

# Calvin the Lawyer

BY JOHN WITTE JR. '82



For all of his fame as a theologian, John Calvin was first and foremost a lawyer. He studied law in Bourges and Orléans, taking his master's degree around 1531. He was nearly two years into his legal doctorate in Paris before having to flee the city and abandon his studies. Calvin's first introduction to theology, his 1536 *Institutes of the Christian Religion*, was modeled in part on the standard introduction to law in his day, the *Institutes*

of Justinian. His first major reforms in Geneva were new laws: the 1541 Ecclesiastical Ordinances, the 1542 Edict of the Lieutenant, and the 1543 Ordinances on Offices and Officers, constitutional laws that together defined the new structure, power and relationships between church and state in Protestant Geneva. He drafted major new ordinances thereafter on marriage, children, social welfare, public morality, education and other topics—more than 100 new ordinances all told. He left outlines of comprehensive new codes of civil and criminal law and procedure and fragments of new laws on property, inheritance and commerce. He also left dozens of formal legal opinions (*consilia*) that gave crisp answers to specific legal questions. He sat as a judge in thousands of cases that came before the consistory of Geneva during his lifetime. And he dealt with many intricate legal and political questions in his formal and informal writings, laying much of the foundation for a distinctly Protestant form of Christian republicanism.

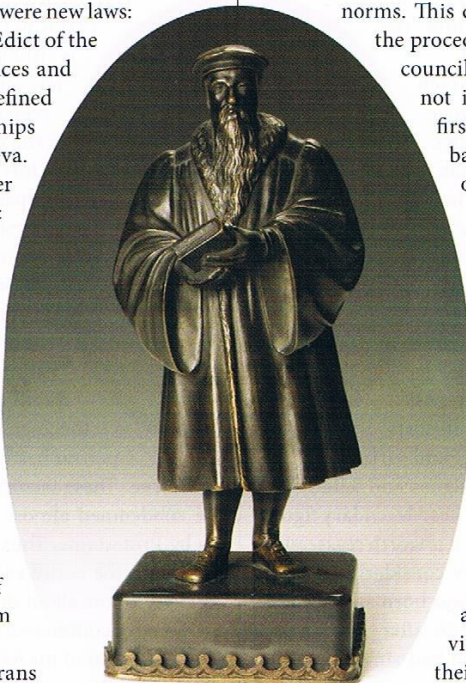
Calvin charted a course between the Lutherans of his day, who subordinated the church to the state, and the Anabaptists, who withdrew the church from the state and society. Like Lutherans, Calvin insisted that each local community (like Geneva) be an overtly Christian commonwealth that adhered to the general principles of natural law and that translated these principles into detailed public, private, penal and procedural laws. Like Anabaptists, Calvin insisted on the basic separation of the offices and operations of church and state, leaving the church to govern its own doctrine, liturgy, polity and property without interference from the state. But, unlike both groups, Calvin

insisted that both church and state were to play complementary legal roles in the creation of the local Christian commonwealth and in the cultivation of the Christian citizen.

Calvin emphasized the uses of the law in the Christian commonwealth. Natural laws and positive laws provide two tracks of morals, he argued: "civil norms" that are common to all persons and "spiritual norms" that are distinctly Christian. These norms, in turn, give rise to two tracks of morality: a simple morality of duty demanded of all persons, regardless of their faith, and a higher morality of aspiration demanded of believers in order to reflect their faith. In Calvin's mind, commandments and counsels, musts and shouldsts, absolutes and adiaphora can thereby be distinguished.

This two-track system of morality corresponded roughly to the proper division of jurisdiction between church and state, as Calvin saw it. It was the church's responsibility to teach aspirational spiritual norms. It was the state's responsibility to enforce mandatory civil norms. This division of responsibility fit rather neatly into the procedural divisions between the consistory and the council in Calvin's Geneva. In most cases that did not involve serious crimes, the consistory would first call parties to their higher spiritual duties, backing their recommendations with (threats of) spiritual discipline. If such spiritual counsel failed, the parties were referred to the council to compel them, using civil and criminal sanctions, to honor at least their basic civil duties.

Calvin's attention to both theology and law would become a trademark of early modern Calvinism. Theologians and jurists together formed the leadership of many Reformed communities. For every new Calvinist catechism in the early modern era, there was a new Calvinist code of law, for every fresh confession of faith a new charter of rights. Calvin and his early modern followers believed in law—as a deterrent against sin, an inducement to grace, a teacher of Christian virtue. They also believed in liberty, structuring their churches and states alike to minimize the sins of their rulers and to maximize the liberties of their subjects. It was this unique balancing of law and theology, church and state, authority and liberty that made the Calvinist Reformation so resolute and resilient and so remarkably influential in early modern Europe and North America.



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