Ulric Huber (1636-1694) : 'De ratione juris docendi & discendi diatribe per modum dialogi : nonnullis aucta paralipomenois' : with a translation and commentary
Hewett, M.L.

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Chapter VIII brings us to a discussion of a change of direction in Huber’s Dialogus. The greater part of the debate hitherto has been concerned with issues closely related to the teaching of law. Suddenly, towards the end Huber introduces an apparently disconnected discussion of the pros and cons for jurists of the Journal des Scavans. This, the first learned journal, appeared in France in 1665 and heralded the publication of other similar periodicals leading to the many scientific journals of the present day. The value of the Journal was, according to Huber, somewhat controversial. He makes Böckelmann introduce the topic by producing a copy, entitled Ephemerides Eruditorum, and declaring that the editors and contributors recommend writings of little or no significance and virtually neglect legal works of greater worth. Various views follow. However, before investigating why Huber decided to include the Journal des Scavans in his Dialogus it is necessary to give a brief survey of the history of the Journal and of its importance in the Republic of Letters.

1. THE REPUBLIC OF LETTERS

The milieu in which the Journal des Scavans came into existence is known to history as the Republic of Letters. This movement started in the early 16th century, initially as small groups (cabins) of like-minded scholars meeting to share their thoughts and to discuss subjects of common interest calmly, unemotionally and in an atmosphere of tolerance. Their ideal was a supra national “community” of scholars, rooted in humanistic culture but discussing the new scientific, philosophical and even religious developments. With the voyages of discovery, the world of fascinating natural phenomena expanded and to a certain extent ousted theological issues. Unfortunately, but inevitably, the high idealism of the early days tottered and gradually fell away. By the last decades of the 17th century, national differences were exacerbated by the waning of Latin, the lingua franca of learned men, and the waxing of national languages, the medium for the new and popular Enlightenment. Further, the behaviour of the new generation of learned men did not always live up to the high standards of the founders. Feelings and expressions of envy, hatred, and competition were far from the ideal.

1 Information on the Journal des Scavans has been hard to come by in Cape Town and I have been dependent on Prof. Paul Nève and Prof. Jan Hallebeek for the following works. Pride of place goes to Prof. Dr. J.A.H.G.M. Bots for two works, his Republiek der Letteren (1977) and La République des Lettres in which he collaborated with Françoise Waquet (1997). Also Laeven, A.H., ‘De Acta Eruditorum, 1986; O’Keefe, C.B. Contemporary reactions to the Enlightenment Journal des Savants (1974); Morgan B.T., Histoire du Journal des Savants depuis 1665 jusqu’en 1701, (1928); Dictionnaire des Journaux 1600-1789, Sgard (ed) 1991. And last, but by no means least, a number of articles from the early issues of the Journal itself.

2 This apparent deviation appears on pp 103-111 of the 1684 edition and on pp 58-62 of the Digressiones edition. The two versions are almost identical except for two small additions to the Digressiones version. See further section 4 below.

3 The title Journal des Scavans was used from 1665 to 1682; Journal des Savants from 1683 to 1686; Le Journal des Scavans from 1687 to 1696, and variations thereafter.

4 It seems from Bots Republiek der Letteren, p 4, that Erasmus (c. 1466-1536) was the first to use the term republica literaria, and its synonyms sodalitas literaria, imperium literarium and obis literatus.

5 See Bots Republiek der Letteren, p 22, “Rond 1700 worden de geleerden zich in Europa er steeds meer van bewust dat hun idealen en aspiraties onrealiseerbaar blijken te zijn.”
2. THE ORIGIN AND PURPOSE OF THE JOURNAL

For many decades, in the 16th century, one of the major problems for scholars was communication. This was particularly prevalent among scientists in all fields; to a lesser extent among jurists. One solution, favoured by the jurists, was to use the introductory addresses to the reader (hopefully a learned colleague) and the Praeletiones as a means to discuss a new publication and its purpose. Another, favoured by the scientists, was to establish learned societies, with journals and corresponding members, leading to the series of specialized, scientific journals which we know today. The *Journal des Savans* (1665) was the first tentative step, and it is this which was the object of discussion by Böckelmann, Crusius and Huber in 1684.

2.1 The early years

This learned journal was first printed in Paris (January 1665) with the privilege of Louis XIV (dated August 1664), under the patronage of Colbert, the first editor was Denis de Sallo (1665–1666) and the publisher Jean Cusson (1665–1714) of the rue Saint-Jacques à l’Image de Saint Jean-Baptiste. It was originally a semi-official agent of the government and its aims were to promote the arts and sciences of the *Académie* by providing succinct information about recent publications, inventions and discoveries, especially in the field of literature, science, astronomy and medicine. It was chiefly concerned with writings originating in France but gradually it included new publications from neighbouring countries.

The first instalment of Monday 5 January 1665 clearly stated that its aims were to list the most important books published in Europe, and to say of each book what it contained and to whom it would be useful, to include obituaries of eminent scholars and letters from contributors to announce experiments and inventions in the fields of science, technology and medicine and finally to publish the most important sentences of secular and ecclesiastical courts and the titles of books censored. This last point was dropped after a while. Ostensibly, the editorial policy was to provide information about new works, rather than to praise or criticise the articles were not “book reviews” in the modern sense. It was for the reader to evaluate. The ideal was not necessarily observed, as can be seen from resumés of Swalte’s *Ventriculi* and of Groenewegen’s *De Legibus Abrogatis* discussed below. Certainly the journals could not avoid reflecting something of the opinion of the editors, even if in no other way than by the selection of material.

Initially, the *Journal* found it difficult to get started and the early years are a history of ups and downs. For one thing censorship in France was stringent and it was somewhat problematic to produce a weekly or monthly instalment of even 12 pages. In the latter half of the year 1665, there was a gap of several months until, under the editorship of Abbé Jean Gallois (1666–74) and of Abbé Jean-Paul de la Roque (1674–1687) the *Journal* became established and defined its parameters. Hot on the publication of the *Journal* a spate of learned journals followed — the *Philosophical Transactions*, also in 1665 (London), the *Giornale de’ letterati* in 1668 (Rome), the *Acta Eruditorum* in 1682 (Leipzig) and the *Nouvelles de la République des Lettres* in 1684.

6 Colbert, Jean-Baptiste (1619–1683) was at that time controller of finances under Louis XIV. A great administrator, law reformer and member of the French *Académie*, he was instrumental in establishing the *Académie des inscriptions et belle-lettres* (1663) and later the *Académie des sciences* (1666).

7 De Sallo, Denis (1626–1669).

8 See the *Avis de l’imprimeur au lecteur* of the first issue.

9 The *Académie Française* was founded in 1635 by Richelieu.


11 On *Ventriculi* see Appendix D.II.

12 See *Dictionnaire des Journaux*, no. 710, pp 645–654.
(The United Provinces). Some concentrated on specific topics, such as the Jesuit Journal de Trevoux (1701), and other more specialised scientific journals. The Journal des Scavans (or Savants) was one of the most influential journals of the 18th century but that stage falls outside our period which is concerned with its first three decades.

2.2 The Northern Netherlands after 1669

The editors’ plan to provide information about new publications and by so doing to strengthen intellectual bonds, was a very real service to the men of letters. At that time it was no simple matter to find out who was writing what. Public libraries were non-existent, books from other countries were expensive and not easy to obtain, censorship was stringent and varied from country to country, particularly with regard to topics concerning religion and ecclesiastical control. In this regard, the Northern Netherlands, by contrast to France, was a comparative haven of tolerance, although the regents were semi-tolerant on matters of religion. It was this reputation for tolerance that attracted the French Huguenots after the Revocation of the Edict of Nantes (1685) and other refugees in search of a modicum of freedom of thought and expression.

The United Provinces enjoyed relative freedom of the press and became the hub of the book trade. It was in Amsterdam after 1669 that the Journal des Scavans unencumbered by censorship, was re-edited, reprinted, often including a number of issues in one cover. Pagination differed, as did the size of the volumes, being octavo, while the Paris edition was quarto. Some volumes, attributed to the publisher Pierre le Grand, others to Daniel Elsevier. It has been claimed that Pierre le Grand was a pseudonym of the house of Elsevier, but as is conclusively argued by van Eeghen, this was not the case. Pierre le Grand (1634-1712) was certainly closely associated with the Elseviers, both personally and professionally, and it would seem to van Eeghen that from about 1662, Elsevier printed on commission to le Grand. The position regarding the Journal des Scavans is complicated. Reprints of the Paris editions of parts 1-7 (1667-1679) which appeared during the years 1669-1680 with the address “A Amsterdam Chez Pierre le Grand”, were printed by the Elseviers. After Daniel Elsevier’s death in 1680, the Blaeu company took over.

2.2.1 The Latin version — the Ephemerides Eruditorum

A further complication involves the title Ephemerides Eruditorum. What exactly was this libellum (small book) discussed by Böckelmann? Is Huber, writing in 1684, using the Latin name in his Latin dialogue? Or was Böckelmann actually holding a copy of the Latin version produced in Leipzig? There seems to have been at least two Latin editions with the French translated into Latin by Dr M.F. Nitzsche of the University of Giessen. The first Latin edition, appearing in 1667, contained the French versions of 1665 and 166714. The second covered the years 1666 to 1668 and appeared in 167115. Whether there were subsequent issues is not known to me.

There are certain pointers that may argue that it was the 1671 edition which Böckelmann produced, the chief of which is that the Latin Ephemerides Eruditorum was produced as 12mo, indeed a libellum, whereas the French and Dutch editions were usually quarto or octavo. This edition contains the Latin version of the résumé

13 Van Eeghen, De Amsterdamse Boekhandel 1680-1725, III, pp 111, 204-205.
of Swalve’s book the *Ventriculi querelae et opprobria* which first appeared in the Paris edition of 18 January 1666 (pages 37–38)\(^{16}\) but not that of Amerpoel on the *Cartesius Mozaizans* from the Paris edition of 1677. In the *Dialogus*, page 58, the word alibi perhaps indicates “in another book”. Certainly the date of 1671 precludes an article dated 1677.

A further obstacle arises with regard to the headings of the articles. Huber’s version (p 58) gives the author of the *Ventriculi Querelae as A.S. Med. Doctoris Amstelodam*, the Paris and the *Ephemerides* (of 1671 edition) as opera “Bernardi Swalve Med. Doct. Amstelodami”. A similar oddity occurs with Amerpoel. Huber gives his initial as N, whereas the French edition of 1677 clearly says his name is Johannes. Is this a deliberate omission by Huber or just careless editing? The fact that this is repeated in the 1688, the 1696 and the 1724 editions argues for a deliberate omission.

3 THE JOURNAL THROUGH THE EYES OF THE PERSONAE DIALOGI

It is in the concluding section of the *Dialogus* (pp 58–62) that Huber, through the person of Böckelmann, suddenly introduces the *Ephemerides Euditorum*. When considering the various comments made regarding the *Journal*, one must remember first that it is Huber himself who is writing the *Dialogus* and it is he who is allotting the various opinions to each of the personae. A survey of the titles of reviews and articles published in the *Journal* prior to 1684 do not suggest any personal animosity to Huber or the others. One must also bear in mind that Dutch legal authorities, even professors from the University of Franeker, were not foremost in the minds of the French editors.

Huber prefaces the discussion by stating that this type of booklet is well-known and needs no introduction. Böckelmann complains that the writers of the resumés present worthless writings and either omit or sketchily pass over works of great value. He cites as examples of trivia a note on a book by one Bernard Swalve, a Dutch doctor from Amsterdam, concerning the diseases of the stomach.\(^{17}\) (What he doesn’t say is that the review mocks the work and covertly indicates that it is worthless.) Then Böckelmann refers to a book by J. Amerpoel, a dominee from Wier, in which the author attempts to reconcile Genesis with the views of Descartes.\(^{18}\) Amerpoel’s book was published in 1669 and only reviewed in 1677 in the issue of 30 August, several years after the author had died (1671) and several years after the *Dialogus* was supposed to have taken place. This résumé is a longer and comparatively balanced recital of the contents. From Böckelmann’s point of view it is the treatises of the truly learned which are ignored, in favour of such insignificant writings of unknown writers.

To this Crusius replies that the writers of these journals are not men of learning and that their judgment of the books or their observations on politics etc. are of no real significance. He personally would prefer that his works and those of eminent jurists were not associated with these journals but if it were important to Böckelmann, he suggests that Böckelmann should himself provide the editors of the

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\(^{16}\) On (pages 37–38). See Appendix D II.


news-sheets with a résumé of his next work19 and accompany it by much flattery of the Journal — a somewhat cynical attitude.

Huber, speaking in his own persona, is more moderate. He considers it unwise to alienate these editors whom he describes as men of ‘elegant talents’. The result could be that the editors would attack the jurists and condemn their writings, thus endangering their reputations. He suggests that the Germans might be more receptive of legal works. Is Huber here thinking of the recent appearance of the Acta Eruditorum published after 1682? Even here the number of legal reviews were few. Huber does not want jurists to be excluded nor yet specially promoted. The duty of the editors of the journals is to give a simple statement of the contents of a new book and in this way provide the readers of the journals with a survey of what is being written and what could be of interest. Although in general, the speakers’ comments may be dismissive. Huber himself is interested to learn what is being written in various fields. However, the number of reviews concerning matters legal are few and far between in the early editions and it would seem that Huber is justified in his arguments that the jurists, being also part of the republic of letters, should be better represented.

3.1 Comment on Dutch legal writing in the Journal and in the Ephemerides Eruditorum

Although Böckelmann claimed that there was a marked lack of legal articles in the Journal des Scavans one of the early issues contained a résumé of Simon Groenewegen’s Tractatus de Legibus Abrogatis et Inusitatis in Hollandia.20 This is the second, Nijmegen, edition of 1664. Despite the official policy of dispassionate reporting, the résumé is critical and compares Groenewegen unfavourably with French jurists such as Bugnonius21 (1540–1590) and Mornacius22 (d. early 17th century). The chief thrust of the review is that Groenewegen copies Bugnonius and Mornacius that he concerns himself with trifles (bagatelles), such as the Emperor Leo’s Novel 58 regarding the biblical injunction on eating food made from blood, and ignores questions of great significance. Certainly, Groenewegen’s work is not free from flaws and the first two editions of De Legibus Abrogatis, those described here, are in many ways inadequate.23 However, one must remember that Groenewegen was concerned with the Roman law as abrogated in Holland, not France, whereas the perspectives of the Journal and its contributors are from Paris. It is of interest to see that the book was obtainable in Paris (et se trouve à Paris chez Piget).

Another legal work of interest to Dutch jurists, Antonius Marullius’ 1665 edition of the Codex Theodosianus with the massive commentary by Jacob Gothofredus24, also received a notice in the instalment of that year.25 This is a factual résumé of the predecessors of the Codex Theodosianus, i.e. the Codex Gregorianus and the Codex Hermogennianus and the summary is in general impartial. Further, in volume 1 of 25 January 1666, there is a favourable résumé of Grotius26 De Iure Belli et Pacis of 1625,

19 From the first edition it was customary for the editors or contributors to receive correspondence which was listed and summarised.


21 Bugnonius (Bugnyon), Philibertus, Legum abrogatarum et inusitatarum in omnibus curiis, terris, jurisdictionibus et dominii regni Franciae tractatus (First edition 1563).

22 Mornacius (de Mornac) Antonius. Observationes ad Quattuor libros Codicis (Paris, 1635) and ad posteriores octo libros codicis (Paris, 1640); Observationes in XXIV libros Pandectarum (Paris, 1616).

23 The first edition was Leiden, (1649), the second Nijmegen, (1664), the third Amsterdam and Wesel, (1669), much enlarged and corrected by the author before his death.

24 Gothofredus (Godefroy), Jacob (1587–1652).


26 Grotius (de Groot), Hugo (1583–1645).
which one must remember was originally published in Paris. A further indication of
the number of legal works submitted to the Journal is provided by a glance at the
Bibliographia sive Catalogus Librorum which in the year 1685 were brought to the
attention of the editors. Under the classification of legal works on pp 568 and 569
we find several of interest. Of the 20 legal works listed, there are German (eg
Berlicius's Decisiones Aureae, Struvius's Syntagma juris Feudalis) and Dutch. Here we
find the third edition of Simon van Leeuwen's Censura Forenisis, theoretico-practica id est totius juris Civiles Romani usuque recepti et practice methodica collatio of 1685
(Leiden), Also Laurent Theod. Gronovius' Emendationes Pandectarum juxta
Florentinum Exemplar examinatae (Leiden). Here we find the third edition of Ulric Huber's Positiones sive lectiones juris contractae. A search through Feenstra BGNR Franeker produced a number of potential candidates but the place of printing (Leipzig and Frankfurt), and the size, octavo, eliminated all but no 192 on pp 67-68. There, under the heading Positiones sive Lectiones juris contractae met scholia van Chr. Thomasius. The edition published in 1685 in Leipzig and Frankfurt. It was indeed octavo, unlike the earlier and later editions which were 12 mo.

4. POSSIBLE REASONS FOR HUBER'S INTRODUCTION OF THE
EPHEMERIDES ERUDITORUM
Prima facie Huber's introduction of the Ephemerides Eruditorum (the Journal des Scavans) seems out of character with the rest of the Dialogus, but one must give Huber the benefit of the doubt and assume that he had a purpose — even if only to add a touch of variety. Let us first consider his views.

As said above Huber was in actual fact the author of all the faceted comments voiced by Böckelmen, Crusius and himself. (To date, I have not succeeded in tracing any opinions by the other Personae so can only attribute them all to Huber.) The dialogue form lends itself to opposing views and it may well be that Huber's long experience with student dissertations enabled him to see both sides of an issue before giving a conclusive judgment. Here he puts into his own mouth a sensible and balanced view. It is in every scholar's interest to be aware of what others are writing and thinking. No purpose will be served by offending the editors of and contributors to the Journal. He realises that editors and contributors could well be ignorant about legal matters but they could easily become hostile if the jurists openly resented their treatment at the hands of the journals.

In how far can one consider Huber, a member of the orbis literati? Certainly, both in the Dialogus and in his other writings he reiterates the ideal of tolerance and good manners in his relationship with other scholars. But, need one ask, in how far does he observe that standard? For Huber, tolerant discussion was not usually an option. When he felt differently, especially on matters of religion, he felt strongly and said so. A specific instance, one of many, is his behaviour on the occasion of G.W. Duker's theological promotion at Franeker (1686) where he so raged at the candidate that the rector was obliged to intervene.

What of Huber's complaints that there were only insignificant books mentioned in the Journal and a dearth of legal writings? Certainly, the books cited by

27 Berlicius, Matthias (1586-1638) Professor at Leipzig.
28 Struvius, Georg Adam (1619-1692) Professor at Jena.
30 See Appendix D V.
32 See Dialogus p 14 and ft 14; Noodt Praelectiones III p 677.
Böckelmann, Swalve’s *Ventriculi* and Amerpoel’s *Cartesius Mosaizans* appear trivial but that was the point of the argument. The fact they were written by Dutchmen adds an apparent insult to serious Dutch writers. It is not easy to evaluate the dearth of legal writing. Statistics suggest that pre–1684 less than 10% of the resumés were of legal writings. (Later, in the 18th century, it may well have been different.) It is to be noted that the Dutch reading population were not particularly interested in what they regarded as French fripperies, nor were the French concerned with the well-established Dutch legal system. In particular there was little new in Dutch legal writings, nothing to titillate a readership keen on novelty\(^33\). Huber was probably right in considering that Dutch legal writings would be more appealing to the Germans. The *Acta Eruditorum*, first published in Leipzig in 1682 by Otto Mencke, was probably more to his taste and vice versa. By and large, the readers of the *Journal* were not specialists, and law did not have the appeal of novelty. On the other hand Huber himself was not interested in scientific developments. Is there any ground for suggesting that Huber felt excluded from the Republic of Letters? Certainly on page 62 he writes that the Germans will consider the jurists part of the world of letters\(^34\). Probably here Huber is fighting for recognition on behalf of the profession as a whole. It seems unlikely that he himself felt personally slighted\(^35\). However, he clearly states that jurists must not cadge for inclusion. It is true that, when first he wrote the *Dialogus* of 1684 his *Positiones* had not been mentioned. It only appeared in the 1685 edition, and certainly it is not one of Huber’s most significant works. The question arises “Who tipped the editor off?” Huber himself? Or more probably Thomasius? History does not provide an answer. Further it is worth noting that the listing of the *Positiones* occurred after the first edition of 1684, but before that of 1688, but there is no change in Huber’s attitude. In fact, the two versions are almost identical except for two small additions to the *Digestiones* version. There on page 60 Huber says that editors could ignore works “which have come into being with much labour”. The second addition is voiced by Crusius who concludes by stating that he would prefer his work not to be mentioned in the *Journal*.

A possible reason for Huber’s concern with learned journals could be that in the years just before he published the *Dialogus* there was an increase in the number of journals and dictionaries, published internationally. Had he written a decade earlier, he might not have felt the urge to discuss these products of the Republic of Letters or felt threatened by the exclusion of the jurists. It is not possible to argue that Huber’s interest in the *Journal* was linked to his didactic concerns. The *Journal*, or the *Ephemerides* version, was not likely to be of interest to the students in his classes. Nor can one argue that he felt threatened regarding his research and publications. In general, his attitude is slightly patronising.

\(^33\) A possible exception is that as a result of the 30-Years War (1618-1648) there was increased interest in the *Ius Gentium* and the relations between belligerent nations as voiced by Grotius, *De jure Belli et Pacis* (1625). A brief summary appeared in the issue of 25 January, 1666. See Morgan *Histoire du Journal*, pp 170-171.

\(^34\) 1688 p 62 *ordinem nostrum pro parte aliqua litterati orbi*.

\(^35\) 1688 p 60. See Böckelmann’s remark “I do not know what evidence you have taken from my words that leads you to think that I am complaining about my personal position rather than that common to all jurists.”