CHAPTER V

THE PERSONAE DIALOGI

In this chapter the focus will be on the three speakers who, together with Huber, shoulder the full burden of the debate. It is necessary to investigate firstly who they were in real life, what aspects of their lives were relevant to this Dialogus; and what were their actual sentiments on the topics discussed. Secondly, how does Huber present them and what views does he attribute to them. Lastly, if possible we will analyse Huber’s motives behind the rôles he allots to Böckelmann, Crusius and Wijngaerden. In a following chapter the mysterious appearance and disappearance of Rusius will be subjected to investigation as will the behind-the-scene voice from the unnamed Noodt.

1. JOHANN FRIEDRICH BÖCKELMANN1 (1632-1681)

1.1. Böckelmann in real life

Johann Friedrich Böckelmann2 was born on 18 April, 1632 at Steinfurt in the county of Bentheim. He died, aged 49, in Leiden on 23 October, 1681. His early years were spent in and around his patria. After studying at the Gymnasium Arnoldinum in Steinfurt, he registered on 5 February, 1656 for law studies at the Palatine University of Heidelberg. There he was promoted to doctor iuris on 21 April, 1659. The first of several controversies which dogged his academic career arose as a result of his inaugural disputation of 11 March 1659 which, while presenting various legal topics,3 trod on a number of sensitive toes among the Reformed Church authorities in Heidelberg; for example, he argued that a church blessing was not an essential element for a legal marriage; that there were grounds for divorce other than adultery and malicious desertion. On the other hand, the secular authority in the person of the Count Palatine, Karl Ludwig (elector 1649-1680), supported Böckelmann. He had already recommended his protégé to the position of Professor in the Institutes and himself attended the defence of Böckelmann’s disputation. (Certainly, Karl Ludwig had a personal interest in the discussion about divorce as he was technically a bigamist having a Lutheran morganatic wife, Louise van Degenfeld.) Shortly afterwards an anonymous and libellous pamphlet appeared which prompted an answer, (Epistola ad lectorem), by Böckelmann. This was subsequently published together with the disputation.4

It was in 1659 that Böckelmann was appointed to the Heidelberg University as Professor of Law, first to lecture on the Institutes, later on the Pandects. In 1665 he became Primarius; in 1660 and 1661 he was Rector. His meteoric academic career was matched by civic office. First he was appointed to the Appeal Court in Heidelberg, then to the Elector’s Court. It would seem that these non-academic duties and

1 The spelling of his surname can vary: Boeckelmann(us), or Beuckelmann, as in the deed of purchase of his property. Also he sometimes appears in the literature as Johannes Fredericus or Johann Friedrich. See Plate VII.
2 On the life of Böckelmann I have relied chiefly on R. Feenstra’s article “Johann Friedrich Böckelmann (1632-1681). Een markant Leids hoogleraar in the rechten”; minimally on NNBW III, p 125 and A.J. van der Aa’s Biographical Dictionary of the Netherlands. Further, as will be apparent, I turned to Böckelmann’s own writings, eg the Praefatio to his Compendium (1679) and to various documents in the Streekarchief Rijnlands Midden. The Album Scholasticon Academia Lugduno-Batavae, MDCXXV-MCMXL, Leiden 1941, is invaluable as far as it goes. For Böckelmann’s publications, the standard and excellent reference work is Ahsmann-Feenstra BGNR Leiden. See Plate VII.
3 Exhibens diversa iuris themata. See Ahsmann-Feenstra BGNR Leiden, p 55, no 10.
4 See Ahsmann-Feenstra BGNR Leiden, p 551, nos 10 and 11, for details, discussion of the dates and sequence of events; also for the various editions with the Epistola ad lectorem.
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responsibilities weighed on Böckelmann to the detriment of his teaching and writing and were partly responsible for his resigning from Heidelberg and moving to Leiden in 1670. However, it is certain that during the 11 years while he was professor at Heidelberg Böckelmann developed his didactic policies and also presided over a great number of disputations, many of which he had written himself. It was in late 1670 that a momentous event occurred which is crucial to our investigation. Böckelmann was appointed to the University of Leiden, as Professor in Civil Law. In July of 1671 he became responsible also for ius publicum. Regarding the negotiations which preceded his appointment, speculation revolves around why he decided to leave his well-regarded and well-paid post in Heidelberg. Not much is established on this point but it is not improbable that the upheaval consequent on the 30 Years War were a deciding factor. Also maybe the more relaxed attitude to religious matters as found in Leiden, may have appealed to one who had aroused the hostility of the Reformed authorities in his inaugural lecture of 1659. Further why did Leiden call Böckelmann? Böckelmann was not their first choice to replace Adrian Beeckerts van Thienen (1623-1669). Both Antonius Matthaeus III (1635-1710) and Huber had refused the appointment. Feenstra suggests that after refusing the post himself, it was Huber who proposed Böckelmann. The two men had known each other in Heidelberg when both were students there (1656-1657) and the friendship continued. Böckelmann certainly accepted the call almost immediately (November 1670) and began his lectures in April 1671. He started by teaching the ius actionum and in July 1671 took over his predecessor’s responsibility for Public Law. For the next ten years he continued giving public lectures (prælectiones), and private collegia and supervising disputations. Presumably in his private collegia, Böckelmann adopted the compendiary methods he had developed in Heidelberg and used early drafts of what was to appear in due course (1679) as his famous Compendium Institutionum Justiniani sive Elementa Juris Civilis in brevem et facili ordinem redacta. Thus it was that Böckelmann’s major contribution to teaching law justified his inclusion in Huber’s Dialogus.

5 See Böckelmann In Digesta, Lectori p [7], Serenissimi Principis Electoris Palatini Domini mei Clementissimi gravissimi consilii negotiosae ista immersus fui ut et telam coepiram et omnem disipulorum curam per aliquot annos abieris coactus sum. (I was so immersed in the more serious councils and business of my Lord, the most Clement and Serene Prince, and Palatine Elector that I was compelled for several years to lay aside the plan I had begun and all care for my students.) The ‘plan’ was the Exercitationes ad Pandectas.

6 For the Collegium Actionum see Ahsmann-Feenstra BGNR Leiden, p 56, no 12; for the Differentiae Juris Communis et Electoralis Palatini, ibid, p 56, no 13; for Exercitationes ad Pandectas, ibid. p 57, no 14. It was in 1664, while still at the University of Heidelberg, that Böckelmann produced his Exercitationes ad Pandectas containing 25 disputations concerning books 1-6 of the Digest. Böckelmann himself had acted as Praeses and it is presumed he was the author. The Exercitationes was published (1664) in Heidelberg by one Adriaan Wijngaerden, the father of the Adriaan Wijngaarden of the Dialogus. Wijngaarden sen. who was originally from Leiden was active as a printer-publisher from 1657-1668. In 1668 he published Böckelmann’s Collegium Pandectarum compendiose exhibens fundamenta et praecipuas controversias quae in singulis titulis occurrant, praeide Joh. Frederico Böckelmann. This contains disputations on books 1-22 of the Digest. In 1678, eight years after being appointed as hoogleraar in Leiden, Böckelmann produced his Commentationum in Digesta Justiniani libri XIX published by Felix Lopez of Leiden. The first 6 books were a reworking of the Exercitationes ad Pandectas. In 1694 this work was expanded and re-issued.

7 Appendix CI.

8 The Peace of Westphalia (1648) by no means solved the political, economic and military threats to Heidelberg, for the worst of these occurred after 1670, and in fact after Böckelmann’s death in 1681. In 1685, Louis XIV whose brother the Duke of Orleans had been married to Karl Ludwig’s daughter, Liselotte, claimed certain lands and when this was refused invaded. Heidelberg surrendered in 1688 but in 1689 the French were forced to leave and as they departed, March, 1689 the castle was set alight. The French again occupied the town in 1693, the castle was ruined and the town burned to ashes.

9 Feenstra Böckelmann, p 140.

10 See, for example, Dialogus, p 2.

11 See Molhuysen, Bronnen Leidsche Universiteit III, p 235*.

12 For the numerous editions of this work see Ahsmann-Feenstra BGNR Leiden, pp 61-64, nos 32-44. For its later popularity see Feenstra Böckelmann, pp 141 ff.
Böckelmann's contribution to university life was not only limited to teaching and picnics. He was Rector Magnificus, 1675-1676, albeit reluctantly. He gave two funeral orations, the first for his younger colleague, Georgius Conradus Crusius (27 July 1676) and later for his older colleague, Albertus Rusius (7 March 1679). Further, in his will he left a considerable sum to be administered by the Senate as a stipend for less fortunate students. This bequest still holds.

Böckelmann died on 23 October 1681. The funeral oration was spoken on 22 January 1682 by Antonius Mattheus III, but was never published. A commemorative silver 'penny' was struck and distributed and a memorial plaque was set up in the Pieterskerk. The plaque read as follows:

MEMORIAE AETERNAE
JO. FRID. BOCKELMANN. JURIS. ANTECESSORIS
INCOMPARABILIS. FINITI. A.D. X. KAL. NOVEMBR.
A.C. MDCLXXXI.

1.2 The Böckelmann property at Hazerswoude
It would appear from the information made available from the Rechterlijk Archief Hazerswoude that Böckelmann bought the erfpacht (emphyteusis) of two adjoining plots of land in 1676. These were situated besides the Rhine at Hazerswoude, between the river and the Hooge Rijndijk. The first (deed of conveyance, dated 25 April, 1676) was for 504 roods of houtlandt (wooded land). The seller was one Jacob Wolbrandtsz. Verhagen who had obtained the hereditary tenure on 26 March 1667. The annual ground rent was 13 guilders to be paid to Haesgen Ouwelant. The purchase price of the lot was 500 guilders. Abutting onto this plot was the ground held by the heirs of the late Hendrick Bugge van Ringh and the late Jan Jacobsz. Koel. In the following June the erfpacht of the land and the buildings thereon were sold and transferred to Prof. Böckelmann (deed of conveyance, dated 27 June,
The purchase price was 500 guilders and the annual ground rent (due on 1 February) was 12 guilders, to be paid to Haesgen Ouwelant’s daughter. This plot, 153 roods, was clearly smaller than Böckelmann’s first purchase. Some months after Böckelmann died, 23 October, 1681, these two plots were sold (deed of conveyance, dated 9 January, 1683) to one Nicolaes Clignet of Leiden. Böckelmann’s executors were Theodorus Kraene, Prof. of Medicine and Johannes Mullerus, minister of the Hoogduitse congregation at Leiden, together with the guardians of Böckelmann’s minor heirs who lived abroad. The total area of the lots was 1 morgen, 57 roods. The buildings included a spacious homestead, stables, coach house and a second dwelling with its outhouses. In addition, there were orchards, a formal garden and three well-stocked fish ponds. This is the property referred to in the Acta of the Senate of 14 July 1679 where it is noted that the Senate decided to hold a convivium pisciculorum (fish lunch party) outside the city for which purpose the noble gentleman Böckelmann made his property available, and it was held there. This is the site for the Dialogus. The question of whether the convivium pisciculorum (fish lunch party) was the occasion for the Dialogus will be considered below.

1.3. Böckelmann and the Praefatio to his Compendium of 1679

Certainly the most explicit statement of Böckelmann’s views on the use of compendia in teaching law to young students is to be found in the 1679 Praefatio to his published edition of his Compendium Institutionum Justiniani.

The Praefatio is addressed to students and Böckelmann begins by giving a conventional explanation that he originally drew up these notes for the private use of his own students but that contrary to his intentions this little book was passed on from student to student and ultimately to neighbouring universities. Although

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20 See Appendix C III for the text of the conveyance of 27 June, 1676. Among the heirs of the late Hendrik Bugge van Ringh and the late Jan Jacobsz Koel were several minors and orphans, who could not act in their own names. Mr. Cornelis Bugge van Ringh, an advocate, procured mandates (20 and 25 June, 1676) and appeared for the sellers.

21 See Appendix C IV for the text of the deed of sale of 9 January 1683.

22 Attempts have been made to trace these heirs but to no avail.

23 One morgen equaled approximately 600 roods.

24 Feenstra Böckelmann, p 145, says that the property was worth 4000 guilders.

25 Molhuysen Bronnen Leidse Universiteit, III, p 342*. . . convivium pisciculorum extra urbem ad quod Nobil. D. Böckelmannus praedium svum concessit, ibique celebratum

26 See Dialogus, p iii, p 3.

27 Compendium Institutionum Justiniani sive elementa juris civilis in brevem et facilem ordinem redacta, (Leiden 1679). See Böckelmann Compendium, Praefatio de Viis et Deviis quibus ad discendum Ius Civile itur. (Preface concerning the right ways and the wrong ways by which one can approach learning the Civil Law.) p [1]. Si quispiam Scripti rationem reddendi mihi unquam fuit necessitas, Juvenes Omnisimis, certe huius est libelli, quem privatum discipulorum aliquot meorum conscriptum in usum, nec dignum visum mihi qui emitteretur in lucem, neque quae fata praeter spem opinioenque meam in omnia alia et diversa traxere. Communicaveram illum quidem omnium, juris primum initiati, sed his amibus suis, isque iurem alius aliis faciendius . . . per omnia manus, quin et ad invias Academias, nomine Compendii volitare coepere. (If ever I had the need to justify any of my writing, most excellent Students, it certainly is this little book. It was written privately for the use of some of my own students and it did not seem to me to be worth publishing, but some or other fates, contrary to my hope and expectation, spread it here, there and everywhere. I had indeed shared it with a very few of my students in their initial law studies, but they shared it with their friends, and again these with others and when those again made it available to others . . . it began, under the label of a Compendium, to pass rapidly through the hands of all and also to neighbouring universities.)

28 cf Böckelmann In Digesta, Lectori p [8]. Primum ergo Pandectas docere cæperi per præcepta et regulas satis consitas quas primum calamo exceperit Auditores sed et temporis jacturam et sanctorum taedium fugitientes, quotquot poterant edita Heidelbergae exaltationes nostras sibi comparare, deficientibus autem jam exemplaribus obnixæ meigne, ea densum ut edi carnem telamque non ultra 6. librum contestam, peticern. (At first therefore I began to teach the Pandects by precepts and comparatively brief rules, which the students took down by pen,
some saw such notes as Ariadne’s thread through the maze,\textsuperscript{29} others dismissed them as an empty nutshell, while yet others began to snarl at Böckelmann and any authors of \textit{compendia} declaring that, like Socrates, such corruptors of youth should be compelled to drink hemlock.\textsuperscript{30} But Böckelmann said not a word to those loud shouting Stentors.\textsuperscript{31}

However, it is his duty to his students and to the state to point out the shoals on which he himself (initially) and many others suffered shipwreck on the vast ocean of law. Such students never achieve a sound knowledge of law. The fault lies both with the students who are often unprepared\textsuperscript{32} and so incapable, even if they wished, of grasping the inner meaning of the law. Many students also, says Böckelmann, are not willing to work hard. (However, he does not here mention the distractions of wine, women and song as is the complaint he supposedly voices in the 1684 version of the \textit{Dialogus}, pp 28-30.) Fault also lies at the door of the teachers, some of whom are more intent on their own glory than on the best interests of their students; others overwhelm their students with information which is often not wrong but ill-timed and too complicated for beginners. A third group are themselves confused and not clear about what they themselves have learned and cannot teach what they do not really understand.\textsuperscript{33} Good law teachers are few and far between.

Thus it is the general perception that to master law a student needs an ‘iron’ head to hold all the material, a ‘lead’ body to slave early and late and a pocket full of ‘gold’ to pay for books and fees. Justinian set a period of five years to study the Civil Law. Thereafter more years are required for the Canon Law, Feudal Law, Customary Law but, alas, most who study law are heaving at Sisyphus’ Rock\textsuperscript{34} without success — a not surprising result since law is generally taught without order, without limits and without reason.\textsuperscript{35}

Under ‘without order’ Böckelmann states the obvious — that first principles should come first and controversial questions be left till the foundations are established. Moreover, the learned commentaries of such as Bachovius\textsuperscript{36} or Mynsingerus\textsuperscript{37} should be avoided till late in the course, although earnest students not infrequently wrestle with these in a vain endeavour to reach the heights early on. From this Böckelmann leads on to ‘excess’, condemning those teachers who, while maintaining some sort of order, throw into their lectures a mass of peripheral legal information, classical allusions and other digressions\textsuperscript{38}. The occasional apposite citation is well and good but commentaries running into a multiplicity of details are to be avoided. Finally, he condemned those who fail to provide understanding, relying instead on the students’ capacity to memorise. The principles underlying the


\textsuperscript{31} cf. Noodt’s response to Huber’s attacks.

\textsuperscript{32} Illotis manibus See Noodt, Huber, Böckelmann, Rusius and others. A metaphor implying “without due preparation”. It stems from classical times and appears in Gaius \textit{libro primo ad legem duodecin tabularum} (D. 1.2.1) and not infrequently in later writers, condemning the ill-prepared students who cannot cope with law.

\textsuperscript{33} cf. \textit{Dialogus}, p 13 and p 42, where Huber says that \textit{compendia} writers must have digested the material.

\textsuperscript{34} See Böckelmann, \textit{Compendium}, Praefatio p [6]. Cum Sisypho saxum volvunt.

\textsuperscript{35} p 6 \textit{Nic minun cum ars hae plemumque exequatur sine online sine modo et sine ratione.}

\textsuperscript{36} Bachovius Echtius (Bachov von Echt), Reinardus, c. 1573-1640. Inter alia he wrote \textit{In Institutionum juris Justiniani libros quattuor commentarii theoretici et practici}, Frankfurt, 1643.

\textsuperscript{37} Mynsingerus (Mynsinger von Frundeck), Joachim, 1517-1588. He was known for his \textit{Apostolus}, \textit{hoc est corpus perfectum scholiorum ad Institutiones Justinianae pertinentium}, Basel 1569.

\textsuperscript{38} cf. Huber and his attitude to \textit{Digressiones}. See Chapter IV. 2.
details must be established, understood and evaluated, then committed to memory. However, modern teachers and students must realise that Justinian’s precepts applied to his time and not necessarily in total to present days.

Böckelmann admits that he, together with many others, found his first years of law study impossibly difficult, and even a second attempt, with a different approach, did not really solve the problem. With great effort he managed to complete his studies but was still ignorant of much that was basic and needful. His problem was by no means unique and this prompted him to try another and, perhaps, better method. The success of his method is shown by the great number of law students at the Palatine University of Heidelberg who are now realising the goal spelled out by Justinian that “on the completion of their law studies they may be able to govern the state in the rôles entrusted to them”.39

Here Böckelmann embarks on an explanation of his plan for teaching as illustrated in the frontispiece of his 1679 edition. The ‘open’ route of four years is shown as four steps, steadily rising to the top of the mountain; each step has a precise task, or book, allotted to it. The old, or Royal Road, is thorny, precipitous and almost impassable. The successful student, standing triumphantly on top of the peak, clearly mounted there by the ‘four step’ route. For those who can only complete three years, the end goal is the courts and practice. Those who have the inclination, the time and the money for a fourth year will be jurists with a sound knowledge of the law.40

At that point Böckelmann concludes his Praefatio with the warning not to be led astray by the mirage, the Fata Morgana, of the opposite school. They will give not a Compendium but a great squandering (Dispendium) of your study time.41 His Compendium used in conjunction with the Institutes as indicated in the margins and later his commentary on the Digest and his writing on Actions will serve to lighten the burden and he wishes his students well in their studies.

Not surprisingly, Böckelmann’s Compendium was a great success. It was reprinted many times and superseded other similar but presumably less adequate compendia such as that of van Muijden and continued to be used until early in the 19th or end of the 18th century.42

1.3.1 Böckelmann and the Road to the Summit of Success

The metaphor of roads as courses and means to achieve sound knowledge (in our case legal knowledge and the desired doctorate) occurs in various forms and in several discussions on 17th century law teaching. Often the via (road) is used simply, as for example in Huber’s Oratio II but sometimes it is developed into a significant metaphor. In Oratio II Huber says “It is very important by which road you proceed to complete your course successfully; . . . I shall show you the road by which I went in preference to others. . . . I shall not crawl with you through twists and byways . . . but I shall proceed by the common royal road”.43

Probably the most striking of the extended metaphors concerning roads is that to be found in the Praefatio to Böckelmann’s Compendium Institutionum Iustiniani

39 Constitutio Imperatoriam § 7.
40 For further discussion of the Roads metaphor see below section 1.3.1.
41 Böckelmann, Compendium, Praefatio p [23] Pro compendio magnum studiorum Vestrorum det dispendium. Here Böckelmann is playing with the words, supposedly used against him. See below The Dispendium/Compendium antithesis.
42 Ahsmann-Feenstra BGNR Leiden, p 64, no 44 gives the date 1802 for a reprint at Amsterdam. As this bibliography stops at 1811, this is not evidence that there were no later reprints, although this seems probable.
43 Huber Oratio II, pp 63-64 . . . plurimum interesse, qua via proficiscaris ad iter tuum prorsus abholvendum . . . monstrabo vobis cum viam qua et ipsa potissimum inessis . . . Non perceptabo vobiscum gyrus aut ambages . . . sed via communi nigique procedam.
(1679). Böckelmann says that he cannot show the differences between the direct and the foolish way of learning law better than by drawing attention to the picture (emblerna) which appears as a frontispiece. In the centre is a mountain on the top of which stands a triumphant student waving his degree certificate in his right hand. He is looking down at three other students each mounting a step (ie a year) at a time and each carrying merely one book. On the other side, the mountain is precipitous and overgrown, and a solitary student, carrying a heavy basket of books and scrolls, is struggling upwards but has not succeeded in reaching even the height of the first step. A banner over those taking the via aperta (open route) reads *Nec sero, nec difficulter* (neither late nor with difficulty); that over the via prava (wrong route) declares *aut sero aut mungquam* (either late or never). Above the head of the successful student is a wreath encircling the words *ars juris perfecta* (the completed knowledge of law). It is the arduous and precipitous route which is said to be the *Via Regia* (the Royal Road) as if, says Böckelmann, our goddess had wished to admit to her inner sanctum only a few priests and not many mortals.

The first step, the first year, is labelled *Princip(i)a Jur(i)i* (basic principals of law); the second *Pandectae Juris certi* (non-controversial texts from the Pandects); the third *Ius controversum* (legal controversies) and the fourth on which the successful student stands *Exercit(ium) for(i)* (practice in court). In the fourth year certain writers such as Cujacius and Donellus are to be read but with discretion. Thus for Böckelmann his compendium and a four-year course is directed at producing practising lawyers not legal scholars or academics. In this course it is important not to digress and collect a mass of indigestible material; to handle it will be like trying to cleanse the Augean Stables. This advice is given from the heart by Böckelmann. In his youth he himself suffered from an unstructured programme of learning and wasted much time and effort without achieving anything. He writes that he got bogged down in the shallows. He eventually found the key to learning and is passing it on to his students.

Böckelmann used the metaphor of roads on other occasions, for example twice in funeral orations for his colleagues. When giving the funeral oration for Crusius...
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(27 July, 1676) who was, it appears, a model student, unlike so many of his contemporaries who were ill prepared and guilty of the usual student vices, he said: Crusius pursued another, very different and more direct road. In his funeral oration for Albertus Rusius (7 March 1679) Böckelmann again laments the general student attitude, especially the wasted opportunities while touring Europe with their tutors. Our Rusius also entered on a very different course (p 21). By hard work and conscientious attention Rusius early made a brilliant reputation for himself and those students attending the oration would do well to follow the same road. This road, the Via Regia is the one now recommended, but here the Via Regia of serious study and sober minded associates is contrasted with the “Via Voluptatis” in the company of drunken, quarrelsome and gluttonous youths.

Huber, too, has his Via Regia. In his inaugural oration (p 120) he refers briefly to his plan to lead his students directly to the citadel of legal knowledge and not be distracted from the Via Regia. In the Dialogus he is much more specific. In his own persona, he says that the Via Regia is the name given by others to the tactic of solving textual difficulties by ruthless emendations carried to extremes, as in the case of Antonius Faber, but he and scholars of a like mind would rather label that the Via Militaris, the military method of cutting knots with a sword!

Now let us consider what Noodt has to say on this. Van den Bergh claims that Noodt is attacking the compendia which his Utrecht colleagues van Muijden and van der Poll were using. Here Noodt admits that the old Royal Road is steep and dark, long and difficult. It is overcome by few and then only with much intellectual stress and effort. The Compendiary Road on the other hand is flat, direct and easy for everyone, even the somewhat unintelligent. However, the mountain (Böckelmann’s mountain?) is not as intimidating from nearby as it is from afar; there are pleasant levels between the steep gradients; the darkness and mists of confused thought dissipate and the pleasures of great understanding emerge. In addition, the fact that the easy route is popular is to be laid at the door of gullible students, over-ambitious and parsimonious parents and intellectually dishonest professors and tutors. So Noodt favours the old, if arduous, Via Regia.

1.3.2 The Compendium-Dispendium antithesis

Twice in the Dialogus we encounter the epigram Compendium Böckelmanni est nihil aliud quam Dispendium (Böckelmann’s abridgement is nothing other than a waste of time). Böckelmann, in fact, opens his case supporting compendia in general, and his own in particular, by asserting that his enemies had circulated this derogatory epigram in order to denigrate his work. He, nevertheless, maintains that the popularity of his compendium contradicts the effect of these words.

On page 17 (1688) Böckelmann adverts to the fact that Crusius/Noodt has rephrased the epigram to read Compendium est damnum. This is clearly not as pithy as the original, but it is a much more powerful condemnation of the Compendium. Although the Oxford Latin Dictionary (1980) gives damnum as a synonym for...

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50 Böckelmann O.F. Crusii, p 14 aliam, aliam longeque rectam magis viam instat Crusius.
51 Böckelmann O.F. Rusii, p 21 aliam longe viam ingressus est Rusius nostro.
52 Böckelmann O.F. Rusii, p 16 cum temulentis rixosisve juvenibus aut heluonibus.
53 See Dialogus, p 41.
54 See van den Bergh Noodt, p 164; Noodt Comptua Jurisprudentia, especially pp 619-620.
55 Lewis and Short A Latin Dictionary (1980 impression) derives compendium from compendo = to weigh together, to make a profit by saving. Thus to make a compendium means to “make a gain, saving” hence “to shorten or abridge profitably”. Dispendium from dispendo = to weigh out, to pay. Hence dispendium is a cost or loss and once in Virgil Aeneid 3.453 ‘a waste of time’.
56 1688, p 6 and p 17; 1684, p 11 and p 24.
57 Feenstra Böckelmann, p 142 and ft 73, writes that this epigram was cited until the end of the 18th century and the beginning of the 19th.
dispendium (and compendium as the opposite of dispendium), the jurists encountering damnum would undoubtedly understand more than a waste of time. Damnum is loss suffered by the victim of an offense. Apart from loss to actually acquired property (damnum emergens) damnum also includes loss of gain (lucrum cessans). Thus Noodt is giving an extra significance to the damnum suffered by the students. Further the causes of damnum include acts or omissions by reasonable persons which they are liable to make good. Is Noodt here challenging Huber? Certainly this change can be attributed to Noodt. In his inaugural oration he tells the students fallit vos ambiguitas vocabuli, quae festinatio dicitur, mora est: et quod compendium vocatur, sapientiae damnum est. (The ambiguity of a word deceives you. What is called speed is delay and what is called a compendious summary is damage to wisdom.) What is of interest is that both instances where damnum is used instead of dispendium were not included in the 1684 edition but were added in the 1688 Digressiones version (p 9 [8] and p 17). Was Huber trying to strengthen his case against Noodt? On p 4 Crusius, addressing Huber, says he is glad to see that his Digressiones are an indication that he (Huber) does not promote compendia of jurisprudence which are nothing so much as dispendia of that most sacred science. This, presumably, is referring to the contents of the Digressiones, not to the Dialogus.

Van den Bergh writes that the epigram was of Huber’s own invention and he cites the 1688 edition, page 6, but evidence would suggest that this word play was not new to the Dialogus. Before Huber, Rusius, in his inaugural oration of 1659, used those exact words in combination qui isto modo captant compendium, nac illi plerumque hic dispendium capiunt (those who seize on a compendium in that manner, generally find they have caught a waste of time).

Böckelmann, in the preface to his own Compendium (1679), juxtaposes compendium and dispendium saying that some people wish to lead students astray after a fatuus ignis and pro compendio magnum studiorum vestrorum det dispendium (after an ignis fatuus or will o’ the wisp to lead them astray and instead of a compendium give them a dispendium.) Huber himself uses these terms in his Oratio II and Oratio IV saying that some people who condemn aucta compendia tamquam mera dispendia studiorum (all compendia as a pure waste of study time). Even earlier in his inaugural oration (1665) Huber uses compendium in the sense of a summary (p 103) and 5 pages later (p 108) dispendium with reference to the waste of time and general confusion caused by the multiplicity of laws which Julius Caesar did not succeed in codifying.

However, be that as it may, the epigram attached itself to Böckelmann’s Compendium. Whether it helped to popularise his method or not is an open question, but I would support the view that Böckelmann’s compendium did not suffer.

1.4 The Böckelmann of the Dialogus

By and large it seems that Huber’s depiction of Böckelmann in the Dialogus is a true, if a trifle selective representation of the man himself. Huber and Böckelmann had first met in Heidelberg and the friendship there established had continued. It was

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58 Noodt Corrupta Jurisprudentia, p 621.
59 ... quam nihil quam totidem dispendia sanctissimae artis sunt.
60 Van den Bergh Noodt, p 166.
61 Rusius De Jejuna Compendiaria, p 19.
62 Böckelmann Compendium, p [23].
63 See Huber Oratio II, p 67.
64 See Huber Oratio IV, p 89.
65 Huber understandably omits certain aspects of Böckelmann’s career, eg his relationship with the Count Palatine, Karl Ludwig.
also, as we have seen suggested, Huber who was instrumental in helping Böckelmann to the position of Professor of law at Leiden. Many of the factual details such as Böckelmann’s property beside the Old Rhine (where he held the fish-lunch party in the summer of 1679), his carriage, his career in Heidelberg, his famous Compendium and the Compendium — Dispendium antithesis are all attributes of the Böckelmann of history. When it comes to Böckelmann’s views on teaching, Huber clearly reflects passages from the Praefatio to Böckelmann’s Compendium, for example, the metaphor of the roads. Huber and Böckelmann clearly had similar views on the place of compendia in teaching. He, in fact, quotes passages from his own writings which he attributes to Böckelmann as has been indicated in the footnotes to the text. This was no small compliment from a scholar of Huber’s calibre.

Although Huber was himself the author of compendia, in the Dialogus he maintains a moderate view and a neutral stance, leaving Böckelmann to argue in favour and Crusius (Noodt) to argue against the use of these teaching aids.

The answer to the question as to why Huber gave Böckelmann a fair rendering in the Dialogus is largely conjecture. Perhaps one can say that their original friendship and similarity of opinions decided Huber to cast his friend in a positive role. By comparison, his treatment of Crusius was very different as we shall see.

1.5 Conclusion

Böckelmann’s views on the general problem of teaching law to those intending making a career in practice are clearly stated in his own writings on the matter and in general Huber has not done violence to them. Obviously, he himself followed much the same policy. Indisputably, much of Böckelmann’s fame with future generations rested on his compendium. Even shortly after its publication it was making its mark, such that Huber, who was in the process of developing his own Positiones, entrusted to its author the defence of the genre in the Dialogus.

2. GEORGIUS CONRADUS CRUSIUS70 (1644–1676)

In the Dialogus Crusius is cast as the opponent of Böckelmann. He is the critic of compendia, their authors and all students and professors who use them. In order to assess the role assigned to him by Huber it is necessary to review his life and his writings, also to probe his relationship with Huber and with Böckelmann.

2.1. Crusius in real life

The bald facts of Georgius Conradus Crusius’ life are that he was born at 11 pm on 14 May 1644 in Zutphen where his father Bernhard (or Barend) Crusius was a minister of the Reformed Church. Georgius Conradus was the second son of four children born to Bernhard and Lucretia Damman. Young Crusius showed promise of intellectual achievement and fortunately his education was not grievously disrupted by the death of both his parents in 1655 when he was only 10 years old. By the time he came to Franeker for his law studies, after Utrecht and Leiden, he had a sound grounding in literature, history and philosophy; he was non illosis manibus as

66 See Feenstra Böckelmann, p 140.
67 See Dialogus, p 9
68 See Dialogus, p12 and ft. 35; p 13 and ft 37.
69 See Dialogus, p 15, ft 41 of the English text and the references there cited.
70 This note must inevitably be brief because little has been written on the life and works of Crusius. See van den Bergh, Elegante Schule, p 177. He merits 30 lines in NNBIW III (1914), 269; half as much in A.J. van der Aa’s Biographical Dictionary of the Netherlands and casual references in other secondary literature. Perhaps the most useful information comes from Böckelmann’s Oratio Funebrae of 27 July 1676.
A Dialogue on the Method of Teaching and Learning Law

Böckelmann put it. During his student days at Franeker Crusius encountered both Wissenbach and Huber. When Wissenbach died in 1665, Crusius contributed a poem to his memory. The 22 September 1669 saw Crusius, aged 25, defending his disputatio pro gradu, De Pactis et Conventionibus and to honour the occasion Huber contributed a laudatory poem. The friendship thus established between Crusius and Huber continued, if we are to believe what Huber writes in the Dialogus, but how sound was that friendship? It is important to note that Crusius’ promoter for his doctoral degree was Taco van Glins — no friend of Huber’s and also the promoter of Noodt a few months earlier. In the Dialogus, despite Huber’s protestations of good will towards the Crusius persona, he passes several derogatory comments. Crusius intrudes on his chat with Böckelmann (p 2), is critical of his Digressiones (p 13) and is excessively verbose (p 10). Is a basic hostility to Crusius as a person the key to Huber’s foisting on him the views of his own chief adversary, Noodt? Certainly, evidence does not suggest that the attitudes voiced by the Crusius of the Dialogus in any degree reflect Crusius’ real-life opinions and, one asks, why did Huber cast him in the rôle of devil’s advocate?

Shortly after he was promoted Iuris Utriusque Doctor, Crusius was appointed lector at Leiden. On 20 November 1670 he became Professor Ordinarius of Law, a position he continued to hold until his death on 31 March 1676 (aged 31). His early death was brought about apparently because his naturally weak constitution was further strained by excess study and too little exercise. His funeral oration was delivered on 27 July 1676 by his colleague, Böckelmann. The oration follows the customary pattern, including a lengthy eulogy of the deceased’s family, describing in some detail their origins, lives and achievements, an outline of Crusius’ career and academic interests and concludes with the sentiment that although Crusius was cut short in his prime, his colleagues should not mourn for him because, having exchanged this mortal world for everlasting bliss, he is now enjoying the purest Latin of the angelic chorus and instead of delving in the Florentine for light on Roman Law, he is receiving the wish of the Divine Legislator. Perhaps, for our purposes, the most significant aspect of Böckelmann’s oration is that he makes no reference to the didactic differences of opinion which are stated so emphatically in Huber’s Dialogus. But of this more anon.

2.2 Crusius’ published works

Further light can be thrown on this question by a consideration of Crusius’ intellectual interests and the publications which were completed during his short academic life.

First, let us consider De Pactis et Conventionibus as printed in Everardus Otto’s Thesaurus juris romani, continens rariora meliorum interpretum opuscula, Leiden, 1725, p 672g–672m. For many years the question of the edictal rubric had teased the minds of legal humanists both in France and the Netherlands. Crusius whipped up support for his version of the rubric from ancient jurists, classicists and the authorities...

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71 See Böckelmann O.F. Crusii, p 14. non illos manibus (not with unwashed hands).
72 See Postma and van Sluis Auditorium Academiae Franekerensis, M 1665.1 p 534.
73 See Postma and van Sluis Auditorium Academiae Franekerensis G 1669.6 p 441.
74 See Ahsmann-Feenstra BGNR Leiden, p 84, no 117.
75 See Dialogus, p 2.
76 Böckelmann O.F. Crusii, pp 20-21.
78 See below Chapter V. 2.3.
79 See Ahsmann-Feenstra BGNR Leiden, pp 83-84 no 116.
of his own day. He seems to have achieved success for Lenel writes that it was Crusius who was the first to reconstruct the rubric (de pactis et conventionibus) correctly.

Of Crusius’ academic status, van den Bergh writes: “Crusius was a fair enough representative of the elegant tradition”. Evidence for this can be seen in his *Diatribe de Restitutione cap. Si Paterfam. 40. D. De Hered. Instit. i.e. D. 28.5.41(40), a fragment drawn from Julian’s Book XXX of his Digesta.* Crusius prefaces his *Diatribe* with citations from Andreas Alciatus (Dispunctiones, 1.2) and from Antonius Contius (on Inst. 2.15.4) and comments briefly on those interpreters who have written on these issues. He, in general, favours Cujacius’ views. In this little work there is evidence of Crusius’ familiarity with the techniques and attitudes of textual criticism. As support for his linguistic arguments, he cites classical authors such as Petronius, Suetonius and Livy. Further, Crusius is relevant for his simple emendation of D. 45.1.101 so that Modestinus’ original *Puberes sine curatoribus suis possunt ex stipulatu obligari* (Those over the age of puberty can be bound on stipulation without their curators) reads *Puberes sine curatoribus suis possunt ex stipulatu obligare* (Those over the age of puberty can bind on stipulation without their curators). It seems that Crusius first recommended this emendation in a disputation *exercitii gratia* defended by Adrianus Wijngaerden with Crusius as *praeses* (1672). Presumably it is from this 1672 version that Noodt incorporated it into his *Probabilia* 1.4.2 of 1674.

2.3 Crusius’ relations with Böckelmann and Huber

It would seem that, despite the fact that Huber had been well disposed to Crusius during his Franeker days, there was no sincere regard between the two men. Soon after his promotion (September 1669) Crusius obtained a position as *Professor Ordinarius* at Leiden. Huber, in the *Dialogus* (p 3) makes it quite clear that this was thanks to his (Huber’s) refusing the post, thus enabling Crusius to secure it. At Leiden Crusius and Böckelmann seem to have been on friendly terms but in the *Dialogus* Huber has them sparring against each other. Was there an element of jealousy there? Did Huber feel that Böckelmann, his old friend from the Heidelberg days, was disloyal?

Regarding Huber pinning his hostility to Noodt and textual criticism on Crusius, there is possible justification for this in Noodt’s *Probabilia* where he cited Crusius’ emendation of D. 45.1.101 to read *obligare*, not *obligari*. This emendation, together with the extensive laudations of Crusius, was only taken out of the *Probabilia* in 1713, many years after Crusius’ death (1678). Yet Huber was not prejudiced by the fact that Noodt also cited Böckelmann favourably but not for textual emendations, and later removed him from the text (1719). Both instances occurred after the publication of the *Dialogus*. Perhaps it is as well that Crusius and his friend Böckelmann were both dead by the time Huber put pen to paper in his attack on Noodt.

2.4 The Crusius of the *Dialogus*

The picture of Böckelmann as given in the *Dialogus* bears a strong relationship to the man himself and to his views on education. The picture of Crusius, however, is very

80 Otto Lenel in *Das Edictum Perpetuum* (see p 357 of van den Bergh Noodt). Lenel does not necessarily follow Noodt. See further van den Bergh Noodt, pp 257-258.

81 Van den Bergh Noodt, p 55; see, too, Böckelmann O.F. Crusii, p 19 f. Here “Diatribe” is used in the sense of a discussion.

82 *Ex variis observationibus quae ad ius civilis pertinent diatribe I: cap. Si Paterfamilias, 40. D. de heredibus instituendis* in Otto’s Thesaurus, 1725, p 668 f.

83 Alciatus, Andreas (1492-1550). See *Who is who?*

84 Contius, Antonius (1517-158), Professor at Bourges and Orleans. His views were often opposed to those of Duarenus and Hotman. Contius wrote the *Disputationum Juri civilis liber unus*, 1607.

85 This disputation was first published in 1672 by Joh. Elsevier, Leiden. It was subsequently republished in 1712, 1741 and 1761. See Ahsmann-Feenstra *BGNR Leiden*, p 84, nos 118, 119, 120.

86 See Chapter VI 2.3 for Noodt’s *Probabilia*.
different and we may well ask what prompted Huber to impose a false character on this party to the discussion.

Not much evidence remains as to Crusius’ personality. According to Böckelmann’s funeral oration, he was a conscientious and comparatively innocuous individual, at most a promising scholar and reasonably moderate in his views. In the *Dialogus* however “Crusius” comes across as argumentative and dogmatic. As will be shown in detail below in chapter VII the views put into his mouth are not his own but clearly those of Gerard Noodt with whom Huber had an on-going polemic. Noodt was a far greater scholar than Crusius, a man of decided opinions but not inclined to be aggressive. In fact of the four speakers it was Huber who was known to be somewhat cantankerous for all he portrays himself here as moderate and reasonable. Further the impression given by the *Dialogus* is that Crusius and Böckelmann were not on particularly good terms. Is this a twisting of the truth? Certainly nothing in Böckelmann’s funeral oration suggests deep seated hostility to the younger man. The possible motives behind Huber’s foisting Noodt’s opinions on Crusius, is a topic to be discussed further in Chapter VI.

3. ADRIANUS WIJNGAERDEN\(^{87}\) (1648–?)

3.1. Wijngaerden’s academic career and early life\(^{88}\)

Adrianus Wijngaerden, son of Adrianus van Wijngaerden\(^{89}\) and Lysbeth Ardiers, was born in Leiden and was baptised in the Pieterskerk (22 April 1648).\(^{90}\) On 1 February, 1666 he enrolled as “Adrianus Wijngaert, Lugduno-Batavus, phil.” at the University of Franeker.\(^{91}\) It was there he met and studied under Huber as mentioned in the *Dialogus*.\(^{92}\) In 1669, while at Franeker, Wijngaerden defended three disputationes *De substitutionibus* under Huber as *Præses*.\(^{93}\) It would seem that these disputationes, together with many others, were only published much later, 1688, as nos 69, 90 and 91, in Huber’s *Disputationum juris fundamentalium*.\(^{94}\) At some stage after 1670 Wijngaerden moved to Leiden where, as Huber tells us in the *Dialogus*, he was

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\(^{87}\) Wijngaerden’s name appears in various forms. He was baptised as Adrianus Wijngaerden. He enrolled at the University of Franeker as Adrianus Wijngaert, Lugduno-Batavus, phil. on 1st February 1666. See Fockema-Andreae, *Album Studiosorum*, part I. no. 6889 (p 199), but appears in Postma and van Sluis’ *Auditorium Academiae Franekerensis* (p 195) as Adrianus Wyngaard. At Leiden, 13 March 1674, he acquired his doctorate in law as Adrianus Wijngaerden (see the title page of his doctoral disputation). He was admitted as an advocate of the *Hof van Holland* as Adrian Wijngaarden. On the 18th July, 1676, his intended marriage was noted in Rotterdam (see the *Gemeentearchief Digitale Stamboom*) as Adriaen Wijngaerde. In the *Dialogus* he is introduced, on p vi, as Hadrianus Wijngardenius; he reappears as Wijngardenius on p 3, three times, and once each on p 18, 49 and 50. In the translation and commentary he is Adrian Wijngaerden, except where circumstances dictate otherwise.

\(^{88}\) I am sincerely grateful to Dr R.M. Sprenger for providing me with archival material which supplements the printed sources available to me.

\(^{89}\) Adrianus van Wijngaerden (senior) was born in Leeuwarden, but spent much of his working life as a printer/publisher in Leiden, 1643–1656, and again from 1668 till his death, c. 1677. During the years 1657–1668 he worked in Dussburg and Heidelberg where he printed several works by J.F. Böckelmann; see Ahsmann-Feenstra *BGNR Leiden*, pp 56–59, nos 11, 14, 15, 16, 23.

\(^{90}\) See the *Regionaal Archief Leiden*, Register of Baptisms (8 June 1644 — 29 February, 1664), inv no 222.


\(^{92}\) See *Dialogus*, p 3 where Huber says *Auditorem olim meum* (a former student of mine).

\(^{93}\) See Postma and van Sluis *Auditorium Academiae Franekerensis*, p 195. For a full discussion of Huber’s practice with disputationes *pro exeritia*, see Veen *Exeritia*, in particular pp 142–150.

\(^{94}\) See Feenstra *BGNR Franeker*, pp 50–51, nos 136–137.
giving private lessons. \(^{95}\) It is clear that he was still in Leiden during the first half of 1674 for it was on 13 March of that year that he defended his *disputatio juridica inauguralis pro gradu*. \(^{96}\) The subject was *De vectigalibus*, the *Rector Magnificus* was Arnoldus Sijen \(^{97}\) and his promoters were, we note, Albertus Rusius, Joh. Fred. Böckelmann, Georgius Conradus Crusius and Antonius Matthaeus (III). Just over a month later, on 20 April, 1674, Wijngaerden took the oath as an advocate at the Court of Holland. \(^{98}\) On 3 June of that year, the register of the membership of the Reformed community of Leiden shows that his name was removed, \(^{99}\) possibly because he moved to the Hague to practise. Nearly two years later, 21 April 1676, we have mention of Wijngaerden, *advocaat voor den Hooven van Hollant* in the Hague. He features as witness in two notarial wills. The first involved one Jacobus Naëlhout (Naalhout) who left his moveable property to a certain Catharina Stolwijk of Rotterdam and the second involved the same Catharina Stolwijk who appointed Jacobus Naëlhout her sole and universal heir to all she inherited from her mother. \(^{100}\) Apparently Wijngaerden was still in the Hague later 1676 as the notice of his intended marriage to Maria Stolwijk of Rotterdam was entered \(^{101}\) there on 26 July. Notice had previously been given to the *Schepenen* of Rotterdam \(^{102}\) on the 18th July of the same year. In the margin of The Hague register a clerk wrote that the civil marriage took place in the city hall, but no date was given.

Unfortunately this is the point where Wijngaerden disappears from the records. The *Haags Gemeentearchief*, the *Centraal Bureau voor de Genealogie* (CBG) and the records of Rotterdam, provide no date for a wedding. No further information has emerged regarding Wijngaerden’s professional career or his putative offspring. The key date which would throw light on Huber’s treatment of Wijngaerden is that of his death but nothing has come to light so far. It is regrettable that it has not been possible to trace Wijngaerden’s career further. \(^{103}\)

### 3.2. Wijngaerden in the *Dialogus* — a minor rôle

Wijngaerden appears to have been one of the guests at the *vismaaltyd* \(^{104}\) at Böckelmann’s estate on the Old Rhine and to have joined Huber, Böckelmann and Crusius there. After the meal was over he and the three seniors moved away to the plane tree for their discussion. It is only towards the end, p 49, that Wijngaerden joins in, merely to ask if Huber will give him some hints as to how best to teach his

\(^{95}\) See *Dialogus*, p 4, *Praefatio* p iv — *[qui tum scholas domesticas Lugduni habere instituebat]* (who had then begun to give private lessons in Leiden). But cf. Chapter VII.

\(^{96}\) See Molhuysen *Bronnen Leidse Universiteit*, p 320. A copy of his dissertation is in the Leiden University Library.

\(^{97}\) Arnoldus Sijen (Seijen) 1640-1678 had been called to the Chair of Medicine and Botany in 1670. At the same time he was offered, and accepted, the position of *Praefectus Horti Medic* to the *Leiden Hortus Academicus*. It was in this latter position that he made his name teaching phyto-medicine. His early death was a loss to the science of medicine. See Veendorp H. and Baas-Becking L.G.M. *Hortus Academicus Lugduno-Batavus 1587-1937*, Haarlem 1937, pp 78-82, Siegenbeek van Heukelom-Lamme. A. *Album Scholasticum*, p 141, p 199.

\(^{98}\) See *Album Advocatorum*, p 349.

\(^{99}\) See “The Register of outgoing certificates of membership of the Reformed Community of the Marekerk in Leiden” in the *Archief Kerkenraad, Leiden, inv. no 103A* in the *Regionaal Archief Leiden*.

\(^{100}\) The notary was Johannes Groenesteyn of the Hague. See inv. no 466, pp 289-289v and pp 290-290v of the *Haags Gemeentearchief* (CBG).

\(^{101}\) See *Haags Gemeentearchief, Rechterlijk Archief*, inv. no 751 p 93. It is not clear what the relationship was between Catharina and Maria Stolwijk. Were they sisters?

\(^{102}\) See the *Digitale Stamboom Gemeentearchief*, Rotterdam.

\(^{103}\) In the 1684 *Praefatio*, p 4 [Wijngaerden is referred to as *Hadriano Wijngarden Icto*. In the 1688 *Praefatio*, p 2 [the *Icto* is omitted. Could it be that by 1688 Wijngaerden was no longer alive, or no longer a jurist? Or are we just faced with a typesetter’s problem and should we not read anything more into it? He, like the other speakers, might well have died before 1684.

\(^{104}\) See *Dialogus*, p 3.
(Wijngaerden’s) private students. This question serves as a springboard for Huber to launch into a discussion of law teaching, as exemplified by himself, and seems to be the sole reason for Wijngaerden’s inclusion in the Dialogue. Huber’s contribution is largely a reflexion of the policy outlined in his Orationes II and IV of 1682. Wijngaerden is not asked to offer an opinion on the final question of the literary and scientific journals. In short, he has, as he himself remarks on p 49, a non-speaking part in the play and, as is indicated in the chapter Fact or Fantasy, his rôle is minimally functional.

4. HUBER AS REFLECTED IN THE DIALOGUS OF 1684 AND OF 1688

Huber’s own contribution to the Dialogue, that is to those sections where he expresses his views under his own banner, not that of Böckelmann, come chiefly after the debate on Compendia and consist firstly of a statement of his own teaching methods, largely a repetition of Orationes II and IV, and secondly of a review of earlier teaching practice, with particular reference to Justinian and his Institutes, Irnerius, Duarenus and their successors.

He agrees with Crusius that compendia as a shortcut to legal knowledge achieve nothing. This is well-known. In answer to Wijngaerden’s request for hints and shortcuts, he maintains that hard work is the key to success and he advises his students as follows: prepare for collegia, take notes, revise, consult the relevant Corpus Iuris texts, memorise and above all take part in disputations.

In the first year the new law student should concentrate on classical history, literature, logic, ethics etc. but should study only the general principles of law. He should become very familiar with Suetonius and polish his ability to communicate in Latin. A reading knowledge of Greek is useful. Regarding rhetoric, knowledge is the source of fluency. If the ideas are there, the words will follow. But, above all, the student should attend to the words and explanations of the Master. The second year is spent on the Institutes as well as on D. 50.17 and D. 50.16 with the aid of a compendium. The humanities must be continued. Disputing now becomes very important. Year III focuses on the Pandects and the Codex. The student should collect illustrative examples from his reading of history and literature and keep on with disputing. Year IV will either complete the practitioner’s studies or will lead to further academic study, including textual criticism etc. At this stage the student is introduced to some canon law and contemporary law.

In his review of past didactic practices, Huber makes the following points regarding summaries, outlines etc. Justinian, in order to compress the vast field of knowledge required by a jurist into a 5-year course produced the Institutes and allowed indices and paratitla but no commentaries. Later, manuals, including updated laws, translations into Greek and further epitomes were written and used by students and practitioners. Thus, it is right for modern teachers to explain to modern students the relationship between Roman law and the indigenous law. In due course Irnerius (d. 1125) added the Authenticae to the Codex, and other authors wrote summae and glosses, which, says Huber, were nothing more or less than paratitla. Thereafter, commentaries made their appearance and reproduced the state of uncertainty which had prompted Justinian to codify and to prohibit commentaries. Chief among these commentators were Bartolus (1314-1357) and Baldus de
Ubaldis (1327-1406) who wrote *consilia, responsa* etc. which led to doubt (as Justinian had predicted) and the *communis opinio*. The techniques of scholasticism did not lead to a proper understanding of the law.

With humanism there came new light and new methods: Some, eg Cujacius, Duarenus and Donellus confined themselves to the *Corpus Iuris Civilis* and explained the law contained there. Others linked the old and the new (eg Alciatus, Zasius, and Viglius). Yet others added antiquarian and philological commentaries (eg Antonius Augustinus, Budaeus and Raevardus). This categorisation is undoubtedly valid but one must not forget that these writings were not directed at students, but at colleagues and practitioners. Hence, Huber’s wise warning that this material is too strong for beginners who will waste time and energy to no good purpose. Later in their law studies, students may well benefit.

Regarding textual criticism — emending corrupt texts — he remarks that in the past all those who emended corrupt texts had copies of old manuscripts, especially the Florentine, and often knew Latin (and Greek!) well. To be successful with emendations and conjectures, the scholar must be very knowledgeable, although, he admits, there are occasional happy hits, as for example Baudius. Antonius Faber and his naïve attitude to emendations arouses Huber’s scorn. Moderation in criticism is essential, particularly where the critics are tampering with the actual text. It is dangerous to disturb the texts and especially to foist this on students who do not understand the law in the first place. Huber’s policy is “only emend where there is absolute need”. This was the policy of Vinnius, Matthaeus I, and Wissenbach.

Regarding the *Journal des Scavans*, the words spoken by Huber show a reasonable and comparatively balanced view, as will be seen in chapter IX.

In the *Dialogus* picture of Huber, as portrayed by Huber, little of his polemical nature emerges. By and large, by contrast to the other speakers, he appears self confident, reasonable, calming ruffled feathers and moderate in his attitudes. Is this how he saw himself? Not as the author of “a sharp attack on each and every person who takes his pride in humanistic philology. To teach this is sane stupidity, to teach it before students have got an overview, in the form of *paratitla*, of the whole of the law *superat omnem stultitiam*.”

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112 *Dialogus*, p 39.
113 cf. Huber *Oratio II*, pp 69f.
114 *emendando corrupta iuris antiqui loca* (by emending the corrupt texts of ancient law).
115 *Dialogus*, p 40.
116 *Dialogus*, pp 41ff.
117 See *Dialogus*, pp 35, ff.
118 See van den Bergh *Noodt*, p 166, paraphrasing Huber’s words through Böckelmann’s persona. *Dialogus*, p 32.