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The Dutch Effect: Kuyper and Neo-Calvinism in Professor Cochran's Scholarship

David S. Caudill*

Abstract

One of the obvious influences on Bob Cochran's scholarship is the Dutch Calvinist tradition, especially as represented in the writings by or about Abraham Kuyper (1837–1920). Even though Cochran was neither Dutch nor a member of a Reformed church, Cochran found inspiration and compelling insights (with respect to legal processes and institutions) in the Dutch Calvinist tradition. This interest reflected Cochran's generous ecumenism and his well-known respect for religious diversity. Three prominent conceptions—the trilogy of sphere sovereignty, antithesis, and common grace—provide a guide to Cochran's recourse to Kuyper and Calvinism in his scholarly writing. Following a brief explanation of the term "Dutch Calvinism," I examine Cochran's appropriation of those three concepts from the Neo-Calvinist intellectual tradition. I conclude that Cochran has helped to popularize, and advance the cause of, Neo-Calvinism by applying some of its principles in new legal contexts.

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I. INTRODUCTION

While [Abraham] Kuyper is known for his approach to a number of theological issues, perhaps the most prominent are sphere sovereignty, antithesis, and common grace.¹

One of the obvious influences on Bob Cochran's scholarship is the Dutch Calvinist tradition, especially as represented in the writings by or about Abraham Kuyper (1837–1920), a theologian and politician in the evangelical wing of Dutch Reformed Protestantism. Like me, Cochran was not raised in a Dutch Reformed community, but we have both, over the years, found inspiration and compelling insights (with respect to legal processes and institutions) in the Dutch Calvinist tradition. Notably, when Bob collected chapters for three of his (edited) books on faith and law, all of which paid attention to numerous religious or at least various Christian denominational traditions, he always included a chapter or two on the Dutch Calvinist tradition.² This move not only reflected Cochran's generous ecumenism and his well-known respect for religious diversity, but also betrayed his own interest in the relevance of Kuyper's writings for contemporary law.

The prominent conceptions mentioned in the epigraph—the *trilogy* of sphere sovereignty, antithesis, and common grace—provide a guide to Cochran's recourse to Kuyper and Calvinism in his scholarly writing. Following a brief explanation in section II of the term “Dutch Calvinism,” I examine (in sections III, IV, and V, respectively) Cochran's appropriation of those three concepts from the Neo-Calvinist intellectual tradition.³ I conclude

1. Vincent E. Bacote, *Introduction* to ABRAHAM KUYPER, WISDOM AND WONDER: COMMON GRACE IN SCIENCE AND ART 24 (Jordan J. Ballor & Stephen J. Grabill eds., Nelson D. Klosterman trans., 2011).

2. See David S. Caudill, *A Calvinist Perspective on the Place of Faith in Legal Scholarship*, in CHRISTIAN PERSPECTIVES ON LEGAL THOUGHT 307 (Michael W. McConnell, Robert F. Cochran, Jr. & Angela C. Carmella eds., 2001) [hereinafter Caudill, *A Calvinist Perspective*]; see also David S. Caudill, *Law and Belief: Critical Legal Studies and Philosophy of the Law-Idea*, in CHRISTIAN PERSPECTIVES ON LEGAL THOUGHT 109 (Michael W. McConnell, Robert F. Cochran, Jr. & Angela C. Carmella eds., 2001) [hereinafter Caudill, *Law and Belief*]; David S. Caudill, *Neo-Calvinism and Science: A Christian Perspective on Post-Daubert Law/Science Relations*, in FAITH & LAW: HOW RELIGIOUS TRADITIONS FROM CALVINISM TO ISLAM VIEW AMERICAN LAW 33 (Robert F. Cochran, Jr. ed., 2008) [hereinafter Caudill, *Neo-Calvinism and Science*]; David S. Caudill, *Private Law in Christian Perspective: The Example of Herman Dooyeweerd on Contracts*, in CHRISTIANITY AND PRIVATE LAW (Robert F. Cochran, Jr. & Michael Mooreland eds., forthcoming 2019) [hereinafter Caudill, *Private Law*].

3. See *infra* Parts II, III, IV, & V.

(in section VI) that Cochran has helped to popularize, and advanced the cause of, Neo-Calvinism by applying some of its principles in new legal contexts.⁴

II. CALVINISM, DUTCH CALVINISM, AND NEO-CALVINISM

[Herman Dooyeweerd (1894–1977) believed] that “a radical Christian philosophy can only develop in the line of Calvin’s religious starting-point.” If that is so, why are we confronted with the development of a radical Christian philosophy [only] in one particular segment of Dutch Calvinism and not in others, nor in the reformed communities of France, England, Scotland, and the United States? The answer to this question lies . . . in the influence which Guillaume Groen van Prinsterer and Abraham Kuyper have exerted on modern Dutch Protestantism.⁵

The term “Neo-Calvinism” is frequently used to describe the Kuyperian tradition, in order to distinguish it from the broad varieties of Calvinism generally and even from the whole of the Dutch Reformed tradition.⁶ Neo-Calvinism obviously begins with John Calvin (except in the sense that it represents a “strand of catholic Christianity which goes back to such church fathers as Irenaeus, John Chrysostom, and Augustine of Hippo”).⁷ Among the dozens of doctrines, beliefs, and conceptions associated with the Swiss reformer, several—echoed in Kuyper’s writings—stand out in Neo-Calvinism. First, there

4. See *infra* Part VI.

5. Bernard Zylstra, *Introduction* to L. KALSBECK, *CONTOURS OF A CHRISTIAN PHILOSOPHY: AN INTRODUCTION TO HERMAN DOOYEWEERD’S THOUGHT* 15–16 (Bernard Zylstra & Josina Zylstra eds., 1975) [hereinafter Zylstra, *Introduction*] (emphasis omitted).

6. See Caudill, *A Calvinist Perspective*, *supra* note 2, at 307 (“Neo-Calvinism in my terminology refers to those who trace their theology, and especially their views on the relationship between faith and scholarship, from Calvin to Groen van Prinsterer to Kuyper to philosophers Dooyeweerd and Vollenhoven, and finally to certain reformational philosophers of this generation.”).

7. Al Wolters, *What Is to Be Done . . . Toward a Neocalvinist Agenda?*, *COMMENT MAG.* (Dec. 2005), <https://www.cardus.ca/comment/article/what-is-to-be-done-toward-a-neocalvinist-agenda/>. For example, Calvin is clearly a disciple of Augustine, and often ends an argument by recommending, if you are not yet convinced, an Augustinian text that will clarify matters for the skeptic. See, e.g., JOHN CALVIN, *Reply to Letter by Cardinal Sadolet to the Senate and People of Geneva—1539*, reprinted in JOHN CALVIN: *SELECTIONS FROM HIS WRITINGS* 81, 98–99 (John Dillenberger ed., Henry Beveridge trans., 1971) [hereinafter CALVIN, *SELECTIONS*]. Calvin also remarks that Augustine knew how to deal with Rome, and he frequently quotes from, and asks that we adhere to, Augustine. See JOHN CALVIN, *Antidote to the Council of Trent—1547*, reprinted in CALVIN, *SELECTIONS*, *supra*, at 119–20.

is the idea of office, vocation, or calling: “Historical study shows that neither Catholic peoples nor those of classical antiquity . . . possessed a word for calling in the sense of a life-task, while all the predominantly Protestant peoples have had one.”⁸ Luther’s conception that daily tasks had religious significance was new, but “to serve God *within* one’s calling is not the same as to serve God *by* one’s calling. . . . [a] step Luther was too much of a traditionalist to take.”⁹ In Neo-Calvinism, this leads to an emphasis on John Calvin’s legal training and political acumen—one need not be in the clergy to be in a spiritual profession.¹⁰ “The differences between Calvinism and Lutheranism can be accounted for in no small measure by the fact that Calvin began his career as a lawyer and Luther as a monk.”¹¹ All aspects of life, and not just those conventionally “religious” matters like church attendance or prayer, are for Calvin equally and significantly “spiritual.”

Second, and closely related, Calvinism stresses the isolation of each individual: “Each . . . must travel [his or her] way of life alone. No preacher, no sacrament, no church can alter the inevitable destiny ordained of God.”¹² One sees evidence of such individualism, as well as the idea that the office of the merchant is as important as that of the clergy, in seventeenth century Dutch “Golden Age” paintings of church interiors—the reduction in both the significance and “holiness” of churches is, for example, represented in the Interior of the Oude Kerk, Delft (by Emanuel de Witte, 1616–1692).¹³ The pulpit of the formerly eleventh century Roman Catholic church is simply omitted in the painting, while the stark interior is whitewashed and all icons have been removed (and replaced by “heraldic emblems and civic banners”!); children

8. GEORGIA HARKNESS, JOHN CALVIN: THE MAN AND HIS ETHICS 181 (1958).

9. *Id.* at 181–82 (“Both [Luther’s] social and economic conservatism and his predestinarian theology made him look upon each man’s *Beruf* [or ‘profession’] as the station in life where God had placed him, to be humbly and patiently acquiesced in, not climbed out of. He never passed beyond the medieval functional view of society.”).

10. Calvin and the earlier reformers “believed in the priesthood of all believers and that every Christian, not only those in priestly/pastoral offices, has a vocation from God.” JAMES W. SKILLEN, THE GOOD OF POLITICS: A BIBLICAL, HISTORICAL, AND CONTEMPORARY INTRODUCTION 92 (2014).

11. HARKNESS, *supra* note 8, at 5 (citing ERNST TROELTSCH, PROTESTANTISM AND PROGRESS 72 (1912)).

12. *Id.* at 182.

13. See Emanuel de Witte, *Interior of the Oude Kerk, Delft*, METROPOLITAN MUSEUM ART, https://www.metmuseum.org/art/collection/search/438490?exhibitionId={f09f2f10-eee2-4ecb-8e2a-c6c9669ba1b2}&oid=438490&pkgids=512&pg=0&rpp=100&pos=66&ft=*&offset=100.

scribble on one column, while on another a dog urinates, and there are merchants seemingly conducting business in the church during the week.¹⁴ The authority of the Church of Rome has given way to individuals who have *direct* interpretational access to the scriptures—the final authority (for the Reformers) on all issues.

Third, and seemingly in conflict with an emphasis on the individual, is Calvinism’s “marked superiority in social organization,” identified by Max Weber in his famous essay *Die Protestantische Ethik und der Geist des Kapitalismus* (The Protestant Ethic and the Spirit of Capitalism).¹⁵ “The world is designed solely for God’s glory, and the elect must honor him by obedience to his will in the social order. For God’s glory, society must be served.”¹⁶ Beyond mere submission to government, Calvin stressed “active engagement on the part of citizens and their representatives in the affairs of state.”¹⁷ Natural, or secular, institutions are neither subordinate to, nor only related to God through the mediation of, the church—“[r]ather, the whole of human life . . . is directly dependent on and responsible to God.”¹⁸

Following the Protestant revolt in Holland against Spain and Roman Catholicism, in the late sixteenth and early seventeenth century,¹⁹ the official Dutch Reformed Church reflected the heavy influence of Calvinism. While the Golden Age of seventeenth century Holland declined in the eighteenth century, by the mid-nineteenth century (under an 1848 constitution) the nation became a parliamentary democracy (with a monarch).²⁰ Lamenting the na-

14. *See id.*

15. MAX WEBER, THE PROTESTANT ETHIC AND THE SPIRIT OF CAPITALISM (Talcott Parsons trans., 1930) (1904).

16. HARKNESS, *supra* note 8, at 182.

17. *See* SKILLEN, *supra* note 10, at 92 (emphasis omitted). Reformational leaders like Calvin “contributed to the considerable shift of power from the church to civil governments. . . . According to John Witte Jr., . . . : ‘They broke the superiority of clerical authority and canon law and thereby vested new power in civil authorities and civil law.’ . . . Calvin and the Calvinists had a great desire for order in society, and they stressed submission to the ruling authorities.” *Id.* (quoting JOHN WITTE, JR., THE REFORMATION OF RIGHTS: LAW, RELIGION, AND HUMAN RIGHTS IN EARLY MODERN CALVINISM 77 (2007)).

18. *See id.* at 94 (“Calvin, more than Luther and the Anabaptists, goes back to the Old Testament, reading Israel as a model for the church in covenant with God. Luther pits gospel against law; Calvin teaches that the whole of covenant life, including the law, is renewed and fulfilled in Christ.”).

19. *See* JAMES C. KENNEDY, A CONCISE HISTORY OF THE NETHERLANDS 136 (2017).

20. *See* HARRY VAN DIJK, GROEN VAN PRINSTERER’S LECTURES ON UNBELIEF AND REVOLUTION 15, 79 (1989).

tional humiliation and decline of early nineteenth century Holland, Dutch Calvinist Guillaume Groen van Prinsterer (1801–1876) became active in politics and was eventually the leader of the Anti-Revolutionary Party²¹—he was a member for years (1849–57, 1862–66) of the Second Chamber of parliament.²² It is Groen van Prinsterer who is credited both with organizing the Neo-Calvinist movement in Holland, *and* with mentoring Abraham Kuyper.²³ Groen van Prinsterer’s work eventually resulted in the creation of a Christian labor movement, a Christian political party, and (through Kuyper’s continuation of Groen’s legacy) Christian (i.e., Calvinist) day schools.²⁴

Abraham Kuyper, a Reformed Church pastor, was Groen’s successor both in the Dutch parliament (1874–75) and as leader of the Anti-Revolutionary Party—he served as Prime Minister from 1901–1905.²⁵ Kuyper, in his 1898 Stone Lectures at Princeton, described Calvinism as a *Weltanschauung*—a religion for all of life (alongside the “religion” of Modernism)—affecting one’s perspective on all matters.²⁶ Properly developed, such a religion embraces not only theology and worship, but also politics, science, and art.²⁷

21. The Christian political party’s name suggests a rejection of the radicalism and “religion of unbelief” that brought about the French Revolution in 1789. See Harry van Dyke, *Foreword* to GUILLAUME GROEN VAN PRINSTERER, LECTURES EIGHT AND NINE FROM UNBELIEF AND REVOLUTION: A SERIES OF LECTURES IN HISTORY, at vii (Harry van Dyke ed., & trans., 1975).

22. GERRIT J. SCHUTTE, GROEN VAN PRINSTERER: HIS LIFE AND WORK 88 (Harry van Dyke trans., Publisher’s Imprint 2005) (“Groen did not shy away from moving from the gallery to the floor of parliament. When the revised Constitution made new elections necessary, he allowed his name to stand in a number of districts. In several he won a seat in the upper house, but after winning a run-off election in District Harderwijk he took his seat in the lower house.”); see also Caudill, *Neo-Calvinism and Science*, *supra* note 2, at 36 (outlining Groen van Prinsterer’s tenure in the Second Chamber of the Dutch Parliament).

23. SCHUTTE, *supra* note 22, at 88.

24. *Id.* at 39–83 (outlining life and career of Groen van Prinsterer). Groen studied law and letters at Leyden, graduating in 1823 with a Jur. Dr., based upon his dissertation on the Justinian Code, and a D.Litt., based upon a dissertation on Plato. See *id.* at 40. He practiced law briefly as a barrister, and in 1827 was appointed to the Royal Cabinet as a reporting clerk, serving later as Secretary. See *id.* at 41. Resigning in 1833, Groen worked as a curator of the Archives of the House of Orange; he edited and published seven volumes of royal correspondence by 1839. See *id.* at 52–53. In 1840, he left archival work for a seat in parliament. See *id.* at 61.

25. See *Abraham Kuyper*, ENCYCLOPEDIA BRITANNICA, <https://www.britannica.com/biography/Abraham-Kuyper> (last visited Oct. 22, 2019).

26. See ABRAHAM KUYPER, LECTURES ON CALVINISM 8 n.1 (1898).

27. Kuyper “insisted that the significance of the sixteenth century reformation could not be confined to church and theology if it were to remain a potent force in modern culture.” BERNARD ZYLSTRA, FROM PLURALISM TO COLLECTIVISM: THE DEVELOPMENT OF HAROLD LASKI’S POLITICAL THOUGHT 207 (1970).

Not surprisingly he referred to his own world view as Neo-Calvinism. Kuyper articulated . . . his world view for a grassroots constituency in the daily *Standaard* and the weekly *Heraut*, both of which he edited for decades, and in many brochures, books, and tomes . . . over a time span of more than 50 years. . . . But the amazing sense of vision and calling with which Kuyper inspired . . . evangelical reformed Protestantism in Holland . . . did not catch on beyond its borders.²⁸

Kuyper's Neo-Calvinism, however, *did* inspire the development of a Christian philosophical tradition—originating at the Vrije Universiteit Amsterdam (founded by Kuyper).²⁹ And even today, Kuyper's views continue to inspire Christian scholars, inside and outside of the Dutch Reformed tradition, respectively, to articulate Christian perspectives on all theory and practice, including all disciplines and social activities, and in Cochran's case, legal processes and institutions.

III. SPHERE SOVEREIGNTY

Sphere sovereignty is Kuyper's idea that from God's sovereignty there derives more discrete sovereign "spheres" such as the state, business, the family, and the church. He also used this idea to help make the case for distinctive Christian public institutions such as schools and hospitals. "Sphere sovereignty describes a pluralism of both social structures and worldviews and is one prominent feature in Kuyper's approach to public life."³⁰

"Sphere Sovereignty," the first concept in the "trilogy" of Kuyperian influences on Cochran, is the Neo-Calvinist idea that there are spheres of authority in the modern world, such as the state, but the state is not sovereign over the family or the church, each of which is independent (or sovereign) over the activities in its sphere.³¹ This is clearly an argument against state authority over the church, over education, over freedom of the family home, and so

28. Zylstra, *Introduction*, *supra* note 5, at 18.

29. *See id.* at 28 ("[I]t is quite understandable that the close link between [*Vrije Universiteit* (otherwise known as the Free University)] and the most outstanding thinkers of this philosophical movement has led commentators to refer to it as the Amsterdam school, or the Amsterdam philosophy.").

30. Bacote, *supra* note 1, at 24–25.

31. *See* Caudill, *Neo-Calvinism and Science*, *supra* note 2, at 34.

forth. Moreover, it is not *only* a description of various (or plural) social structures—it also represents a pluralism of world views, since Kuyper knew that there were non-Christian institutions (schools, or families) that would have sovereignty in their spheres. While the notion of sphere sovereignty is indirectly suggested in Calvin’s view of the civil state, it is Groen van Prinsterer who offers “a more structured delineation and elaboration” of the concept—private life is governed by God, not by the state:

In the January 5, 1871 issue of *Dutch Reflections* [*Nederlandse Gedachten*], Groen cites [Ernst Ludwig] von Gerlach approvingly when the latter says that “God’s law does not stand alongside of or under the spheres of diplomacy, politics, and war but embraces these spheres with its sovereign authority as it does that of private life. God’s law, therefore, is their supreme guideline.”³²

Groen’s influence on Kuyper was then confirmed with the title of Kuyper’s 1880 inaugural address, “Sphere Sovereignty,” at the privately controlled Vrije Universiteit te Amsterdam.³³

In a 2011 collection entitled *Christian Perspectives on Legal Thought*,³⁴ Professor Cochran’s chapter on tort law challenged the notion that tort law is, or should be, primarily individualistic.³⁵ Cochran focused his attention on intermediate communities, like families and churches, which in Kuyper’s view deserve to be valued and protected in our legal system.³⁶ Cochran introduced sphere sovereignty in Kuyper’s terms, then analogized it with Catholic notions of subsidiarity to demonstrate that it was not a uniquely Calvinist concept.³⁷ Pope Leo XIII in 1891 “presented subsidiarity as an alternative to the individualism of unrestrained capitalism and the collectivism of Marx-

32. Bob Goudzwaard, *Christian Politics in a Global Context*, in *POLITICAL ORDER AND THE PLURAL STRUCTURE OF SOCIETY* 333, 336 (James W. Skillen & Rockne M. McCarthy eds., Scholar Press 1991) (translating Bob Goudzwaard, *Christelijke Politiek en het Principe van de “Sovereiniteit, in Eigen Kring,”* ANTI-REVOLUTIONAIRE STAATKUNDE 335–342 (Harry der Nederlander & Gordon Spykman eds., & trans., 1977)) (first alteration and italics in original).

33. *See id.*

34. *See* Robert F. Cochran, Jr., *Tort Law and Intermediate Communities: Calvinist and Catholic Insights*, in *CHRISTIAN PERSPECTIVES ON LEGAL THOUGHT* 486 (Michael W. McConnell, Robert F. Cochran, Jr. & Angela C. Carmella eds., 2001) [hereinafter Cochran, *Tort Law*].

35. *Id.* at 486.

36. *See id.* at 487, 490–92.

37. *See id.* at 487–88.

ism. . . . Leo emphasized the importance of institutions between the individual and the state remaining independent ‘A family, no less than a State, is . . . a true society, governed by a power within its sphere.’”³⁸ That language, Cochran points out, is “similar to that of Kuyper.”³⁹

Arguing for the importance of protecting intermediate communities, Cochran identified them as (i) “‘constitutive’ of the self” in Michael Sandel’s communitarian terms,⁴⁰ as (ii) “a moral starting point” in Alasdair MacIntyre’s terms,⁴¹ as (iii) a benefit to the culture at large, and as (iv) “a source of moral insight” for the state.⁴² Tort law’s individualism—e.g., no obligation to help others—is reflected in our willingness to abandon parental and charitable immunities, as well as in our imposition of strict liability on parents for their child’s torts.⁴³ Intermediate communities should sometimes lose in the courts, when they are reckless as to risks of serious injury, but we should not give the state all the power in ways that weaken these communities.⁴⁴ There should be a balance between the discretion allowed “to communities and holding them responsible,”⁴⁵ an argument that Cochran constructed on the basis of Kuyper’s sphere sovereignty and Pope Leo’s notion of subsidiarity.⁴⁶ Cochran recommends a middle course between the extremes of individualism and collectivism.⁴⁷

38. See *id.* at 488 (quoting Pope Leo XIII, *Of New Things* (1891), reprinted in *THE PAPAL ENCYCLICALS IN THEIR HISTORICAL CONTEXT* 166 (Anne Fremantle ed., 1956)).

39. *Id.*

40. *Id.* at 490 (referring to MICHAEL SANDEL, *LIBERALISM AND THE LIMITS OF JUSTICE* (1982), a critical, communitarian response to the individualism in JOHN RAWLS, *A THEORY OF JUSTICE* (1971)).

41. *Id.* (citing ALASDAIR MACINTYRE, *AFTER VIRTUE* 220 (1984)).

42. See *id.* at 490–91.

43. *Id.* at 492–96.

44. *Id.* at 497–99 (“[T]he state has a role to play[.] . . . [But] the state poses dangers to intermediate communities.”).

45. *Id.* at 502.

46. *Id.* at 504. Elsewhere, it should be noted, Cochran used Kuyper’s notion of sphere sovereignty (and Pope Leo’s notion of subsidiarity) to suggest a basis for judicial restraint. See Robert F. Cochran, Jr., *Catholic and Evangelical Supreme Court Justices: A Theological Analysis*, 4 U. ST. THOMAS L.J. 296, 306–07 (2006) [hereinafter Cochran, *Catholic and Evangelical*].

47. Cochran, *Tort Law*, *supra* note 34, at 504 (“I do not suggest that intermediate communities should always win in conflicts with individuals or the state, but a balance of power will benefit individuals, intermediate communities, and the state.”).

IV. ANTITHESIS

A deepened appreciation of the authority of Scripture is part of a keener sense of what Kuyper called “the antithesis,” . . . or what I call the religious “directionality” which pervades all things. Another aspect of such a keener antithetical sense is an awareness of the importance of mission, of Christian witness broadly conceived. Everything that the Christian community is and does, including its cultural life, is part of its comprehensive witness to Christ in the world. . . . Integral to such a missiological approach is also the affirmation of the exclusive claims of Jesus as Saviour. . . .⁴⁸

Kuyper’s view of antithesis, a second concept in the trilogy of Neo-Calvinist influences on Cochran, was an effort to distinguish Christian thought from other belief systems—Christianity is oppositional in that sense.⁴⁹ Consequently, Christians might interpret reality differently from those who do not share in the Christian tradition, but Christians (in the view of Neo-Calvinists) should not have to sacrifice their perspective in public life.⁵⁰ The pluralism I mentioned above, as an implication of sphere sovereignty, here gives life to notions of religious freedom and religious toleration.⁵¹ Kuyper would, of course, view atheistic humanists as religious believers—the religion of the Enlightenment; but he would also reject theocracy and any efforts to force anyone to follow Christ or any other religion.⁵²

The idea that there is a unique Christian philosophy guiding the lives of believers may sound like a contradiction of terms:

48. Wolters, *supra* note 7, at 39.

49. Lael Daniel Weinberger, *Religion Undefined: Competing Frameworks for Understanding “Religion” in the Establishment Clause*, 86 U. DET. MERCY L.J. 735, 743 (“Kuyper emphasized that the nature of worldviews is seen in the manifestation of fundamental principles, and pointed out, with particular emphasis, the antithesis between the Christian worldview and the secular ‘modernist’ worldview.”).

50. David H. Mellroy, *Subsidiarity and Sphere Sovereignty: Christian Reflections on the Size, Shape, and Scope of Government*, 45 J. CHURCH & ST. 739, 763 (2003) (“If the Christian vision of society is one of maximum possible liberty compatible with maintenance of social order . . . then it is right that government should bear the burden of proof on the question of interference . . .”).

51. Cochran, *Catholic and Evangelical*, *supra* note 46, at 303 (“Kuyper’s life and work illustrate his constant effort to determine how diverse groups of people might find peace and justice together.”).

52. See Abraham Kuyper, ABRAHAM KUYPER: A CENTENNIAL READER 197 (James D. Bratt ed., 1998); see also Cochran, *Catholic and Evangelical*, *supra* note 46, at 308 (“By its influence on the state and civil society the church of Christ aims only at a *moral triumph*, not at the imposition of confessional bonds nor at the exercise of authoritarian control.”).

Is not philosophy a search for truth by . . . natural reason? Even many Christians, both Roman Catholic and Protestant, are of the opinion that one must carefully distinguish between the realm of nature, where human reason suffices, and the realm of grace, where divine revelation is needed in [the] search for truth.⁵³

That nature/grace distinction, however, is rejected in Calvin's Reformation—"Reason would no longer serve as an independent guide to truth about the natural world"—all believers would read the Bible to guide their everyday reflections on life.⁵⁴ Moreover, the Christian religion pervades all *theoretical* thought or reflection on the part of believers, including scientific reflection and thought, not simply thought or reflection in the realm of theology. And Christians are not uniquely *religious* in that regard, because all philosophical and scientific pursuits are "determined by underlying, religious motives" of some type and origin.⁵⁵

In his introduction to a symposium of Christian views on law and legal scholarship, somewhat amazingly published in the *AALS Journal of Legal Education*,⁵⁶ Cochran reflected on the notion of worldviews—of how we see the world—and he impliedly presented the *antithesis* between a faith in God, on the one hand, and an alternative faith in, for example, individualism, Enlightenment rationalism, human autonomy or scientific naturalism, on the other hand.⁵⁷ There is some overlap, some common ground (between these various "faiths") by which we can work together, but there are also some clear distinctions.⁵⁸ Christians might agree with Marxists on the need for economic fairness, or with some feminists on the dangers of legalized prostitution; but there are also some serious disagreements with secular humanists, and even disagreements within the Christian community, on matters such as abortion or gay marriage.⁵⁹ In any event, Cochran concluded, we should engage in legal scholarship, just as (i) Calvin engaged in Swiss politics, as (ii) Groen

53. Zylstra, *Introduction*, *supra* note 5, at 31.

54. SKILLEN, *supra* note 10, at 91 (emphasis omitted).

55. Zylstra, *Introduction*, *supra* note 5, at 31–32.

56. Robert F. Cochran, Jr., *Christian Perspectives on Law and Legal Scholarship*, 47 J. LEGAL EDUC. 1, 1 (1997) [hereinafter Cochran, *Christian Perspectives*] (discussing the impact of the Calvinist perspective on the law).

57. *See id.* at 1–3.

58. *See id.* at 3.

59. *See id.* at 3 (noting that there is common ground between Christians and "enlightenment liberal views," but this common ground is limited and even "Christians disagree about many things").

Van Prinsterer engaged in Dutch politics, and as (iii) Kuyper became prime minister, because Christian scholars have something to offer in legal and policy debates.⁶⁰ This is an example of *engaged pluralism*, a concept that Cochran linked to Kuyper's next, *third* principle in the trilogy of influences on Cochran, "common grace."⁶¹

V. COMMON GRACE

Kuyper articulated this doctrine [of "common grace"] as a development of earlier Reformed expressions of God's preserving work in the created order. This development was quite robust and much more expansive than statements of the doctrine in theologians such as John Calvin Common grace is God's restraint of the full effects of sin after the Fall, preservation and maintenance of the created order, and distribution of talents to human beings.⁶²

In contrast to antithesis—the strong distinction between Christianity and other belief systems—the theological doctrine of common grace stresses our shared humanity and public responsibility. Throughout history, good things arose from human beings who knew God *and* from those who did not.⁶³ God extends his grace to the world, so of course we see people serving others, as well as advances in science, great art, and examples of justice, in settings outside of the Christian community.

Cochran engaged the Neo-Calvinist doctrine of common grace in his article entitled "Catholic and Evangelical Supreme Court Justices":⁶⁴ "Even those evangelicals who have a Calvinist skepticism about reason and human

60. See *id.* at 12 ("Christians should enter the scholarly arena, explicitly identify their presuppositions, reach thoughtful conclusions, and welcome and respond to critiques of their work.").

61. See Cochran, *Catholic and Evangelical*, *supra* note 46, at 303. "As Nicholas Wolterstorff notes, Kuyper did not expect to find principles that 'are such that we can fairly ask everybody to appeal to them when debating and deciding basic political issues.' Nevertheless, Kuyper's life and work illustrate his constant effort to determine how diverse groups of people might find peace and justice together. He favored what Wolterstorff has call an "[e]ngaged pluralism." *Id.* at 302–03 (quoting Nicholas Wolterstorff, *Abraham Kuyper*, in 1 THE TEACHINGS OF MODERN CHRISTIANITY ON LAW, POLITICS, & HUMAN NATURE 299, 304 (John Witte, Jr. & Frank S. Alexander eds., 2006)).

62. Bacote, *supra* note 1, at 25–26.

63. *Id.* at 26 ("Put simply, common grace responds to the question many have about our world: 'How does the world go on after sin's entrance and how is it possible that "good" things emerge from the hands of humans within and without a covenant relationship with God?'").

64. See Cochran, *Catholic and Evangelical*, *supra* note 46.

nature believe that God gave a measure of ‘common grace’ to all people. Common grace includes some human ability to discern right and wrong without scripture, though the term attributes such insights to God.”⁶⁵ Cochran argued that natural law, the focus of many Catholic thinkers, “is a manifestation of common grace[,] and evangelicals should join with Catholics” in promoting that theoretical framework.⁶⁶ Natural law and common grace “provide a basis for law that can be shared among those of various religions and of no religious faith.”⁶⁷ Natural law, suggesting a higher law that can serve as a corrective to the status quo, is a conception with broad public appeal.⁶⁸

In the end, however, there is no common *sense* to which we can all appeal.⁶⁹ There is no neutrality, no value-free rationalism that can rise above religious faith.⁷⁰ There is only, from Kuyper’s perspective, a debate between religions—between believers, some of whom believe in God and some of whom believe in human reason.⁷¹ But it is a debate, a competition, and here the notion of pluralism returns, because everyone is pushing an agenda that each thinks is good for everyone, which is the very nature of a policy debate.⁷² Addressing the notion of judicial neutrality with respect to religion, Cochran observes:

Some speak as if it is possible to be neutral. . . . [L]ike it or not, religious faith affects almost everything that we do. . . . [W]hen we try and put our religious faith aside, that probably does not mean we operate on neutral values; it is likely that we merely operate based on someone else’s religious values. Some sort of faith will affect a

65. *Id.* at 302.

66. *Id.* at 303.

67. *Id.*

68. *Id.* at 304.

69. See Kai Ingolf Johannessen, *Reason, Rights and Religion: Can Religion be Reasonable?*, 20 *MENNESKER OG RETTIGHETER* 4, 11–13 (2002) (discussing the human struggle to reach public or political consensus using religion as a source for reason).

70. See *id.* at 11 (“[I]t would seem odd if citizens, when concerned with genuinely political aims or strictly public values and common standards of justice, were to suspend their deepest religious and moral commitments.”).

71. See KUYPER, *supra* note 52, at 258–64 (comparing knowledge and science to the “Wisdom of God”).

72. See Weinberger, *supra* note 49, at 745 (“[E]very belief and every act of every person reflects his or her worldview principles, everything he or she thinks or does reflects certain religious presuppositions. Worldviews are of necessity *religious*.”).

judge's work.⁷³

In terms of Neo-Calvinism, it is not that some would allow or encourage Christians to bring religious biases to the table; it is that religious biases are inevitable in social, legal, and political discourse.

VI. CONCLUSION

Neocalvinism is not just some idiosyncratic sectarian movement rooted in 19th-century Holland. . . . To be sure, neocalvinism as a distinct cultural movement has its roots in The Netherlands, . . . but its religious antecedents are much earlier and more catholic than that.⁷⁴

Scholars in the Neo-Calvinist movement are known for undertaking two tasks: First, there is the effort to level the playing field in social and political discourse, by showing that fundamental commitments are inevitable, and therefore that Christian views are no different from non-religious arguments in that respect. Second, there is always the question—in Kuyper's claim of every square inch for Christ's kingdom⁷⁵—of what is the Christian view for art, for science, for the environment, for education, for political theory, for labor issues and so on?⁷⁶ Cochran makes both of these moves in his legal scholarship, and draws on Abraham Kuyper's teachings to do so.

In conclusion, it should be mentioned that not all of Kuyper's views are attractive nowadays, particularly with respect to race and gender,⁷⁷ but there is still much to appreciate. Like Cochran, I have found both inspiration and

73. Cochran, *Catholic and Evangelical*, *supra* note 46, at 309.

74. Wolters, *supra* note 7 (“There are significant pockets of neocalvinists in the Netherlands, South Africa, Canada, the U.S., Mexico, Australia, New Zealand, Korea, and the UK, but they have very little contact with each other.”).

75. Abraham Kuyper, Inaugural Address at the Free University (1880), in ABRAHAM KUYPER: A CENTENNIAL READER, *supra* note 52, at 461 (“[T]here is not a square inch in the whole domain of our human existence over which Christ, who is Sovereign over *all*, does not cry: ‘Mine!’”).

76. See SKILLEN, *supra* note 10, at 91–92 (noting that Calvin, in the Reformation, intended to “rethink everything from a biblical point of view”).

77. See Bacote, *supra* note 1, at 28 (“It is not necessary to have total agreement with a person in order to admire them or find their contributions to be of great value. . . . Kuyper was not omniscient, and at times ventured opinions we might find surprising. This may be most apparent in the comments regarding Africans and ‘primitive peoples’ that appear in [his] discussions of science and art. . . . [W]e can critique Kuyper on race and gender while also recognizing that such statements are in fact peripheral to his argument.”).

compelling ideas in Kuyper's views in my own legal scholarship; and I believe that Cochran has even pushed Neo-Calvinism further along by developing, and applying its perspective, in new legal settings.