the end of which is to enjoy a life in which man can serve God in peace and without error. The subject matter of politics is the precepts concerning the sharing of certain goods, works and rights which each contribute to the symbiosis and common welfare of social life."

is not to be found in sheer forgetfulness or inattention on Althusius' part. Rather, it is to be found in the delicacy of the distinction between ethics and politics and in the consequent struggle needed to stay within the limits of the distinction. The fact is that the values of ethics and politics, while formally distinct, meet and unite in re. The distinction between them cannot be established simply by saying that ethics is concerned with the content of the good life and politics with the organization of social life. In Althusius' thought there are points where the two meet because ethics is concerned also with the qualities of ideal social life, while politics is concerned also with certain virtues constitutive of the good life. In the total thought of Althusius these two considerations converge on one another.

There are two points at which such convergence produces seeming identity. In both cases the integrating factor lies in Althusius' conception of the relation between man and society. First, the objective of establishing and preserving social life means, in the context of the Politica, the establishment and preservation of the situation that makes ethical life possible. In this sense, therefore, politics is a science that implements ethics. But this obviously does not mean that the terms "politics" and "ethics" are interchangeable. Politics is not the social branch of ethics. Rather, it is a science that man elaborates when

he discovers that social life is too vital a thing to be left to chance. Once he becomes aware that the life of virtue, "is possible only in a communal group...he begins to think about the means whereby such a communal group, from which he expects so much utility and fruit, may be developed and preserved."³³ When this thought is organized so as to be "general, concerning those things which apply always and everywhere and can be adapted to all situations,"³⁴ then it is the science of politics. Without political science, ethical life would be possible, but it would be insecure and limited.³⁵ "Beyond all doubt, man is a gregarious animal by nature, born to live in society with other men.... For how can they (hermits)...perform the works of charity toward others, when they live outside the intercourse of man? How can they build churches and fittingly fulfill the duties of the first table of the law? Therefore...political science realizes the purposes of all other sciences to their last degree."³⁶ Political science implements ethics only in the

33. i, 4.

34. xxxix, 85. He begins the passage: "I do not think special teaching necessary concerning the individual political situation.

35. As Aristotle suggests at the close of his Nich. Ethics, since the virtues he has examined in this work can be realized only through social life and the discipline of laws, it now becomes necessary to study this science of politics to insure a civil society suited to this task.

sense that it makes ethical life possible, not in the sense that it determines what the good life is and directs authority according to its conclusions.

The second point of convergence brings the two sciences into even more intimate a relationship. The political task of preserving social life involves the preservation of certain relationships among the members of the group, relationships that have value even from the purely political point of view: those of consensus, temperance and fraternity. Here especially, it seems that political science is simply the applied science of ethics.⁵⁷ But here especially, Althusius tries to make it clear that his political science, which advises the government concerning methods of preserving consensus, fraternity and temperance among the people, is distinct from the science of ethics, which establishes fraternity

37. Gierke, Development, p. 33, here draws the "applied science" conclusion: "Each science must solve its own problems by its own means; the solution of prior questions must be taken from other sciences. Thus, philosophy and theology lay the groundwork of politics, as it is their province to establish the moral law of nature and the revealed command of God; but the application of the moral law, including the decalogue, to social life is a matter of politics." Rommen, The State in Catholic Thought, p. 47, states the same idea: "We therefore hold that political philosophy and even political science must deal with what ought to be as the basis for politics, which is a system of human acts to realize by good or bad means a good or bad end." It has been said that "only a moral idiot would say that politics is absolutely indifferent to morality." But this does not mean that every moral science must be the science of ethics. We hope to indicate below the difference between government and the science of politics which can avoid the confusions evident in Gierke and Rommen.

and temperance as moral values perfective of the individual man.³⁸ The political scientist, that is, even when he restricts himself to the analysis of the real personal and psychological relations that constitute social life or communio, posits as the end of governmental activity the fostering of the very qualities that ethics proposes to government as constitutive of the good life. And the question necessarily arises: are the findings of political science, on the basis of social analysis, ethical in character? Althusius, when he is thinking most clearly and specifically about this point, handles the difficulty by drawing a distinction between ethical values and psychological qualities.³⁹ The distinction may be described fairly as

38. Aristotle made this distinction too. F. Pollock, An Introduction to the History of the Science of Politics, rev. ed. (N.Y., 1911), p. 15, Aristotle, "made the capital advance of separating ethics from politics." Yet Mellwain, Growth of Political Thought, pp. 55, 61, 63, is not sure about the distinction because the virtue of friendship is the link between Aristotle's Ethics and Politics. Aristotle himself remarks, Politics, Bk. III, ch. ix, 1280b, that the state develops virtue in pursuit of its political aim of preserving social life. The two objectives are distinguishable.

39. See his two Prefaces to the Politica. The psychological aspect becomes evident when one considers the viewpoint from which Althusius approaches the study of politics. It is, i, 2: consociation, in which...the symbiotici mutually obligate themselves to share...the things useful and necessary for the intercourse and fellowship proper to social life." The difficulty in reading Althusius on this point lies in the fact that when speaking of social qualities as the object of governmental action, he speaks of them as if they were ethical qualities, his argument being that government should lead men to their goals. But when he speaks of

one between virtue considered as a moral good perfective of man, and the same human quality considered as a psychological quality constitutive of social life. The ten commandments, for instance, pertain to politics to the extent that they are necessary for the symbiotic life of union. Politics considers temperance, fraternity and certain other virtues as factors of integration necessary for corporate action in society. The thing is the same, but one science regards it as a moral value and the other as a psychological bond among men and, by that token, the basis of the political process.⁴⁰ The distinction is clear:

moral qualities as the object of political study, he fixes attention upon their psychological aspects. This latter approach is evident in his advice to the magistrate on ways of developing these qualities in the citizen. He sees the problem as one of integrating temperaments, habits and emotions. The difference is that between developing virtue and developing harmony and concord, between making men good and getting them together. See xix, 23; xxiii, 14, and xxiv, 14, for the latter approach. The stress is on unity even though this be achieved on a moral level lower than the ideal, an idea expressed frequently throughout Althusius' work on the art of governing. Political science posits purposes, but to the extent that these are regarded as perfective of man rather than of symbiosis, their analysis pertains to ethics.

40. Barker identifies this psychological approach to political theory, in his Introduction to Gierke, Natural Law, p. xxx: "Psychology can take us into the dim country which lies behind the conscious intellect -- the country of emotions and instinct in which there rise so many of the springs that run through social life. This is a contribution of clear and definite value." This approach is evident in the frequent places where Althusius follows the Bodinian analysis of temperament and where he stresses the need for common customs, habits and the like. It is also evident in his frequent warning to the magistrate that he must adapt himself to the customs and habits of the people.

For the matter of the decalogue is also political to the extent that it directs the symbiotic life and proscribes what must be done in it. For it teaches the pious and just life. Piety toward God, justice toward fellow members of the group. If the symbiosis lacks these qualities, it will not be called so much a political and human society as a bestial assembly of evil men.... Both lawyers and ethical scientists handle the matter of both tables of the decalogue. In a way, however, that is fitting for and in conformity with each art and profession, so that the purely theological is not confused with the political. As therefore, the general teaching of the decalogue is essential, homogeneous and necessary in politics, so the special and particular doctrine accommodated to the single and individual sciences is proper to jurisprudence. Theology, which is the guide to Christ, rightly claims for itself the pious and salutary doctrine of the decalogue conducive to eternal life.⁴¹

Political science, that is, should approach the problem of human behavior in an independent way. It is concerned with human relations not with ethical goals, with the inter-relatedness of man not with his personal orientation to the good life.

The difficulty inherent in a strict adherence to such precise formal points of view is enhanced in Althusius' thought by a further difficulty in keeping distinct two meanings of the word "politics." For "politics" can be taken to mean government or the governing process, or it can be taken to mean the science that studies political activity with a view to organizing it for certain value ends, i.e., "the science of uniting men so as to preserve

⁴¹. xxi, 40.

social life among them."⁴² Government, understood in its widest sense, to designate the total process of lawmaking, is clearly an ethical activity in Althusius' view.⁴³ His conception of political science does not require that law itself be ethically neutral. On the contrary, it is evident from his conception of law and the scope of authority that law is, or tends to be, the guide to right conduct for citizens. It is the ratio vivendi of the group; the expression of the group's moral judgment about every aspect of life. Indeed, it is through law that we learn to distinguish the just from the unjust. It is the specification of the ten commandments.⁴⁴

Government, therefore, in its broad sense of the activity of the magistrate and the people, is occupied with the ethical task of making men good. Ethics and theology should a great deal to say about the content of the law to the extent

42. i, 1. For instance, which meaning of "politics" is intended in the following statement of Niebuhr. Moral Man and Immoral Society, p. 171: "The realm of politics is a twilight zone where ethical and technical issues meet?"

43. The reason why authority is necessary is not ethical at all, see Chapter III above. Authority is necessary for the purely political reason that it is a necessary means to social order. But granted the process of social decision-making, then all the ethical norms that govern the individual, with few exceptions, also govern the group. As we indicated in Chapter VII above, in the Politica, authority is religious as well as civil and must follow the norms of revealed truth as well as those of reason. The law teaches and begets virtue, x, 8-9; xxix, 5, 20 ff.

44. See ix; xix, 49; xxi, 16 ff.

that they educate both people and magistrate to a knowledge of the good. Thus, when Althusius considers the activity of governing, he agrees with the Greek-medieval tradition: "As Thomas says,..to govern is to lead that which is governed to its proper end by suitable means. Therefore, it pertains to the office of governor not only to preserve the object governed from harm, but also to lead it to its end."⁴⁵ It is government, not political science, that applies the principles of ethics.⁴⁶

But government or politics also has a "political" orientation and a "political" problem to solve, a problem that is not ethical but technical: the problem of "weaving men together." Here formal attention is fixed not on the individual but on the group.⁴⁷ It is this problem considered under this point of view that political science handles. Where ethically good law depends on the science of ethics,

45. i, 13. See also, i, 23; xix, 23; xxiv, 44. Illustrative of the difficulty of keeping clear on this point is the fact that these passages by the force of the words alone do not necessarily refer to ethical functions. It is only in the context that this meaning is clear.

46. It seems that most statements to the effect that politics is applied ethics derive from this view of the activities of government. The premise implicit in the conclusion drawn is that political science studies government from the point of view of all the problems that confront it.

47. And here the technical problems arise. See the treatment of political prudence in Chapter VI above. See also the suggestive treatment of prudential regnativa in Aquinas, Summa Theologiae, II-II, 47, 10-12 and 50, 1-2.

politically good law depends on the science of politics. Thus, the magistrate must possess two types of knowledge: (1) ethical, whereby he knows the just and unjust and (2) political, whereby he knows men in their habits, actions, attitudes, expectations and in every other way that affects the problem of integrating action. Althusius considers it to be within the province of the political scientist to instruct the magistrate in this latter part of the art of governing. The problem of keeping clear on this point is intensified by the terminology Althusius uses. For he uses the term scientia politica to designate the knowledge necessary for the prudentia politica the magistrate needs to preserve the social order. Scientia politica organizes, not the content of the law, but the methods and processes involved in making it. "Nothing is more difficult...than to administer and rule a kingdom well.... It is the art of arts and the science of sciences to rule man."⁴⁸ The difficulty lies in the unruly nature of man. And "only political science cures all these inconveniences. From it one must learn how and at what time he should rule the helm of the ship of state."⁴⁹

48. xxi, 7.

49. Ibid., 7. At 10 ff. Althusius outlines the things the ruler should know. See also, xxix, 12, where Althusius discusses the uses of severity and benevolence from a technical point of view. xxvi, "On the Practice, Experience and Judgment of the Magistrate," illustrates this point.

If Althusius had defined his science so that it was completely indifferent to the objectives of group action, he would have avoided this difficulty. The modern argument for a value-free politics, i.e., a non-moral, purely positivistic and descriptive science, is based on the contention that the political scientist is simply an expert in the knowledge of process who can establish processes for any group, no matter what its purpose. As political scientist he is not concerned with right or wrong or with ends, but with efficiency. Althusius cannot accept this way out because he is aware at every moment of the relationship between process and end, and because he defines his science so as to concentrate it exclusively on groups devoted to certain ends. This does not mean, be it noted, that the science determines what ends every group must seek, but rather that the political scientist confines his attention to groups that set themselves certain specific human ends.⁵⁰

Had he defined politics as a practical science devoted to influencing human action toward the goal of human

50. Althusius does not deny the existence of actual states in which the ruler seeks other ends. Rather he insists that such a condition is non-political and can be "handled," from the standpoint of political science as he understands it, only by revolution or expulsion. His thought is tied to a defined situation. Authority, for instance, is both a right and a duty; a right to command and a duty to serve the community by exercising command. If this relationship is replaced by one based on power, the situation removes itself from the purview of his science.

perfection, he would have given us a moral science, or at least a sub-science under ethics, devoted to the direct execution of certain ethical mandates in the context of social life. As we have seen, however, his science, though indeed practical, is devoted to the organization of the processes men must employ to achieve corporate action. One must not be misled in this connection by the term prudentia in his work, for it does not mean at all that his politics is an instrumental science serving ethical mandates. Althusius' kind of prudence is intended to solve the problems of leadership in a free society and under a sovereign people. Thus the distinction between ethics and politics in those sections of the Politica in which the line of distinction is least blurred is this: ethics is concerned with values and their acquisition in the case of the individual man; politics is concerned with the preservation and organization of social life. But this does not get around the difficulty that the activity which politics organizes is essentially ethical and the ends it sets itself are only formally distinct from those of ethics. Everything depends on Althusius' ability to keep strictly to the formalities of his thought. He generally succeeds; but at times we find him reasoning from the amalgam rather than the distinction.

It would seem, in the light of the above analysis, that the political science upon which the Politica is constructed can, in its total sweep, by no means be called

value-free. Politics must be classified among the moral sciences because it directs and organizes human action.⁵¹ But it is neither adequate nor accurate to identify it as the science of applied ethics. The values sought are "political" even at the extreme margin where the difference between ethical and political hangs upon the formal point of view proper to each science. We have suggested that in defining freedom Althusius confused these two points of view to a certain degree. On the empirical level, however, he is completely consistent. To point up and summarize these reflections, it is important to note that the basic political theory which supplies the framework and directive principle for Althusius' empirical work and for everything except the first principles of his philosophical work, is found in a general and unexpressed conception of political science that lies behind even his express definition of the science of politics. The material object of political study is, for Althusius, human activity insofar as it is a value-seeking activity. This, of course, would make politics

51. Not because it deals with an ideal situation. Barker, The Politics of Aristotle, p. lix, seems to identify ethical with ideal and comes to the conclusion: "Their (Plato and Aristotle) philosophy is mainly ideal, because it is ethical and because an ethical philosophy must deal with the ideal." We attempted to show that this situation, quite true as Barker states it, is responsible for the technique of the relevant situation and ideal state in the Politica. See Chapter I above. But for accuracy in determining the position of Althusius, one should say that his philosophy is ideal because it is political.

the only moral science unless further distinctions are made. The formal object, or the formal point of view, that distinguishes politics from certain of the other moral sciences is found in this, that politics studies value-seeking activity only to the extent that in the pursuit of the vita pia et iusta man discovers that he must integrate his activity with that of his neighbor. The ultimate specification of this science is found in the fact that this communal activity becomes an immediate goal for human activity insofar as man must consciously solve the problem of integrating free human action.⁵² The question the political scientist must answer is not what is the good life or what kind of action achieves it, but rather how should man organize the authority necessary for communal action so as to insure the successful realization of such action. One of the most difficult and complex terms in the science of politics is that of "the common good." For Althusius, "common good" means social life itself, the situation characterized by communio and communicatio.⁵³ There are other legitimate meanings for

52. The "political act" for Althusius is that of communicatio. See Ludwig Freund, "Power and the Democratic Process," Soc. Res., XV (1948), pp. 327 ff., for the importance of fixing the meaning of "politics." Freund objects to the habit among academicians of defining their own activity and the field of their study but neglecting to define the object of that study: political activity.

53. As Friedrich puts it, "Introduction," p. lxiv, for Althusius, "politics is concerned with the problem of human relations." (Italics added)

this term, but this is the only one with which the political scientist is concerned.

Among the members of the fraternity of political science the vital problem of methodology has moved into the forefront of speculation and discussion. The debate is carried on either as a discussion of the general problem of methodology in the science,⁵⁴ or as a more specific disputation on the question, whether political science is value-free.⁵⁵ Easton remarks that in a methodology postulating specifically political values, the task of defining these values in a politically relevant way is an art. As such, it can be learned by examining the way in which the art has been practiced in the past, i.e., by studying past political theorists from the point of view of their methodology.⁵⁶ We submit that in Althusius one finds a political theorist who consciously held a conception of methodology in his political science and made a determined and largely successful effort to apply it. His thought thus becomes immediately relevant to the present status of the science. There comes a point at which speculation about

54. The questions asked by such men as Easton, Kaufmann, Pennock, Sibley and Strauss.

55. Professor Francis W. Coker has supplied us with an invaluable organization of this debate in his recent article, "Some Present-Day Critics of Liberalism," APSR, XLVII (1953). The bibliography cites all the essential writing on the subject.

56. "The Decline of Modern Political Thought," J. of Pol., XIII

methodology needs renewing by the examination of a practitioner of the science. If Althusius has any light to cast, it will certainly be found in the quarter we have attempted to uncover: the question of the relation between political science and ethics. The value of his position is found in his contention that even when law and moral life are thought to be coextensive, the science of politics can be developed without formal dependence on the findings of ethics. Moreover, he challenges modern thought with his conviction that a non-ethical science of politics is not by that fact a value-free science. And in the light of the call to values raised in political journals every quarter of the year, this contribution may prove to be extremely significant.

Chapter IX

FREEDOM AND PLURALISM

While the first point of critical significance in the Politica was found in a problem with which Althusius consciously struggled, the second may be found in one concerning which he does not seem to have been aware.¹ We find this second point of significance in Althusius in the thought that lies behind his use of a pluralistic structure to achieve the participation considered necessary for voluntary, uncoerced action under law. The challenge in that arrangement lies precisely in an assumption which Althusius never examines, but upon which his solution to the general problem he proposed to himself depends. Namely, he asserts without explicitly demonstrating the possibility, that a pluralistic social order can exist which is both sovereign in its powers and positive in its functions. The tension in the idea derives from the fact

1. It is perfectly legitimate to raise this type of question concerning a writer, provided only that the problems it exposes are latent in the writing and not mere preoccupations of the reader. The reason for this would seem to be that there are certain problems inherent in each part of a science. If a writer presumes to treat of the science in such a way as to raise the problem, even unconsciously, he may legitimately be asked whether the solutions he reaches respect all the elements in that problem.

that the pluralism through which he attempts to achieve the access and participation he considers necessary for freedom, comes into polarity with the scope of authority he considers equally necessary for freedom. There exists, that is to say, a complicated set of tensions between these two aspects of Althusius' thought. These tensions, moreover, are not due to accidental features or inadvertences in the ordering of that thought; they emerge from the deepest roots of his organization of a value-implementing science. For the tension here is not between principles, nor between levels of thought, but between a complicated set of imperatives deriving from the problem of implementing the value of freedom. An analysis of them will reveal the last facet of Althusius' thought and the peculiar relevance that thought has to modern discussions of the problems of freedom and pluralism.

The problem begins with Althusius' assertion, which will be analyzed later, that freedom is possible only if authority extends over the whole life of man. Having by this assertion committed himself to finding freedom in participation in, rather than in limitation of authority, Althusius is further committed to the task of discovering a process whereby participation may be achieved adequately enough to insure the conformity upon which his solution to the problem of freedom depends. With regard to this process, his basic assertion is that it must be founded on the

pluralistic structure of society. In view of this position the problem of pluralism, which is traditionally formulated in terms of a tension between the decentralization and the concentration of authority in the sovereign state, must now be reformulated. As far as the thought in the Politica is concerned, the problem of pluralism becomes a problem of reconciling the imperative of freedom that authority be unlimited, with the imperative of pluralism that authority be decentralized. Thus, tension exists between the two basic lines of thought in the Politica: that concerned with the scope of authority and that concerned with the organization of authority.

The issue that is raised here is not whether the principle of participation will solve the problem of freedom; nor is it whether the processes of representation based on group cohesiveness are of themselves suitable means for the realization of the participation upon which Althusius leans so heavily. Rather, the issue is whether the pluralistic structure through which Althusius seeks to implement freedom is compatible with the scope of authority through which he also seeks to implement freedom. The basic idea from which this tension grows is the one upon which his entire system of politics is organized: communicatio or mutual sharing. With regard to the decisional process, a citizen must participate in the making of every decision that affects him: "what touches all must be approved by all." In considering

the inter-relatedness of man, Althusius concludes that this corporate reaching of decisions must cover every aspect of life; thus, the all encompassing scope of authority. But when the group reaches the state level the problem of organizing a process that permits all to participate becomes acute. Althusius organizes such a process on the basis of pluralism. And since the ultimate group is also the sovereign and unlimited authority, the question arises whether such a process can coexist with such an authority, that is, whether these two imperatives of freedom are mutually incompatible.

Althusius thinks there is no incompatibility, and the evidence for this position can be gotten from his thought even though he does not consciously organize it on this point. The critical significance of such a position becomes evident when one considers that modern political thought centers about the problem of freedom and structure in formulations that fit easily into the categories of thought found in the Politica. Unfortunately, until almost the present day the tendency has been to discuss the definitional problems of freedom without fully integrating them with the structural aspects of the problem, and to analyze the structural problem of pluralism without fully exposing the theoretical aspects of freedom that are relevant to it.² And it is the critical

2. This situation seems to have occasioned much of the writing of men like Easton and Pennock who are so concerned with the problem of integrating philosophical and empirical data in the formulation of theory.

function of Althusius to point out precisely how the problem of implementing freedom gets involved in the problem of the scope of authority and pluralistic structure.

Certain lines of development in modern thought are particularly relevant to this point.³ In the beginning, with the democratic revolution the central problem of the democratic movement was to provide for protection from governmental oppression. The formulation of the problem of freedom was caught up in the reaction against the absolute prince and the mercantilist state.⁴ Freedom, it was thought, was assured when government was made responsible. Consequently, laissez-faire theory and limited-government constitutionalism were the solutions.⁵ Then it was discovered that oppression arises from sources other than government, and that authority must be used to protect minorities from majority oppression.⁶

3. It would be difficult, of course to indicate writers who were exclusively concerned with any one of these elements. We mention these lines of thought without suggesting that they are the only ones in the Western tradition. They are, however, the ones with regard to which Althusius has a critical significance.

4. V.g., in England, the Levellers and, more moderately, Locke; in the United States, Jefferson and John Adams. The classical economists are part of the movement.

5. The movement reached its peak in Spencer and the Spencerian period of the United States Supreme Court. In this period the individualism developed by the utilitarian theory becomes clear and unabashed.

6. This awareness seems to have motivated the Jacksonian and Progressive movements in the United States and the Reform Movements in England. It modified the individualistic liberal tradition only from the Great Depression onward.

This lesson of experience profoundly confused thought because its immediate conclusion -- that governmental authority must be expanded -- came into conflict with the earlier position which was not abandoned: that government is dangerous. Thus, the classical liberal tradition faced a dilemma: to expand authority in the interest of justice or to limit it in the interests of freedom. This dilemma was complicated immeasurably by the fact that social justice involved the creation of the administrative state with its special problems as regards responsible government and decentralized authority.⁷

Now behind this line of thought there was a conception of the competitive individual and the coercive state that was largely responsible on the theoretical side for the tension between freedom and authority. And in proportion as it was actualized in society, it was largely responsible for the social situation that made the problem of freedom so pressing in the practical order.⁸ The problematic

7. For a brief outline of the historical evolution of the administrative state, see Ernst Barker, The Development of Public Services in Western Europe 1660-1930 (N.Y., 1944). For an outline of the theoretical implications of thought on the administrative system, see Ralph Waldo, The Administrative State; A Study of the Political Theory of American Public Administration (N.Y., 1948).

8. See such writers as Ortega y Gasset, The Revolt of the Masses (N.Y., 1932), S. de Madariaga, Anarchy or Hierarchy (London, 1937) and Karl Polanyi, The Great Transformation (N.Y., 1944).

within which solutions were sought was that of the isolated individual versus the monistic sovereign state. And it was in this context that the earlier pluralists attempted to develop their solution to the problem of freedom. Maitland and Gierke, later Figgis, launched the movement of thought which men like Laski, Cole and the Guild Socialists found so congenial. The starting point of their thought is found in the assertion that the individualistic problematic is a false one. But in asserting the reality of group life, they were led by the force of their reaction against the artificial monism of Bodin and Austin to reject the concept of sovereignty entirely.⁹ The difficulty this caused is well known: after rejecting sovereignty in their theory, they reintroduced it into their practice.¹⁰ It is in the light of this

9. For instance, Laski's criticism of sovereignty in his Grammar of Politics is a criticism of Austin's theory, which is equated with the theory of sovereignty. J. Maritain does this same thing, namely equate one man's theory with the theory as such, in his attack on sovereignty in, "The Concept of Sovereignty," APSR, XLIV (1950). In their theoretical attitude toward sovereignty, the pluralists spelled the individualistic idea of limitation to its last degree of negation.

10. See Francis Coker, Recent Political Theory, ch. xviii, and his "Pluralistic Theories and the Attack Upon State Sovereignty," in Essays on Contemporary Developments in Political Theories, ed. Charles E. Merriam and Harvey E. Barnes (N.Y., 1932). See also, Henry Magid, English Political Pluralism -- The Problem of Freedom and Organization (N.Y., 1941), F.M. Watkins, The State as a Concept, pp. 58 ff., and W.Y. Elliott, The Pragmatic Revolt in Politics. Here we speak only of the pluralists within the English tradition of democratic constitutionalism.

development that Althusius is significant. For he presses upon his reader two positions, each of which is pertinent to one of the above lines of thought. First, he suggests that freedom and authority are compatible; that the problem of freedom is not essentially one of limiting government, although responsible government must be insured.¹¹ Secondly, he suggests that the pluralistic structure in which the pluralists seek the solution to the problem of freedom is not incompatible with the idea of a sovereign state. The critical review of thought this suggests for the modern theorist centers about the idea of the relation that exists between the individual and the group and among groups. The methodological correction it suggests is found in the method of relating empirical data to values.

Althusius wrote to give the truth about political life, not simply to solve a problem in his own time. But fortunately, he wrote in a period when he was able to see that this truth must be related to the new organization called the state. If one disregards the archaic institutions such as the Diet and the Ephors, and if one makes allowances for his lack of knowledge about political parties, it becomes evident that

11. This is why it was so necessary to insist that Althusius was not a Monarchomach. Such an interpretation thrusts him into the existing frames of reference in modern thought, whereas Althusius' true significance lies in the corrective influence that he can exercise on those frames of reference.

his principles and his basic solutions are congenial to, and find an echo in much that is being written today by the increasing number of men who have turned their attention to the problem of the social basis of institutions and to that of rebuilding an integral group life. Among these may be numbered writers such as Brownell, De Grazia, Kendall, Cole and Wolfe.¹²

Since Althusius' thought is so relevant to the modern debate over freedom, authority and structure, it is necessary, before we look more deeply into the tensions of his thought, that we define our question so as to avoid the kind of questioning we found to be so distorting in Gierke and Friedrich.¹³ For the difficulties pointed out earlier in Althusius' thought can be raised in a way that begs the question asked by virtue of supposing definitions of freedom, pluralism and authority contrary to those Althusius accepts. For instance, if one raises the question of freedom and authority supposing utilitarian, Spencerian or Kantian interpretations which involve the de jure exclusion of some "private" or "self-regarding" or "motive" aspects of life from political control, then the question is self-answering as far as the Politica is concerned.

12. Baker Brownell, The Human Community, Sebastian De Grazia, The Political Community, Willmoore Kendall, John Locke and the Doctrine of Majority Rule, G.D.H. Cole, Local and Regional Government (Toronto, 1947), Leonard Wolfe, The Reilly Plan (London, 1945)

13. See Chapter I above.

Althusius did not attempt to solve the problems posed by these systems of thought. And when one examines him as though he did, there is concealed in the approach an assertion that his thought is based on false premises. Consequently, the question of the validity of Althusius' thought is begged. The same situation obtains if one raises the question of pluralism assuming that unlimited authority in the central government is ipso facto incompatible with the possession of authority by sub-groups. Indeed, the institutions and processes already examined cannot legitimately be asked questions that assume a social situation other than the one Althusius envisages.¹⁴ The difficulties before us can be raised, however, in a way that leaves the way open for further examination. If we take Althusius on his own showing, accept his definitions, it would seem that on the basis of obvious tensions between self-determination and total determination, and between pluralism and state sovereignty, we can still question whether these elements are mutually compatible. And we can seek the answer to such a question by attempting to discover the principles upon which Althusius expected to realize a compatibility which, since he asserts all these elements in the same work, he assumes exists.

If we conduct our interrogation in accordance with this

14. See the analysis of the function of the relevant situation in Chapter I above.

approach, the general question we must ask Althusius is the one identified earlier: whether the pluralistic structure through which he seeks to achieve participation and so freedom under law, is compatible with the scope of authority he finds necessary to insure this same freedom in human life. To get at the problem, however, and uncover the profound way in which it gets involved in the essence of Althusius' theory, it will be better to break the question down into two parts, one about freedom and authority, the other about pluralism and sovereignty.

With regard to freedom and authority, despite their definitional harmony pointed out in Chapter II above, there is, at first glance, a tension between these two elements in the operational order. In Chapter VII it was pointed out that the politicalization of life follows from the imperatives of the purely political objective of autarchy. That is, Althusius holds that all human activity must be ordered and influenced in some way to the service of the group. Add to this seeming orientation to something distinct from the individual, the further consideration that determination by authority is clearly not identically the same thing as isolated self-determination, and the question of compatibility arises. Moreover, pervading this conception of freedom is the conviction that such self-determination is necessary because of the moral character of man, i.e., because his actions must be ordered ultimately to the perfection of his

own nature. So that we have this dichotomy: freedom means to be one's own and not another's, and, authority directs the whole of life on the basis of the pertinence of action to the good of the whole. And we have the further dichotomy: self-determination is determination from within the agent, and, determination by authority involves determination from without the agent. Are these incompatible? Althusius' answer is that not only are they compatible, but more than this, the one cannot exist without the other. That is to say, Althusius' view of man and society is such that the politicalization of life, which is required by autarchy, is equally necessary for freedom, and the element of determination by law, which is required for order, is a necessary prerequisite for self-determination. For him this is simply another way of saying that man is by nature a social animal.

To grasp Althusius' view on this matter, the order of purposes established by this view of man must always be kept clear. The state exists to preserve the social order. The social order exists to serve the individual in his movement toward self-perfection. Indeed, the purpose of social life is identified with the individual purpose of each member.¹⁵

15. The position is characteristic of the organic theory of social life. See Sabine and Shephard, Introduction to Krabbe's Modern Idea of the State, p. xxxiv. The basic assertion on which this identity of purpose rests is made by Brownell, The Human Community, p. 228: "His (man's) being is involved in relevance." Aristotle seems to accept this idea as basic to his thought, v.g. Politics, Bk. VII, ch. 1, 1324a.

For in Althusius' analysis, symbiotic life is preserved by the development in each citizen of political virtues which from the ethical point of view are perfective of man.¹⁶ In the Politica, therefore, service to the state is materially equated with service to oneself; one serves the state by the efficient realization of private interests under the moderating influence of the general purpose of life. So that in directing action on the basis of the common good, authority in fact directs it to the good of the individual citizen.¹⁷ On this

16. E. Barker, The Politics of Aristotle, p. 11, criticizes this idea in the Greek tradition because it does not adequately state the antithesis between the individual and the state: "The state (the Greeks believe) exists for the moral development and perfection of its individual members: the fulfillment and perfection of the individual means -- and this is the only thing which it means -- the perfection of the state; there is no antithesis. But this is true, after all only for the man who is a citizen." In discussing the truth of Althusius' identification, the question is whether the identification is possible in the situation Althusius envisages, not whether it is true in any situation. V.g., in vi, 39, he tells us the situation is one in which each is like all the others in mind and habits, although the group does not have a drab uniformity in this matter. And he makes a continuous distinction between each as each and each as all. Romano Guardini, The Church and the Catholic, and The Spirit of the Liturgy, tr. Ada Lane (N.Y., 1935), ch. ii, offers a profound analysis of the polarity between the individual and the group which distinguishes polarity from antithesis.

17. Friedrich asserts that Althusius is an absolutist for the very reasons offered here for supposing that he does not subject the individual to anything outside himself. See his "Introduction," p. liii: "The Graeco-Roman tradition of identifying the state with the organized community and of deriving from this identification the justification for an intense state absolutism re-appears in Althusius..." Gerbrandy, National...Stability, pp. 13-18 cites this opinion and disagrees with it.

consideration, therefore, the tension between orientation to self and orientation to the group is not so much relieved as denied in principle; man is never directed to something outside himself. There remains, however, the problem of working out a set of institutions that implement this view.¹⁸

The same type of consideration applies with regard to the possible tension between self-determination and determination by authority. Here the view that the social context of action is part of the natural context of individual action brings it about that the approach from the point of view of autarchy coincides with that from the point of view of freedom. Autarchy can be achieved only to the degree that each member participates in it.¹⁹ For the existence sought is not the pure existence and order of Bodin and Hobbes, but an existence and social order of a symbiotic type. And this necessarily involves the participation of all members in the exercise

18. See the discussion in Chapter VIII above, on the formal distinction between ethics and politics. That Althusius says this does not, of course, make it true. The question we ask here is not whether this is a true idea, but whether it is a viable one. Can institutions be constructed on the premise that it is true? We hope to show that they can and that, consequently, Althusius cannot be approved for his constitutionalism and disapproved for his "socialistic" view of man. These two positions cannot be separated in the Politica.

19. This seems to be the most profound meaning in the statement that sovereignty: (1) is the bond of social life, and (2) must reside in the whole people if it is to exist at all, ix, 15-18. The existence of the society depends on the participation of all in the sovereign authority.

of the authority whereby autarchy is achieved.²⁰ There is in Althusius none of the Hobbesian surrender of self to authority for the sake of security.²¹ Rather, thinking out from exactly the opposite position, Althusius concludes that security is achieved only when the members of the society themselves achieve control over the values they need.²² And authority does not exist by way of surrender so much as by way of assertion of the individual. While the isolated individual cannot be autarchic, he does achieve autarchy to the extent that through participation in the governing process he exercises control over every other man in regard to the things he needs. Such control obviously is modified by the fact that every other man simultaneously exercises control over him in the same things.²³ The point is that each man by

20. See Chapter III above, on the relationship between constitutive and legislative sovereignty.

21. Contrast the transfer of rights in Hobbes, Leviathan, Part II, ch. xviii, p. 89, and the submission to protective force in Bodin, Method for the Easy Comprehension of History, pp. 201 ff., with Althusius' conception of mutuality of action as the process whereby a civil society is established. As Rousseau points out, Social Contract, Bk. I, ch. vi: "Each man in giving himself to all, gives himself to nobody."

22. Not protection, but the satisfaction of positive moral needs motivates the social contract. See Chapter III above.

23. ix, 18, the people command each citizen, xxxix, 60, the whole can both command and obey itself. Gierke, Political Theories, pp. 62 ff., points out that the idea of the collectivity exercising authority existed in the Middle Ages. See G.D.H. Cole, Self-Government in Industry, p. 227 for a commentary on the idea that mutuality is the guarantee of freedom.

this mutuality of control is freed from the hazards of whim and change in achieving the goods necessary for the good life. While he is not sui juris, neither does he become subject to a potestas aliena in submitting to a public authority of which he is a part.²⁴ In view of the natural interdependence of men, if each man is to belong to himself, i.e., to be free, he must have some control over the actions of others insofar as they affect his life. The maximum self-determination is achieved by participating in group self-determination.

Thus by submitting to regulation by others, he acquires in turn, the right to control others, and in this right he participates in the self-sufficiency of the group. The jus majestatis is something that must exist simultaneously in every individual if it is to exist at all. Thus also, the idea of participation is an application of the principle that man has a right to everything necessary for the development of his nature and a recognition that such a right can be realized only to the extent that others realize it with him. This means that since each has and recognizes such a right, each also has and recognizes in himself a correlative duty to make available the things that all his fellow men

24. See Krabbe's criticism of the utilitarian idea of "self-regarding" actions as establishing a "sphere of anarchy," Modern Idea of the State, p. xlvii. See also the analysis of the idea of freedom in Chapter II above.

need.²⁵ And the ultimate source of this duty is found not in the law but in the duty each has to become perfect. The right to the means to perfection derives from this ultimate duty which exists as a metaphysical thirst in an undeveloped nature.²⁶ In actual symbiosis this means, since each man differs in the things he can contribute, that each must contribute what he has.²⁷ In Althusius' application, this means that society is divided into three estates according to their contribution to the symbiotic, self-sufficient life.

We remarked in Chapter VII above, that Althusius does not speak of rights in the modern sense of the word. But in view of the above, it must be said that the entire structure of the constitution in the Politica is ordered to the one right upon which all others depend, the right to live the

25. One of the chief causes of uncertainty about the meaning of Rousseau is found in his habit of speaking of this idea as involving the "acquisition" and "surrender" of rights, the gaining and losing of something. See the Social Contract, Bk. I, ch. vi. Althusius speaks only of mutuality with no idea of abandoning something in exchange for something else. By the contract, rights and duties are recognized and protected, and so called into existence. For a particular example of this, see xvi, "On the Protection Offered in the Universal Consociation."

26. Althusius accepts the basic Aristotelian idea of nature as growth. The state grows from the sub-groups, and man grows in his nature by passing from a condition of potency to one of actuality.

27. This idea is expressed by Althusius in the idea that man is subject to the republic and must serve it because of the benefits that he gets from it, v.g., xvi, 6.

social life.²⁸ This is expressed politically in the possession of the jus majestatis or the right to rule, which is the right to impose obligations on oneself and duties on others. Althusius agrees with Rousseau that, "obedience to a law which we prescribe to ourselves is liberty."²⁹

The above lines of thought establish the relationship between freedom and authority in terms of an ideal situation

28. Rousseau and Althusius are as one on the principle that "the social order is a sacred right which is the basis of all other rights," Social Contract, Bk. I, ch. 1.

29. Social Contract, Bk. I, ch. viii. Gierke is profoundly misled by his monarchomachic reading of Althusius. He concludes, Development, pp. 323-324: "But it was against the individual subject himself that the properly systematic doctrine of the Monarchomachi, as perfected by Althusius, asserted the formal omnipotence of the state." The fact is that both Rousseau and Althusius asserted in a most profound way that the proper problem of political science is to establish freedom in principle in a society, and not simply to work out a rule of thumb that would insure that 99% of the people would be free. Rousseau expresses the idea in his Political Economy, tr. G.D.H. Cole, Everyman's Edition (N.Y., 1913), pp. 247-248: "The security of individuals is so intimately connected with the public confederation that, apart from the regard that must be paid to human weakness, that convention would in point of right be dissolved, if in the state a single citizen who might have been relieved were allowed to perish, or if one were wrongfully confined to prison, or if in one case, an obviously unjust sentence were given." And both these men base their thought on the principle that the solution of this problem is possible only insofar as society is based on moral right rather than on force. As Rousseau says, continuing the quotation: "For the fundamental convention being broken, it is impossible to conceive of any right or interest that would retain the people in the social union unless they were restrained by force, which alone causes the dissolution of the state of civil society." That is, as soon as a man is kept in a group by force, that group loses the nature of a civil society.

which must be realized if order and freedom are to co-exist. And by virtue of the central importance given to the concept of mutuality, they determine the basic principle that must be applied to realize such a situation: the principle of participation. When attention turns from these considerations to those centered upon the problem of constructing a process of participation, the final relationship between freedom and authority is discovered. As was indicated in Chapters IV-VI above, the discussion process is the fundamental one through which participation and mutuality of control is achieved. It was likewise indicated that one of the essential functions of authority is to preserve in the people the qualities of consensus, amity and political temperance upon which this discussion process depends for its efficient operation. Thus, when we come to analyze the implementation of freedom, we find that authority, which is necessary for mutuality of control considered as the end of a process, is also necessary as an implemental factor in preserving the social basis necessary for the discussion through which this mutuality is achieved. And so Althusius identifies a third reason why authority must expand into areas of life traditionally closed to it by classical individualism, if it is to insure freedom under law. The conception here is, again, closely involved in that of autarchy. For civil society, in this view, is considered to be a functioning organization, and in its functioning, tending to dissolve in its foundations

unless this tendency is forestalled by a conscious fostering of the social bond. And to the extent that this bond is fostered, and so autarchic self-preservation achieved, the social situation necessary for freedom is also preserved. The idea behind this approach is that, since freedom depends essentially on a freely arrived at mutuality of control, decisions must be reached in a process in which unity of decision is possible by virtue of discussion under the guidance of leadership.³⁰ Force and coercion, although they may be used in the execution of law,³¹ are absolutely incompatible with freedom when applied to the processes of formulating that law.³²

30. It must be remembered that the "discussion situation" is not a mitigation of the conflict and compromise process of agreement. It is a distinctive and radically different approach from that based on the principle of compromise. Hollister, Government and the Arts of Obedience, identifies five different ways of arriving at decisions on the basis of consent. The way of discussion as Althusius conceives of it is involved in the establishing of an interior unity of mind and will which is filled out in the area where complete unanimity is lacking on the basis of amity and temperance, not on that of temporary defeat. See the analysis of the discussion process in Laaki, Grammar of Politics, pp. 253 ff., and Bruno Lasker, Democracy Through Discussion (N.Y., 1949)

31. See the treatment on the identification of the real and the actual will of the people, Chapter III above.

32. Although even here Althusius makes restrictions, agreeing with MacIver, The Modern State, p. 225: "When force is much in evidence, it is a pathological situation." Althusius puts it, xxiv, 19: "For too many penalties are not less disgraceful for a prince than are too many funerals for a doctor." The basic idea is that there comes a point where the frequency of penalty is such that it cannot be explained by the normal immorality among men. The real explanation then must be that the consent situation has broken down. See x, 11; xix, 23; xxv, 4; xxxvii, 103.

Thus on three counts an all-encompassing authority is necessary for freedom: (1) without it, man would not be his own and not another's, (2) without it, man would not be self-determining and (3) without it, the conditions necessary for the essential means of participating in authority -- supposed by the first two considerations -- could not long endure.

It is not our intention, nor would it serve our purpose, to defend or reject this idea of the relationship between freedom and authority. Against it one can visualize being raised all the difficulties about the general will raised by L.T. Hobhouse.³³ One can easily visualize all the objections made against absolute majority rule also being made against Althusius' system.³⁴ All the objections to any attempt to regulate the internal life of man may also be leveled against the system that is proposed in the Politica.³⁵ Against such objections Althusius would answer that the first is based on a mis-reading of the Politica;³⁶ the second either disregards the influence of the "relevant situation" on his

33. Metaphysical Theory of the State, A Criticism (London, 1918)

34. John S. Mill, On Liberty, or McClosky, "The Fallacy of Absolute Majority Rule," J. of Pol., XI.

35. T.H. Green, Lectures, pp. 206-210. R.M. MacIver, The Modern State, follows Green here. See Passerin D'Entreves, Natural Law, for an analysis of this difficulty.

36. Even if Hobhouse is effective against Bosanquet, he need not be against Althusius. He must first show that the definition of the situation has nothing to do with the matter.

concept of majority rule,³⁷ or else is based on an individualistic view of man's relation to his society;³⁸ and the third is based on a Kantian definition of morality, or else on a coercive theory of authority that excludes the solution of the Politica in principle.³⁹

These questions, however, are not immediately relevant. The analysis above was made to indicate how profoundly Althusius gets the idea of freedom involved, (1) in authority, (2) in participation and (3) in a particular social situation. For the relationship between freedom and pluralism occurs on precisely these three points. Pluralism, (1) establishes the basic distribution of authority, (2) is the immediate basis for the working out of the principle of participation and (3) is an integral part of the social situation envisaged as the one relevant to which Althusius' solution is made. Thus, while Althusius holds that freedom requires the scope of authority he indicates, he simultaneously holds that this integration of freedom and authority is not viable unless it occurs within a pluralistic structure. And herein lies our point that the true tension in this thought lies behind the

37. The point made by W. Kendall, "Prolegomena to Any Future Work on Majority Rule," J. of Pol., XII.

38. V.g, a theory that supports the idea of "self-regarding" actions.

39. See Simon, Philosophy of Democratic Government, pp. 108-117, for a criticism of the Kantian identification of highest motive with the essence of moral action.

the more evident tension between pluralism and sovereignty, and it must be identified as a tension between pluralism and freedom. The former is necessary for the latter, but other imperatives of freedom seem to make pluralism impossible. Before we examine the solution Althusius offers to this tension, it will be well to complete the portrayal of the problem by outlining the deep sources in his thought from which the polarity between sovereignty and pluralism is drawn.

When one considers the sovereign state as it is envisaged in the Politica, it is quite obvious that to Althusius the state is not essentially different from the city or the province as far as the nature of its function is concerned.⁴⁰ But there is a question whether this conception is arrived at by going back to the Greeks for the concept. Rather there seems to be a real continuity of thought here from Medieval

40. vi, 16, the city is a microcosm of the state. Even as regards coercive power, both the family (iii, 35) and the collegium (iv, 16) have it. v, 43, the end of the city is the good life, and ii, 4, the city satisfies the whole man. Gierke, Natural Law, I, 62-78, sees in Althusius a tension between the principle of contract which gives the state its function in a general theory of society, and the principle of sovereignty which tends to make the state essentially different from the sub-groups. Again, this tension might exist in the school, but in Althusius the theory of sovereignty is interpreted so as to be compatible with the implications of the contract theory. The only clear difference Althusius draws between groups is that between the private and the civil ones. Here the difference is stated as one between the intensity of the social bond, and the extent of the things shared. Private groups share less, ii, 3; but they have a more intense union, ii, 4. Public groups share more, v, 4; ii, 3. The extent of the sharing is determined by the nature of the group, i, 21.

to Modern ideas.⁴¹ For in the Politica, Althusius simply applies to the emerging state the set of principles which he has accepted from the Aristotelian-scholastic tradition, as applicable to the city-state whether Greek or Medieval.⁴² Althusius' basic attitude toward the state seems to be that it is simply another level in the "growth" or unfolding of the associative life of man. He gives no a priori reasons why it should exist. It does exist, and, its existence being accepted, it is now justified philosophically as the completion of what has gone before.⁴³

41. The lack of continuity occurs not in those who accepted the Aristotelian tradition, but in those who rejected it: Machiavelli, Bodin, Hobbes. See Leo Strauss, The Political Philosophy of Hobbes, pp. 30-58, on Hobbes' break with Aristotle.

42. Althusius cites Aquinas with approval. With regard to the question of church and state in the Politica, it must be remembered that the regnum-sacerdotium controversy was fought all through the Medieval period. Etienne Gilson, Reason and Revelation in the Middle Ages (N.Y., 1938) shows us that the intellectual history of that period may be organized on the question basic to the church-state struggle: the relation between reason and faith. There are many lines of continuity in this period. Heckscher, Mercantilism, points out one which Althusius did not accept. Charles M. McIlwain, Constitutionalism Ancient and Modern (Ithaca, 1947), traces one he did.

43. Aristotle, Politics, Bk. I, ch. 11, for the "growth" of associational life. Althusius has exactly the same idea, but brings growth to a conclusion in the state. See ix, 3, and especially xxxix, 84: "But these symbiotic consociations (family to city) can subsist by themselves as first forms even in the absence of the province or kingdom, although as long as they are not organized into the universal, consociated, symbiotic life of a province, a republic or a kingdom, they are cheated of many conveniences and necessary aids of life. Althusius, all agree, was concerned primarily with explaining

Granted this acceptance and interpretation of the state, the logic of Althusius' political theory works out for the state exactly as it does for any civil consociation.⁴⁴ Both autarchy and freedom require that authority extend over every social contact among provinces. In this situation, freedom is possible granted only the existence of that mutuality of control which is achieved through participation in an effective discussion process. To insure stability in the process, the consensus, amity and political virtue necessary for it must be sustained in each province. Thus, in the state, authority falls upon the life of the individual citizen in exactly the same way as it does in the city and province.⁴⁵ And the reason is found in the inherent implications of freedom, order and autarchy. Wherever civil authority exists, this organization of it must prevail.

The question immediately arises: what are the relations between state and sub-groups in this arrangement? "General

the state. Barker, "Introduction" to Gierke's Natural Law, p. lxiii, and Gerbrandy, National...Stability, pp. 20-21. What is missing in Althusius is the type of a priori argument for the ultimate group that is found in Dante, De Monarchia. See Etienne Gilson's analysis of that argument in, Dante et La Philosophie (Paris, 1939), pp. 163-172.

44. The treatment of the state (ix) follows the same outline as that of the city (v) and the province (vii). Gough, Social Contract, p. 75, observes this quality in Althusius' thought.

45. The law of the state, (xix) falls on the citizen in the same way as the law of the city does (vii) and that of the province (viii).

sovereignty is that which prescribes for the individual members of the consociated body the manner and form of living and acting justly in a given symbiosis for each and every kind of activity."⁴⁶ Does this mean that the state absorbs the entire society? Friedrich holds that Althusius is in reality, "not a pluralist, but distinctly monist in his insistence that all the legal rights and privileges are granted to sub-groups without prejudice to the government."⁴⁷ Certainly there is no doubt that the state is conceived as the repository of all authority.⁴⁸ And the sub-groups owe their legal existence to the will of the sovereign.⁴⁹ There is clearly no federalism in any technical sense of the word in the Politica, no distinction between "domestic" and "federal" matters enforced by

46. x, 2.

47. "Introduction," p. lxxiv. Earlier, he says, p. lxxiii; "In the last analysis, Althusius' state devours the entire community, becomes one with it." Or as Laski put it generally, the state achieves the unity arrived at by the "cannibal and his victim," Grammar of Politics, p. 263. Friedrich sees the choice of the city in this period as one between two ways of losing independence to a principle of authoritarianism, "Introduction," p. xxxv.

48. See ix, 28 and xviii, 21.

49. iv, 16, sub-group authority may not infringe on the authority of superior groups. And it is the superior group who determines this question of jurisdiction. v, 42, the ius civitatis is determined by the supreme magistrate. xxix, 42-44 and xxiii, 51, make it clear that the magistrate of each sub-group is subject to the authority of the supreme magistrate.

constitutional sanction.⁵⁰ The question arises, therefore, whether this is a monistic conception. Of the various formulations of monistic theory, Althusius' conception seems to agree with many of them.⁵¹ But if we take monism to mean that there is no authority in the society below the top level of it, or that the sub-groups who exercise authority do not do so by right but only by legal delegation, then the Althusian conception cannot qualify as monistic. For there are ideas in the Politica touching sub-group life that are present as insistently and clearly as the idea of sovereignty. So that if Althusius is not a pluralist who has succeeded in reconciling pluralism and sovereignty, then he must be explained, not as a monist but as a thinker whose theory labors under inherent contradictions. For immediately after defining sovereignty as the bond of society, he adds: "But this does not preclude the different provinces of the

50. Gierke, Development, p. 39. Sobei Mogi thinks otherwise, The Problem of Federalism, I, 26-31. The concept of "residual powers" basic to American federalism is completely lacking in the Politica. This conception, since it involves tension and hostility between sub-groups and sovereign, would raise profound difficulties with regard to the mutuality of control supposed to be basic to freedom. For the idea is practically an application of the idea of "self-regarding" actions to inter-group relations.

51. Friedrich's term of Althusius' idea is perhaps best of all, "Introduction," p. lxxvii, "consociationalism." In a current theory of pluralism that finds it theoretically difficult to have it without attacking the idea of sovereignty, it might be better to avoid the term and so avoid the assumptions of Laski and others.

same realm from using a different special law -- as we said above in the chapter on provinces."⁵² And he is quite clear that the city and the province exist and have a life of their own.⁵³ In each sub-group the consociation is established by the pactum entered into by the members of the group; the fiat of a sovereign state does not create it.⁵⁴ The internal life of the sub-group is, by right, subject to the jurisdiction of that group.⁵⁵ Each group lives by its own proper law.⁵⁶ And finally, it is clear from the analysis of thought in Chapters IV and VI above, that the entire system in the Politica presupposes the existence of active, vital and self-sustaining sub-groups. Despite the

52. ix, 7. At ii, 4, Althusius feels it necessary to point out that his idea of the sub-group does not exclude the possibility of superior groups.

53. Figgis observes, Studies, pp. 206-207: "His State is a true Genossenschaft, a fellowship of all the heads of families, and he takes care to prevent the absorption of local and provincial powers into the central administration. It is not merely that he allows rights to families and provinces; but he regards these rights as anterior to the State, as the foundation of it, and as subsisting always within it."

54. See Cierke, Natural Law, I, 62, for the influence of the social contract theory on the concept of sovereignty in Althusius.

55. ii, 4, 15, the private groups achieve internal unity. iv, 43, the city regulates its own life. Indeed, vi, 45, when the city no longer rules itself, it ceases to be a city.

56. ii, 7, law varies for each group. vi, 40, the city has a law proper to it, and ix, 7, the province likewise has a proper law.

existence of sovereignty, the power of self-government exists in the group by right. The state evolves from the sub-groups, it is not their creator.

As in the case of freedom and authority, the fearless assertion of the implications of each element of the problem simply states the problem which must be solved by the organization of processes. In this case, the two rights of sovereignty and sub-group authority must be integrated. It is clear that Althusius finds no real difficulty in this situation. For the rights of each group are not asserted as against one another, but rather as two mutually compatible statements concerning the way in which authority realizes its purposes. The basis of this compatibility is identified in a quality which at first glance seems to make pluralism impossible: the state and the sub-groups have essentially the same end.⁵⁷ The only differences Althusius identifies

57. v, 6. The public or civil consociation is divided into particular and universal. The particular is subdivided into city and province. Althusius never clarifies what he means by "particular." And here there is the same type of difficulty found in the meaning of the word "particular" as there is when it is used with regard to the "particular will." The best interpretation seems to be that by "particular" Althusius means the general objectives in the individual sub-group. That is, the end of the sub-group is not particular in the sense that it seeks to realize only part of the good life, but particular in the sense that it realizes the good life for this particular group. On this interpretation the analogy with the human body limps badly. But it would seem that the analogy is used to illustrate the coordination of parts from the point of view of integration of ends, not from the point of view of the working relations among the parts.

among the various civil consociation are: (1) differences in component members and (2) the fact that the state is the ultimate authority.⁵⁸ But all three kinds of civil consociation have the same end: the vita pia et iusta. And in the political order all three seek autarchy, order and self-sufficiency. This identity of end truly seems to absorb sub-groups, in a theory that defines groups by their purposes. Yet, it seems that precisely because the same end exists for every group, the decentralization of authority so essential to any effective pluralism becomes possible. Kung Chuan Hsiao, Political Pluralism, suggests the idea that federalism is not the only way to implement an effective pluralism:⁵⁹

The Hegelian state, however, attains its totality not by annihilating all partial purposes in the supreme ethical ideal but by developing this ideal in and through the spontaneous realization of the partial purposes obtaining in the general community. It is, in other words, no longer an implicit unity as the Greek city evidently was, but a 'concrete universal,' a living unity in which every constituent part possesses its own distinct meaning. The common supposition that the Hegelian state is identical with the community, that all social activities are

58. Barker, Introduction to Gierke's Natural Law, p. lxxix: "Each common purpose (of the sub-group) must be compared with other common purposes, and all must be capable of adjustment to one another, and of living amicably side by side. All common purposes must be set alongside the general common purpose of the State, and must be compatible with the attainment of that sovereign common purpose."

59. Political Pluralism: A Study in Contemporary Political Theory (N.Y., 1927)

merged into the sphere of governmental activity is indeed misleading.⁶⁰

Compare this exposition of the Hegelian system with Althusius' description of the relationship of ends in his universal con-
sociation of the whole people:

For...just as there is one end for which nature fashions the thumb, another for which it fashions the hand or foot, and again another for the whole man, so also, there is one end toward which it directs the family, and again another for the city and the kingdom. But that end must be thought best for the sake of which nature fashioned the whole man. Therefore, one must not think that since there is a definite end for each type of assemblage, there is none proper to the whole.⁶¹

One can identify two different kinds of purposes and two corresponding kinds of groups in Althusius. The first is the private or particular purpose which is organized into estates. These partial purposes converge and integrate to form the whole. Without the whole, no single estate can exist. The second kind of purpose or group is that mentioned in the quotation above. This is the public or common purpose. The group corresponding to it is that formed by the integration of partial purposes. Each public group can exist by itself, apart from the other groups. This type of group may be called integral in distinction from the first or linear type.

In Althusius, the moral nature of authority and of

60. Ibid., p. 211

61. ii, 4.

sovereignty as a particular expression of it constitutes the central consideration that makes the relation between sub-group and sovereign theoretically possible.⁶² Sovereignty is a moral right, a jus majestatis. As to the power that the states possesses for coercive and defensive purposes, it is not considered to have an exclusive possession of it. The power of the state is the sum of the power of the parts.⁶³ As a consequence, the sovereign state is not conceived of as being the exclusive object of the allegiance of the citizens. For given the integration of common purposes Althusius assumes, allegiance to any of the sub-groups is thoroughly compatible with allegiance to the wider group, and this with regard to purposes that both state and sub-group

62. It is notable that the theory of "residual powers" was developed in a general theory that equated authority with power and sought the solution of the problem of freedom in a defensive check system. As the history of the United States shows, this is a difficult concept to sustain in reality. See Carl Brent Swisher, American Constitutional Development (N.Y., 1943). For Althusius, the power element in the state is one of the causes of confusion. He develops this idea in xxiv, "On the Twofold Nature and Condition of Power."

63. xviii, 103: "By the sharing and contribution of each one of the people the king is made rich and powerful; by their advice he is made wise, by the aid of his subjects he excels in force, strength and power. If the people reject the king, he again becomes weak, needy, helpless and a private person." The function of the Ephors is based on the premise that power is distributed throughout the group. The power of the government, Althusius insists, is greater than that of any part of the whole, but not of the whole itself. Such an organization of power insures that decisions to be viable, must be based on agreement rather than force.

have in common.⁶⁴ Laski's attack on sovereignty in the name of pluralism can be accepted as valid within the real limits of his thought without this involving a criticism of Althusius' thought. The only proviso is that Laski's attack be precisely defined for what it is: an attack on the Austinian and Bodinian theory, a theory that depends on the concepts of power and exclusiveness as the constitutive elements of sovereignty.⁶⁵ While the criticism that Laski and the earlier pluralists denied sovereignty in theory and accepted it in practice is quite true and constitutes a fatal contradiction in their thinking, this defect could have been avoided. They would have avoided it if they had consciously restricted their denial to the theories of

64. This situation, as Brownell insists repeatedly in his Human Community, does not obtain when the sub-groups are private interest groups organized, in the absence of true integral groups, so as to cover the life of man. For then, allegiance to an all encompassing private interest comes into conflict with allegiance to an interest that requires the restriction of private interest to its proper sphere. See the study of Reinhard Bendix, "Social Stratification and Political Power," APSR, XLVI (1152)

65. Laski, Grammar of Politics, and J.M. Figgis, Churches in the Modern State (N.Y., 1913), despite their many differences have the same idea of the state. As Jenks points out in his Law and Politics in the Middle Ages, the emergence of the state involved, historically, hostility to the sub-groups that opposed it either consciously or by virtue of clinging to custom. The same thing occurred in the sixteenth century. The earliest pluralists in the modern times accepted this historical fact as part of the nature of the state. The whole point of Althusius' treatment is that this hostility is not only not necessary, but even makes freedom impossible.

sovereignty they were attacking, and consciously accepted the theory of the moral nature of authority and sovereignty as it is expressed in the Politica.

In theories that establish incompatibility between sovereignty and pluralism, the primary source of it is found in the quality of positive exclusiveness attributed to the sovereign power. Bodin excludes sub-groups from the independent possession of authority because, being the source of conflict, it becomes imperative that sub-groups be quarantined and restricted with regard to it.⁶⁶ Rousseau's rejection of the state cannot be taken as a rejection of pluralism. For his difficulty on this score did not derive from his conception of authority -- which seems to have been the same as Althusius' -- but from his conception of the discussion process and the possibilities of representative systems.⁶⁷ Rousseau admits pluralism in the city -- the family is a natural group -- although it is fairly clear that the estate system of Althusius is emphatically rejected. In this, the tensions among the estates in France explain his supposition that such functional groups are incompatible with true discussion.

66. This is the idea that Laski attacks, Grammar of Politics pp. 248 ff. It is the one Marsilius of Padua accepts, Gewirth, Marsilius, I, 115-122.

67. See Chapter IV above, on Rousseau's objection to representative government.

It is an interesting fact that precisely on this point of sovereignty Bodin was the great protagonist in Althusius' mind.⁶⁸ His ideas, as far as Althusius could see, were incompatible with the existence of consociation on any level. And this brings us to the final aspect of sovereignty that distinguishes Althusius' theory and makes it compatible with pluralism. This is that sovereignty is the inalienable property of the people.⁶⁹ Earlier, an attempt

68. Friedrich, "Introduction," p. lix.

69. Friedrich, "Introduction," p. xc, speaks of the "trick of Althusius: "But who composes this people to which the State belongs? Althusius vacillates between the notion of the people organized in those minor symbiotic groups and the notion of the people as the mass.... This is the Achillean heel of Althusius' system, or, if you please, the trick in his argumentation." Even if this is vacillation, it does not invalidate the conclusions drawn from such shifting of viewpoint. In the debate over the nature of the union in the United States before the Civil War, the meaning of "We the people of the United States," had tremendous implications according as the sub-group or the mass view was taken. But this was within a federal structure. In one such as Althusius constructs, the individual in fact is a member of both the state and the sub-group, and acts in both capacities. Mary Follett in both her New State and her Creative Experience, depends a great deal on this double membership for carrying the discussion process forward from sub-group to state. There is another "area of shift" in Althusius which is also based on this attempt to avoid imposing on concrete action the partially artificial categories necessary for intellectual analysis. This is the area within which man is considered as a member of a sub-group and as a member of an estate. Here Althusius' identification of the common good itself as a personal good of each individual is particularly relevant. He uses intellectual categories for analysis, but never loses sight of the fact that in actual operation a man normally must achieve an integration between his personal and his public interests. G.D.H. Cole has some interesting observations on this point, Fabian Socialism (London, 1943), p. 124.

was made to show that this inalienability is a moral rather than a physical thing. In order to be a people, a group must possess the jus majestatis. The pertinent aspect of the reason for this assertion is found in the idea of mutuality of control. The state, therefore, is not to be identified with the central government.⁷⁰ It is the whole people pluralistically integrated on the basis of mutual control. The law of this communitas communitatum, therefore, is not something imposed from outside the group by a government, but rather is the summary of the minds of the members of the universal consociation. This theory of sovereignty is quite compatible -- and it may be that it is the only one that is compatible -- with the concept of integrated rather than opposed ends upon which Althusius' marriage of sovereignty and pluralism depends.

The existence of sub-groups, therefore, is not asserted

70. Laski, Foundations of Sovereignty (N.Y., 1921), p. 244, seems to assume in his discussions that the sub-groups do not participate in the making of the decision on the state level. There is a gap here between the decisions of the state and the mind of the groups; one that requires the constant attention of sub-groups and individuals who must, "pass judgment upon its (the will of the sovereign) validity by examining its substance." Now Althusius would hold that such a situation is impossible. The sub-groups must determine the substance of the will of the sovereign. If they do not, there is no sovereign as Althusius defines it. Laski seems to apply the Rousseauist premise of the impossibility of representing the individual when he speaks of the state. Yet, when he speaks of the functional groups in the state, he assumes that the individual can get represented adequately in them.

against the existence of a sovereign state, nor are sub-groups defended as means of limiting a suffocating sovereignty of the state. Given this theoretical harmony of subgroup and state, the problem is to discover a way of uniting groups politically so as to preserve social life among them. The problem, specifically, is to find a system of government that will distribute authority in such a way as to lodge in sub-groups the authority belonging to them by right, and yet to keep unimpaired the scope of authority shown to be essential to the sovereign state. Two rights exist and must be honored: the jus majestatis of the people of the state and the right of self-government in the people of the sub-groups. In his solution to this problem, Althusius brings to the final stage his application of the principle of participation. The first application of it in this regard is precisely that analyzed in Chapters IV and VI above. It needs no further analysis, except to point out that as a result of this process, the law of the state is always in conformity with the corporate mind of each member-consociation in the universal consociation. The effect of such a process is to insure that the identity of ends as between state and sub-group will be actively reflected in a conformity of mind as between the mind of the whole as expressed in sovereign law, and the mind of each member, i.e., sub-group, in its conception of the proper end of the civil consociation.

In this matter of participation, there is a point

where Althusius makes an assumption which may very well be the strategic point in his entire constitutional system. The assumption is that participation in the discussion process on the basis of estates or linear functional groups will produce law that is in conformity with the integral sub-group's mind concerning the common purpose of the state.⁷¹ That is, he assumes an identity of mind between the functional parts -- estates-- and the constitutive or static parts -- sub-groups. The central importance of this assumption can be seen better after reviewing Althusius' second application of the principle of participation to solve this problem of sovereignty and pluralism.

Participation in the discussion process is calculated to produce the conformity in the operational order which is required by the identity of ends established on the level of definition. This arrangement makes all groups to be members of the sovereign. It realizes, consequently, one aspect of the right to self-government. But there is a further consideration that really completes the idea of government by consent proposed in Chapter VI above. It is, namely, that consent is not exhausted by the approval of laws on the state level. Once the law is declared, the

71. The integral groups are parts, ix, 5. The estates are also parts, viii, 2. But the estates are discussed only as the means of participation in the making of decisions, viii, 3; xxxiii, 30.

processes of government begin. And here Althusius applies the principle of participation to effect a widespread devolution of authority from the state to the civil consociations below the state. The tendency to concentrate authority in the state, which seems to be latent in the discussion process, is neutralized by this devolution of governmental authority to the static sub-groups. This means that the estates make the law while the city and province enforce it. Behind this allocation of function lies a complex set of ideas whose very complexity derives from the consistency with which the principle of the purpose of authority is applied.

In Althusius' thought, civil authority exists in and is possessed by only civil consociation, that is, groups whose end is the vita pia et justa. The estates are not civil associations.⁷² They are private, linear associations.⁷³ The members of each estate have an interest in common, but not the interest that the political scientist calls the common interest or good. It would be sheerest tyranny to give civil authority to such a group, which by its total orientation of purpose would rule from a private interest point of view. Far from contradicting this point, the

72. The function groups rule their own members with regard to the craft or profession involved. This, however, is not civil authority.

73. See Brownell, The Human Community, pp. 75-136.

attribution of legislative authority to the estates in the Diet serves only to reinforce it. For this authority devolves on the estates only insofar as the three of them discuss things together. That is, it is among the estates that mutuality of control is necessary. And this is to say nothing more than that civil authority exists only in the integral civil associations. For the city, province and state are simply the points at which interests, i.e., estates, converge in such a way as to form an integral group, i.e., a group whose purpose lies in the acquisition of all the elements necessary for the good life.⁷⁴

In Althusius we have a truth consciously rediscovered by Mary Follett and only in recent years pushed with any consistent vigor: that pluralism does not mean just any multiplicity of groups, but a multiplicity of certain kinds of groups, of civil societies.⁷⁵ The dualism of church and

74. Perhaps the real tension in the modern problem is that identified by Brownell. With the dominance of linear groups, the integral groups tend to decay. Thus, there is no level at which mutuality of control can occur below that of the state. Today mutuality of control exists among population masses organized into linear groups. Thus, we have the class conflict which can occur only when there is no social bond, in the Althusian sense, among the various social functions. The studies of E.P. Herring, Public Administration and the Public Interest (N.Y., 1936), and D. Selznick, TVA, And the Grass Roots (Berkeley, 1949) both illustrate the distorting effect of private interest influence on the administrative process.

75. It is this insight that has led to the attempt to re-discover the community, which in some cases is an attempt to re-create the community. See Richard W. Poston, Small

state, from which Figgis expected so much, is not admitted as pluralism in the Politica because pluralism is a multiplicity of the same kind of group. For the same reason, the modern dualism of economics and politics would not be admitted as pluralism.⁷⁶ Both types would rather be explained as a decay in the social bond at the point where they begin to compete as equal and identical organizations of life. Hsiao, who seems to have accepted the principles of the pluralists he examined, sees in the modern dualism of economics and politics the significant pluralism of our day.⁷⁷ And he seems to hope that by the mutual antagonism of these forces,

Town Renaissance, A Story of the Montana Study (N.Y., 1945) All the local government writers in the tradition of Patrick Geddes, Cities in Evolution, rev. ed. (N.Y., 1950), in one way or another stress this point. See Henry S. Churchill, The City is the People (N.Y., 1945), Michael P. Fogarty, Town and Country Planning (N.Y., 1948) and an increasing number of writers.

76. The fatal defect of the pluralists in the English socialist tradition is that they attempt to place all civil authority in the hands of single interest groups. Because they pay little or no attention to the problem of integral groups they cannot solve the problem of the devolution of authority. G.D.H. Cole, who seems to see more clearly the importance of integral groups, nevertheless shows a consistent tendency to identify democracy simply with functional representation: "What is wanted is a merging of the idea of mediaeval functionalism with those of Victorian democracy," Future of Local Government, p. 179. Yet at times he clearly asserts the "vital importance that the areas of local government should be real and realized unities, in the sense that they must be capable of gathering round themselves a living consciousness among those who inhabit them to a common citizenship based on social realities as well as on purely economic or political convenience," ibid., p. 27.

77. Political Pluralism, pp. 246-257.

both will be kept within bounds. The lesson of the Medieval period should teach us otherwise. The dualism of the Pope and the Prince, by the confusion and conflict it occasioned, precipitated first the theory of the absolute state and then the brief reality of it. And one may with reason find in the modern Fascist assertion of the state as pure power, a similar flight to the tranquillity of order, no matter what the cost. Likewise, the Marxist theories involve a search for tranquillity by asserting the absolute primacy of economics over politics and so the dissolution of the tension between them.

The linear pluralists themselves are quite unwilling to entrust political authority to any one of the groups they identify.⁷⁸ This is why they reintroduce sovereignty after rejecting it. And, as a result of their disregard of integral groups on levels below the state, they seek their first integration of interests on the state level, where the power of each interest is so massive as to threaten the social fabric in its struggle for domination.⁷⁹ Mary Follett

78. Henry Meyer Magid observes in his critical study, English Political Pluralism, p. 36: "It would not do to have one association regulate the relations between other associations. Such a society would violate the principles of functional representation and self-government and, hence, would not be democratic."

79. See Gunnar Heckscher's interesting study of pluralism in Sweden, "Pluralist Democracy, the Swedish Experience," Soc. Res., XV (1948). At p. 459 he comments on the tendency for control even within the functional group

has pointed out that an effective discussion process on the state level is possible only when the discussion begins where interest first meets interest and is carried on progressively from there:

The most important element in the theory of representation is where the uniting of interests should take place. Guild socialists, like most advocates of group government, push it too far forward; by the time the diverse interests confront each other, they are so crystallized that it is difficult or impossible to unite them. The pluralists pit groups against each other and against the state; it is the fundamental weakness of their theory. Democracy must find those methods by which the uniting of interests shall take place before they have crystallized.⁸⁰

It would seem that linear or functional pluralism solves neither the problem of government nor that of representation.

In the Politica one finds this beginning of discussion in the family, the seed bed of the state. The interests of the whole, which authority must ultimately integrate in the state, are integrated repeatedly before the ultimate

to gravitate to the top organizational level of the group. At p. 460, he notes that even when the functional group is willing to attempt to administer state policy through its organization, the membership tends to resent it. His final conclusion is: "It might be argued that the main lesson to be learned from the Swedish experience in this field is that the problem of divided allegiance, and thus of sovereignty, is capable, if not of being solved, at least of being left unsolved without detriment to the public interest," p. 461.

80. Creative Experience, p. 250. At p. 224, she observes: "Whenever we begin with an overhead organization rather than with the local units, the underlying fallacy is in thinking that consent will take the place of participation."

integration. No meeting of giants here, but of forces habituated to discussion; no fateful alternatives, but a successive solution of problems that avoids pitting crystallized interests against one another. This pluralistic structure is presented in the Politica not in terms of a mechanism created to limit the state, but in terms of the natural application of the principles of mutuality, participation and discussion. Each civil society is a group where these elements must be operative precisely because civil authority exists in each one. The state is simply the last level in the progression, not a level of a different kind.

It would seem that this progressive integration of estate interests amply justifies the assumption that the estates as members of the state will produce law in harmony with the mind of the estates as members of the sub-groups. And granted the operation of this process, the application of the principle of devolution can be given its proper significance.

By devolution Althusius lodges in sub-groups that authority which, on the basis of the social contract theory, they possess not by donation but by right.⁸¹ In this

81. The theoretical situation in the English constitution perfectly illustrates the possibility of authority being possessed by right and by devolution at the same time. Devolution is simply the way authority is acquired. It does not contradict the idea that authority so acquired is acquired by right. See W.I. Jennings, Principles of Local Government Law (London, 1931), pp. 214 ff.

provision one must not be misled by the conception of devolution proper to the administrative state. For in the context of the Politica, the devolution of authority does not put the sub-group at the mercy of the sovereign. For sub-group relationship is not conceived of administratively but politically. That is, the state is not an organization superior to and separated from the sub-group. Nor is the authority devolving upon the sub-group conceived of as "administrative" authority pertaining by its nature to the government of the state. Rather, the conception is that the state is the sub-groups.⁸² The conception is basically an interpretation of the principle of participation. The state is not viewed as having successive and isolated stages of activity, but as a single unity of interacting parts, each of which participate in the authority of the whole. The discussion process, through which policy is decided, is a simultaneous interacting process continually occurring on all group levels with equal vigor. And matching the discussion process, which can be conceived of spatially as a movement from bottom to top, there is a parallel governmental process which moves from top to bottom. And the two get involved in one another. For Althusius evidently visualizes the sub-group legislative process as being carried

82. One might draw on an interesting footnote by Rousseau, Social Contract, Bk. I, ch. vi, n.l, and observe that while officials make a government, sub-groups make a state.

on in terms of the applicability of state policy to the internal life of each group.

The complex picture becomes intelligible in terms of the distinction between active and passive government.⁸³

Althusius says:

The administration of this law is the act whereby the laws deriving from the partnership of the universal consociation are ordered, rightly administered and managed by certain public officials of the realm for the well-being of each and all the members of the realm.... Therefore, this administration is the bond whereby the republic stays together, and its vital spirit whereby the various and diverse functions of the human consociation are directed, ordered and referred to the well-being of all. Whence it is evident that an administration of this kind does not execute or administer these functions, but only orders them, establishes and directs them, and that by commanding, ordering, forbidding and impeding.⁸⁴

83. Again one might refer to the English governmental system established by the series of great Local Government Act which integrated the principle of central planning and supervision with the principle of rule by the compendious local authority. See such works as Herman Finer, English Local Government (London, 1933), K.B. Smellie, A Hundred Years of English Government (London, 1937), and his A History of Local Government (London, 1946). As Cole points out, this system disappeared precisely because the development of the economic and social life of the times destroyed the local community as an effective possessor of civil authority. See his Local and Regional Government. Friedrich observes, "Introduction," p. lxxxvii: "What Althusius is aiming at would be much better characterized by what the English call local government and what in modern technical parlance is called decentralization."

84. xviii, 2, (*italics added*). The analogy of the soul and body is carried out. The soul is the principle of action, but the members are the ones who act. It must be remembered that the contribution of the magistrate is that of knowledge of what must and can be done, and knowledge of how to lead men to do it. Plato has the same idea of the Philosopher King in this matter. See his Republic, Bk. IV, 484-487.

That is to say, the sovereign state establishes, through the Diet and magistrate, the ratio vivendi of the whole group. This law is then executed by the officials of the sub-groups under the supervision of the supreme magistrate.⁸⁵

This arrangement raises, as modern experience shows only too clearly, the problem of the deflection of policy. The central consideration here is found in two points: (1) that the policy of the state is the policy the sub-groups themselves formulated in the Diet, (2) that the execution of policy is achieved through healthy general interest groups whose objective, the good life, is identical with the objective of state policy. The basic condition that makes this division of authority viable is that of the "health" of the society. If the sub-groups are integral groups habituated by political virtue to the service of the common good, and if the estates are clearly organized linear groups conscious of their private interests and habituated to discussing them in relation to a common good, then the solution of Althusius is viable. For this situation will insure in fact, both the participation necessary for acceptable

85. Althusius' discussion of the relationship between magistrate and sub-magistrate is complicated by the consideration that in various forms of government the relationship is different. In a monarchy, the magistrate appoints the sub-magistrates; in a democracy, they are elected by the sub-groups. See xxix. At v, where he examines the city, he supposes that the magistrates of the city are elected by the people. The relationship between magistrate and Ephors is discussed in xviii; see also Chapter VI above.

policy, and the identity of purpose necessary for the faithful execution of the policy decided upon. The strategic importance of this element of "health" makes it perfectly evident why Althusius insisted on the conscious fostering of the elements that constitute it. The achievement of autarchy, as we observed earlier, is involved in the achievement of freedom.

In the light of this analysis, it begins to become clear why the tensions in the Politica are properly identified as existing between freedom and pluralism. Freedom is the objective that necessitates the sovereign authority in the state as well as civil authority in all sub-groups. Without this authority there is no mutuality of control. Thus, freedom requires both sovereignty and pluralism. And the tension between these two is simply a tension between two imperatives of freedom. And the ultimate challenge Althusius forces on his readers is that found in his premise that the logic of freedom and authority must apply to every civil consociation, and in his conclusion that if there is a consociation of provinces into a state, the state must be handled as a consociation. Althusius accepts the state and accepts it with an authority that is all inclusive. Yet he finds that this new organization of social life is not, when properly integrated with smaller units, incompatible with the multiplicity and variety proper to a pluralistic society.

In conclusion, it might be remarked that the system Althusius proposes for integrating cities and provinces in the state is based on the same principle he uses for integrating individuals and private groups in the city.⁸⁶ In both, the principle is that justice, rights and freedom are sustained not by conflict and opposition but by effective participation in the processes that determine the rules by which all must live. And in both city and state the further principle is applied, that to insure the continued operation of these processes, authority must preserve the psychological qualities upon which the process depends. And here Althusius' attitude toward economic life and the size of the group has a particular relevance. There seems to be little doubt that the administrative state, which makes the process of devolution only a questionable means of insuring real decentralization, arises in necessary response to the complexity and vastness of the modern society. Althusius' insistence that there is an optimum size for each political group,⁸⁷

86. The essential difference occurs at the city level. Authority cannot devolve below the city precisely because it is the first of the civil associations. Below it are only the private groups: collegium and family.

87. Rousseau, Social Contract, Bk. III, ch. 1, and Aristotle, Politics, Bk. VII, ch. iv, 1326, both agree that there is an optimum size for the state, understanding by this, the city. Althusius accepts the principle and applies it to all group levels. xxiv, 4, the principle is stated. v, 4; ix, 10; xxiii, 14; xxxvii, 97, certain difficulties arise when the size proper to each group is exceeded.

and his equal insistence that the development of economic life must be kept subject to the requirements of a free society, contain within themselves a critical suggestiveness as regards our modern life. He does not propose solutions for our time; rather he asks the challenging question: whether the modern problem can be solved in the context in which it occurs.⁸⁸ It cannot be assumed that Althusius has discovered the total truth about political life. But he does offer us a coherent system calculated to insure freedom and the fullness of human life. And that system is based on a series of premises that are not widely recognized in modern life or thought. He does not suggest a return to the Middle Ages, for his own vision was to the future. He does not suggest an abandonment of the state and of sovereignty, for his own theory finds a necessary place for them in life. What he does suggest to the modern thinker is the reexamination of the premises upon which one might hope to construct a stable and free political order.

88. A question which is being asked explicitly or implicitly by an increasing number of writers. Brownell, The Human Community, Part IV, makes a series of proposals for decentralization that would involve notable modifications of existing conditions. Röpke, Civitas Humana, proposes notable modifications of our economic system on principles that Althusius would understand. A.E. Morgan's ideas on the small community and small business, require notable modifications of economic and political life. The Small Community (N.Y., 1942)

With this we come to the conclusion of what now seems to have been an over-lengthy examination of this interesting and challenging figure. We have attempted to identify the central elements in his systematic organization of political science, and to establish the marvelous coherence and consistency with which he integrated them. And it is hoped that by our final attempt to relate these ideas to the enduring problems of that science itself, some advance has been made toward establishing Althusius as one of those whose significance, like his science, is to be found in "those things that apply always and everywhere and can be adapted to all situations."⁸⁹ One must agree with Gierke, when he refers to this "almost forgotten German scholar whose political doctrine deserves, in the writer's opinion, a prominent place in the history of political science."⁹⁰ There is a certain tragedy in his work, the tragedy found in those men who even when they think they know the truth, by the very clarity of their vision, also knew that men are not yet ready for it. As Krabbe observes, "A political theory such as that of Althusius stood in only too potent contradiction to the temper of the times. Hence it was that his work was forgotten until it was rediscovered by Gierke."⁹¹ More than that,

89. xxxix, 85.

90. Development, p. 9.

91. The Modern Idea of the State, p. 25.

this man, for whom consociation, amity and participation were so vital to human life, had to contemplate the possibility that he "would be forced to live with my wife and children outside the Fatherland in exile."⁹² Certainly his thought was not accepted. Yet it stands now, as it did when he wrote it, a permanent challenge to any attempt to find freedom and fulfillment in a system based on conflict, power and distrust.

92. Quoted in Friedrich, "Introduction," p. xxxix.

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