

CHAPTER 5

A GENETIC-HISTORICAL STUDY OF DOOYEWEERD'S LINES OF DEVELOPMENT

First of all it would be helpful to put together some of the more emphatic stresses and lines of development in Dooyeweerd's thinking so that our reconstruction will be better understood.

From the beginning Dooyeweerd saw that historicism was a tremendous foe of reformational thinking and life.¹ In particular, he felt that the thinking of the leaders of the Anti-revolutionary Party had capitulated to a modified historicism. In many places and in different connections we see his critique of Groen van Prinster and especially Stahl.² Another

1. Dooyeweerd, "Het vraagstuk der gemeentemonopolies in het belang der volksgezondheid, hoofdzakelijk beschouwd in het licht van de nieuwe opvattingen in zake de bedrijfsvrijheid," Themis, LXXI (1920), pp. 126-151. Dooyeweerd, "Het Calvinistisch beginsel der soevereiniteit in eigen kring als staatkundig beginsel," Nederland en Oranje, IV (1923), pp. 98-99, 185-189; V (1924), pp. 8-15, 27-31, 71-76. In these two articles the enemy is Socialism, but the features of historicism are present. Later he goes deeper into the historic basis of the "general welfare" cultural state. In Calvinisme en Natuurrecht (Amersfoort, W. van Wijngen, 1925), Dooyeweerd shows a clear awareness of historicism especially as it relates to Stahl. In "Tweërlei kritiek," Anti-revolutionaire Staatskunde, II (1926), pp. 12-13, he speaks of anti-revolution and relativism. See also Dooyeweerd, De Beteekenis der Wetsidee voor Rechtswetenschap en Rechtsphilosophie (Kampen: J. H. Kok, 1926), pp. 12-46; "De universaliteit der rechtsgedachte en de idee van den kultuurstaat," Almanak van het Studentencorps aan de Vrije Universiteit (Amsterdam: 1928); "De zin der geschiedenis vanuit de openbaring," Vox Theologica, V/5 (1934); De Crisis der Humanistische Staatsleer (Amsterdam: W. Ten Have, 1931), pp. 111-136.
2. For Dooyeweerd's critique of Stahl see Calvinisme en Natuurrecht; De Zin der Geschiedenis en de 'Leiding Gods' in de Historische Ontwikkeling (Publicaties van de Reunisten - Organisatie van N.D.D.D., V, 1932); "De universaliteit der rechtsgedachte en de idee van den kultuurstaat," also, "Leugen en waarheid over het Calvinisme," Nederland en Oranje, VI (1925), pp. 81-90.

stress relating to historicism is Dooyeweerd's evaluation of the importance of Von Savigny in the German historical wing of law. Especially when the historical school focused on the problem of positive law, legal forming, sources of law, historical foundation of the state, etc., and relativized structural law, Dooyeweerd felt compelled to give a broad foundation, systematics, and critique of these problems.³

Dooyeweerd has great natural ability to live into others' positions and he believes that critique involves accounting for the traces of truth in another's position in terms of one's positive systematics as well as explaining why the position falls into absolutizations and wrong stresses both at the level of ground-motive, theoretic presuppositions, and details. Dooyeweerd did not drop the problem of historicism, but one finds an increasing stress on the working out of the systematics of the historical aspects.⁴ Dooyeweerd's increasing stress on immanent and trans-

3. Dooyeweerd, "De bronnen van het stellig recht in het licht der wetsidee," Anti-revolutionaire Staatskunde (driemaandelijksch orgaan), IV (1930), pp. 1-68. Here is the most extensive treatment of the historic school of law, especially pp. 36-73. See also "De theorie van de bronnen van het stellig recht in het licht der wetsidee," Handelingen van de Vereeniging voor Wijsbegeerte des Rechts, XIX (1932-1933); Encyclopaedie van de Rechtswetenschap, vol. III, "De bronnen van het stellig recht," (Amsterdam: mimeo, 1962).

4. Some examples are: A New Critique, II, pp. 180-365; De Wijsbegeerte der Wetsidee, II, pp. 126-300; Recht en Historie (Assen: G. F. Hummelen, 1938); "De zin der geschiedenis vanuit de openbaring;" "De vooronderstellingen van ons denken over recht en samenleving in de crisis van het moderne historisme," Themis, CX (1949), pp. 193-248; "Perikelen van een historistische rechtstheorie," Themis, CIV (1954), pp. 25-54; Wijsbegeerte en Geschiedenis, Referaat gehouden op de conferentie van de Organisatie van studenten in de geschiedenis in Nederland te Arnhem, 1957; Maatstaven ter onderkenning van Progressieve en Reactionaire Bewegingen in de Historische Ontwikkeling (Amsterdam: Noordhollandse Uitgeverijmaatschappij, 1958); Vernieuwing en Bezinning, pp. 39-110, 180-192, 240-280. See also critique on Groen van Prinster in Vernieuwing en Bezinning, pp. 240-280.

cedental critique as opposed to a transcendent critique and his emphasis on the philosophia perennis show the high sense of development of the element of fairness in theoretical thought (ethical anticipatory moment) and theoretical living into or empathy (inleving)(social anticipation or psychical retrocipation) which characterize Dooyeweerd from the beginning. His realization of his solidarity within the western thought-community underlies his sympathetic concern to do justice to the other's position as well as his grateful appreciation of the insights and discoveries of those before him and his passion to positively continue this development.

In this sense one can easily find the whole history of western thinking reflected in his work in a way which reminds one of Hegel. As a result of these gifts the problem of historicism was not dropped in emphasis until Dooyeweerd had worked out in detail his own systematics to counteract historicism. This partly explains the stress of Dooyeweerd's first publications on the importance of an idea of law, especially sphere-sovereignty as a cosmological corollary of this idea of law.⁵ It was over against irrationalistic historicism which relativized the law side and destroyed norm consciousness that Dooyeweerd asserted the necessity of an idea of law for giving the Calvinistic life-and-world view a unique style and unitive direction.⁶

This stress on the importance of the idea of law as central ground-hypothesis cannot wholly be explained by his recognition of the impending danger from the side of historicism. Just as important for his emphasis on the idea of law from the very beginning is his reaction against

5. See "Het Calvinistisch beginsel der souvereiniteit in eigen kring als staatkundig beginsel," Nederland en Oranje, IV (1923), pp. 98-99, 185-189, V (1924), pp. 8-15, 27-31, 71-76; "In den strijd om een Christelijke staatkunde;" Calvinisme en Natuurrecht, pp. 19-31; "De bronnen van het stellig recht in het licht der wetsidee."

6. See "In den strijd om een Christelijke staatkunde," pp. 7-10.

the mode of concept-forming found in the late rationalistic neo-Kantian movement.⁷ Dooyeweerd tried, particularly in his juridical theory, to overcome the generalizing, abstract character of norms in the rationalistic neo-Kantian legal theorists. Here he found a split between norm and fact, the lack of clear limits, fixing of terrains (terrein afbakening), the problem of causality, along with confusion in respect to the different kinds of causality, especially physical, juridical, and moral causality.⁸ In general, the necessity of pure concept formation, proper and critical restriction of use of terms, spur Dooyeweerd on to refine the meaning of norm and to spell out the importance of sphere sovereignty in the field of jurisprudence in terms of a law aspect.

The stress on the idea of law and particularly sphere sovereignty (although his emphasis on sphere universality is somewhat stressed even in his first writings)⁹ can only be properly understood, then, in his

7. References to neo-Kantianism are to be found in almost all of Dooyeweerd's publications. Some examples are: Calvinisme en Natuurrecht; "Calvinisme contra neo-Kantianisme," Tijdschrift voor Wijsbegeerte, XX (1926), pp. 29-74; De Beteekenis der Wetsidee voor Rechtswetenschap en Rechtsphilosophie; "Het juridisch causaliteitsprobleem in 't licht der wetsidee;" "Berepmissdaad en strafvergoeding in 't licht der wetsidee;" "De bronnen van het stellig recht in het licht der wetsidee;" "De structuur der rechtsbeginselen en de methode der rechtswetenschap in het licht der wetsidee;" De Crisis der Humanistische Staatsleer; "Norm en feit," Themis, XCIII (1932), pp. 155-214 (this article has extended coverage of Kant and his significance for the United Nations idea); "De theorie van de bronnen van het stellig recht in het licht der wetsidee;" "Boekbespreking; Pae, Philosophie der Wetenschappen," Vox Theologica, XII (1941), pp. 85-90; "Bespreking; Kranenburg, De grondslagen der rechtswetenschap," Themis (1950), pp. 89-98; "Over de methode van begripsvorming in de rechtswetenschap," Themis (1953), pp. 298-340.
8. See "Het Calvinistische beginsel der soevereiniteit in eigen kring als staatkunde beginsel;" Calvinisme en Natuurrecht; "Het juridisch causaliteitsprobleem in 't licht der wetsidee;" "Norm en feit;" "De medele structuur van het juridisch oorzakelijkheidsverband," Mededelingen der Koninklijke Nederlandse Akademie van Wetenschappen, XIII/5 (1950).
9. See "Universaliteit der rechtsgedachte en de idee van den kultuurstaat."

reacting to historicism as well as neo-Kantianism.

It is very interesting in this connection to note that in a few areas Dooyeweerd's thought is still not developed at these early stages and, in particular, in noticeable respects: the stress on the unity of the subject side as being supra-temporal¹⁰ or in other words, the concentration point, his idea of cosmic time,¹¹ individuality structures,¹² and, tying in closely with the concentration point in its time transcending character, the transcendental critique.¹³ It does not take long for

10. On p. 169, footnote 68, of this dissertation I said that in "De structuur der rechtsbeginselen..." was the first appearance of Dooyeweerd's mature vision of time as a prism and supra-temporal in its customary application. It is there that the concentration point is formulated and the unity of the law spheres is not thought of as being solved by a direct appeal to the providential world plan as an organism of law spheres. Another of the first expressions is to be found in the article "De bronnen van het stellig recht..." This article also dates from 1930. In "De bronnen..." we also find the full vision. See pp. 10-13 for the prism idea and for the transcendent concentration point on the subject side in "onvergankelijken transcendent-religieuze wortel in het menschengeslacht, waarin de religieuze zin-volheid onzer schepping...." On p. 12 he refers to our individuality structure as unity of subject (subjectseenheid) although he has all the essential ingredients of this soon to appear in the Wijsbegeerte der Wetsidee. Also on p. 12 is an interesting application of the term vergankelijk, in which it is applied to the whole cosmos, man excepted. He says, "All dingen, die een leidende functie in de kosmische werkelijkheid bezitten, zijn vergankelijk, begrensd tot het tijdelijke. De mensch heeft daarom als zodanig geen 'leidende functie'. Heel zijn activiteit in deze wereld wordt bepaald door zijn stellingname in den onvergankelijken, religieuzen, den kosmos transcendeerenden wortel zijner persoonlijkheid, 't zij in onderwerping aan God, 't zij in apostasie, in afval van zijn Schepper. Daarom is ieder vergankelijk ding begrensd door de soevereiniteit in eigen kring, doch de mensch als zodanig gaat onzen vergankelijken kosmos te boven."
11. See p. 169, footnote 68, of this dissertation.
12. For an undeveloped idea of individuality structure see "Het juridisch causaliteitsprobleem in 't licht der wetsidee," p. 36. For more fully developed comments of Dooyeweerd see De Crisis der Humanistische Staatsleer.
13. It seems clear that this transcendental critique does not really develop until he sees the idea of the transcendent root on the subject side and the prism idea as in the two articles mentioned in footnote 10 (above).

