Ulric Huber (1636-1694) : 'De ratione juris docendi & discendi diatribe per modum dialogi : nonnullis aucta paralipomenois' : with a translation and commentary
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CHAPTER I

INTRODUCTIONS ALL ROUND

Ulric Huber (1636–1694) was the author of this work De ratione discendi atque docendi juris diatribe per modum dialogi (a diatribe in the form of a dialogue on the method of learning and teaching law). He was professor at the University of Franeker, teaching Rhetoric and History from 1657-1665, and Law from 1665 until his death, with a brief 3-year break at the Provincial Court (Hof van Friesland) at Leeuwarden (1679-1682). Huber was certainly the most significant of the late 17th century jurists in Friesland, and much respected in the Netherlands and abroad. He is known for a wide range of significant legal writings. Here we are concerned with one of his minor works in which he discusses some of the problems relating to teaching law, especially to first-year students.

The Dialogus made its debut in 1684 as a small octavo volume printed by Joh. Gyselaar of Franeker. Four years later it was reprinted, in a modified form, with an extended title and included in Huber’s Digressiones Justinianeae of 1688. This 1688 edition of the Digressiones together with the Dialogus was subsequently reprinted in 1696 and eventually the Dialogus appeared as part of Christian Gottlieb Buder’s De ratione ac methodo studiorum iuris of 1724. This present edition is a photocopy from the 1688 edition of the Digressiones held in the Library of Tresoar, Leeuwarden.

At first glance the Dialogus appears to be a record of a relaxed discussion which took place one afternoon at Hazerswoude beside the Oude Rijn, in the summer of 1671. The personae dialogi are Huber himself, Johannes Friederich Böckelmann, Professor of Law at Leiden since 1670, Georgius Conradus Crusius, likewise a professor at Leiden since 1669, (Albertus Rusius, professor since 1659, only appears in the 1684 edition) and Adrianus Wijngaerden, an ex-student of Huber’s in Friesland, then tutoring in Leiden. Huber himself was the only participant with no direct links to Leiden, although it was not because the Leiden authorities had not made every attempt to win him over to the law faculty in 1670 and again in 1681. The text of the Dialogus refers to the first offer but not that of 1681.

Under the general umbrella of the reasons for corrupta jurisprudentia (the decline of jurisprudence) a number of topics are brought up for discussion — the use or abuse of compendia, the inadequacies and follies of professors and students, the success or failure of teaching beginners the intricacies of textual criticism. Here Huber launches an attack on those who practice humanistic philology and links it with the question of whether students are being trained for the profession or for academia; and finally the group discusses the pros and cons, for jurists, of notices of new publications in literary journals.

1 Ulric Huber, 1636–1694. Professor of Law at Franeker, 1657–1679 and 1682–1694. See Chapter IV.
2 For details of publications and changes in title see Feenstra BGNR Franeker, p 72, no 208; pp 52-53, nos 143, 144; p 96, no 285, and below, Chapter II.
3 The first edition of the Digressiones appeared in 1670, Franeker, and was followed by title page editions of 1671 and 1677. The 1688 edition is an expanded and reworked version of the earlier edition. See Feenstra BGNR Franeker, pp 51-53, nos 140-144, and below Chapter II.
4 See Veen Recht en Nut, pp 337 and 338 for the letters from the Curators of the University of Leiden and the Burgermeester.
5 See Dialogus, p 3.
The discussion is comparatively amiable; by and large each participant adopts a particular line of arguments, for example Böckelmann argues in favour of compendia (especially his own), whereas Crusius voices a more hostile attitude and favours textual criticism as the means to improve the quality of jurists and jurisprudence. As is often the nature of a literary dialogue, the speakers are not always consistent, no hard and fast conclusions are reached and at the end of the day little new has been added to the central debate.

For several decades the question of the decline in the quality of jurisprudence had been a popular theme, especially for inaugural orations and even, sometimes, for student disputations. The main arguments, with minor variations of emphasis, had been aired before and would be aired again. Peculiar to this dialogue are a few additional topics — a somewhat biased diatribe by Crusius on the evils of classical epitomes, such as Annaeus Florus on Livy; a debate on the nature of paratitlia, and an attempt to evaluate the new journals circulating in the Republic of Letters.

By the time he published the *Dialogus* (1684), Ulric Huber was well established in the legal and academic world. He had a substantial body of publications to his credit, and was constantly working on new material or on expanding and reworking existing notes and editions. In 1679 he had been appointed to the *Hof van Friesland* as a Senator (or councillor) but had, after three years, resigned and re-established himself on very favourable terms in the university where he was not required to give public lectures, but could devote his time to teaching in private, writing and publishing. The number of students who beat a path to his door, rather than to those of his colleagues, is fair proof of his competence as a teacher (and probably to the comfortable size of his income). He was certainly in a position to write on the methods of teaching and learning law, but what actually was he trying to do here? Certainly he had stated his didactic policy clearly and specifically before — chiefly in his two recent *Auspicia Domestica* Orations numbers II and IV of 1682. The first (II) sets out the teaching programme he intended to follow in that year and the second (IV) counters objections he felt sure would be levelled at his policy.

What need then was there for a dialogue — largely reiterating the points made in the Orations? Certainly, the dialogue form allows for a measure of flexibility, enabling Huber to combine the main points of *Oratio* II with those of *Oratio* IV and,

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6 See, for example, Antonius Contius (1517 - 1586) and his introductory remark in his Chapter XI on teaching and learning law (Contius, *Lectiones* cap xi, p 15), *De ratione docendi et discendi juris, multi varios libros, guidam summas, plerique methodos, alii communes locos, omnes veram juris artem se tradere scripserunt; quos si quis omnes ordine evolveret, enique invicem contulerit, discordiam reperturus est implacablen.* (On the method of teaching and learning law, many people have written various books, some have written *summae*, a great number have written on methods, others on *communi loci*, and all declare that they are passing on the true scholarship of law; if anyone reads all these in order, and compares them one with another, he will find an irreconcilable conflict of opinions.)

7 The Republic of Letters refers to the collective body of those engaged in literacy pursuits. The term originated in the exchange of letters between influential philosophers and other thinkers. In the 18th century this evolved into a system of academic journals.

by using individual spokesmen, to highlight certain aspects. Further, the first edition, that of 1684, includes a handful of classical and later allusions which to an extent relieve the unadorned seriousness of the earlier works. By the time the Dialogus is included with the Digressiones (1688) its nature is becoming clearer. Digressiones are pleasant allusions which, as Huber says at the beginning of his Positiones, are as necessary an addition to the study of law as salt is to food. In fact, in the Praefatio to the Digressiones Huber himself writes that the Dialogus is rightly placed in this work “as it is nothing other than a Digressio” Furthermore, the Dialogus, like the Digressiones, has a loose structure, but unlike the Digressiones, the allusions are largely decorative and add little to the arguments.

The concluding section, not concerned with teaching law, is a brief debate, initiated by Böckelmann on the question of literary journals. He introduces the topic by waving a libellum (small book) entitled Ephemerides Eruditorum which in fact was a Latin version of the Journal des Scavans and angrily declares that the reviewers largely ignore or just casually mention serious work, for example law, while promoting trivial writings. He claims that two worthless books, one by A.S., (Bernard Swalve) a Medical Doctor at Amsterdam, and another by N. (Johannes) Amerpoel, are presented with great praise, and that the writers of these résumés arrogantly claim to be capable of assessing merit. In addition, these journals include light French follies to titillate the minds of frivolous readers. Crusius then calms Böckelmann down by pointing out that the views of these reviewers and of the readers are not really of any significance for serious scholars. All the material in the journals is superficial. He personally doesn’t feel in any way affronted but if Böckelmann feels strongly why doesn’t he write and inform the editor when he is about to produce a new book, give an outline and say why it is important. Huber’s attitude is rather different. He advises against offending the editors and contributors who could well harm the reputation of a serious scholar by deliberately misconstruing a book and prejudicing public opinion. It is foolish to alienate the contributors and discount one’s reputation in the world at large. On the other hand a

9 Huber’s Digressiones are a collection of Humaniora juris and various other literary, rather than legal, writings. The original Digressiones of 1670 were references to and reworkings of classical sources which had originally been included in Huber’s lectures on the Institutes and in his Disputationes juris fundamentales. In 1688 an expanded and revised version was published including, as said above, an extended version of the Dialogus. In his Praefatio to this edition, Huber makes various comments which are relevant to our assessment of the Dialogus. He reiterates his reasons for removing the Humaniores from his law lectures, his view that textual criticism of the Florentine must be justified by manuscript authority and says the Dialogus is included because it is in fact a Digressio. He mentions that the issue of compendia is raised in the Dialogus but that he has given no hard and fast ruling. For the Digressiones see Feenstra BGNR Franeker, pp 51-52, nos 140-144. For the Disputationes see Feenstra BGNR Franeker, pp 50-51, nos 136-137.

10 See Positiones Juris secundum Institutiones et Pandectas Praefatio p [2]. Quod temperamentum vobis tam et necessarium ad Juris studium quam sal est ad victum. (Which is for you as necessary a modification for your study of law as salt is for food.)

11 Digressiones Justinianae, Praefatio p [3], dum ipsa nihil quam Digressio sit (since it is nothing other than a Digressio).

12 This largely decorative use of classical references and allusions is in marked contrast to the humanists use of the same type of material to analyse and substantiate texts whether classical, legal or theological.

13 The Journal des Scavans, first issued in 1665, was one of a number of fashionable journals which catered for the literary-minded society of the 17th century, especially in France. These literary journals were chiefly concerned with developments in physics and science as well as politics, philosophy and belles-lettres. According to the Dialogus law was not a topic of concern.
scholar should certainly not tout for favour. Further, these journals do serve a purpose in that they give scholars and the Republic of Letters an idea of who is writing and on what subjects.

As said above the *Dialogus* appears on the surface to be recording a real life situation with four friends discussing their teaching policies and problems. But appearances are deceptive. Evidence indicates that Huber cobbled the *Dialogus* together from various writings of his own and of other persons. It is this which requires consideration.

Significantly there are several sub-themes underlying the apparently casual chit-chat; first, and not least, the real life relations of the persons involved. What was Huber’s attitude to Böckelmann, to Crusius and in particular to the non-appearing Gerard Noodt? Why did Huber attribute Noodt’s views (with which he mostly disagreed) to Crusius? How did he portray these men and what were his motives? Secondly, why did Huber play fast and loose with dates? Was this deliberate or merely a sign of careless workmanship? Further, what, if anything, is the significance of the changes made to the 1684 edition? The fact that it was the convention of the day not to mention, by name, the victims of one’s criticism or scorn (even although those interested undoubtedly knew what was afoot) adds a certain spice to modern research. Does it, in some degree, convert the superficially innocent *Dialogus* into yet another, typically Huberian, polemical assault on Noodt and others?

These are the most important issues which have arisen in the course of reading around and about Huber’s *Dialogus de ratione juris docendi et discendi*. 

* A Dialogue on the Method of Teaching and Learning Law