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CHAPTER II

THE 1684, 1688, 1696 AND 1724 VERSIONS OF THE *DIALOGUS*¹

In considering the text of the four versions of the *Dialogus* there are a number of issues to be addressed. These chiefly involve the extent and nature of the changes introduced into the editions, especially those introduced into the 1688 version. When considering these alterations an attempt will be made to trace their origins and possibly to deduce the grounds which prompted them. In the process it will hopefully become clear why the 1688 edition was selected for translation and commentary.

The *Dialogus* was first published as a small octavo volume by Joh. Gyselaar of Franeker in 1684. The second edition, significantly altered and expanded, appeared as a separately paginated addition to Huber's revised *Digressiones* of 1688, which was published by Joh. Gyselaar, Henricus Amama and Zacharias Taedama of Franeker. When the *Digressiones* was posthumously revised by Huber's son, Zacharias Huber, in 1696 the *Dialogus* was not separately paginated but included as pages 585-628. This edition was published by Jacobus Horreus of Franeker. Finally in 1724 the *Dialogus*, together with three of Huber's orations from the *Auspicia Domestica* (1682) was published as part of a collection of short works on teaching law. This volume *De ratione ac methodo studiorum juris* was edited by Christian Gottlieb Buder, then librarian at the University of Jena and published by the *Officina Hartungiana*. The latest version of the *Dialogus* is this, of 2010. It is a photocopy from the 1688 *Digressiones*,² and is accompanied by a translation into English and copious commentary. It will be clear below that Huber made a number of major changes to the text. The first was a (last minute) substitution of pp 79-80, before publication of the original 1684 edition. To appreciate the pre-publication substitution of p 79 and p 80, consult the 1688 edition and footnote 8 below (referring to Appendix B). Subsequently, several substantial alterations were effected before republishing in 1688. Passages added are marked with ★, † below the English text and excised passages (marked A¹, A², etc.) are included in Appendix A — both Latin and English.

The use of italics in the different editions merits a note, even if only to say that there is editorial inconsistency. In the 1688 edition proper names and book titles are italicised, and often sentences which are clearly quotations or paraphrases of would-be quotations. Many of these I have identified and attributed to their authors; a certain number I cannot identify. Italics are also used for emphasis. In the 1684 edition, however, italics are far more rare. Compare, for example, 1684 pp 16-17, and 1688, pp 9-10. The 1696 edition of the *Digressiones* follows the 1688 edition but not absolutely. The Buder edition is not subjected to comment here.

¹ See Feenstra *BGNR Franeker*, pp 51-53, nos 139-144; p 72, no 208; pp 95-97, nos 285-286.

² From the copy in the library of *Tresoar*, Leeuwarden.

1. 1684 — A DESCRIPTIVE BIBLIOGRAPHER'S DELIGHT

Copies of the first edition of the *Dialogus* are rare. Gyselaar apparently only made a small print run, as indicated by the number of surviving copies.³ However, recently (2006) a somewhat puzzling alteration to pages 79 and 80 emerged, thanks to the kind offices of Prof. John Cairns of the University of Edinburgh. He told me of a set of printed but unbound sheets of the 1684 edition of the *Dialogus*.⁴ These sheets are presently held in the National Library of Scotland and are part of the Dieterichs' Collection⁵ which was bought by the Advocates' Library in 1820 and passed to the National Library when it was founded in 1926.

The existence of unbound sheets is no unique phenomenon, as in the 17th century it was not unusual to sell the unbound sheets to be bound at the buyer's decision. The point of interest in these sheets is that they contain a cancel leaf, pages 79 and 80 (E 8) which is replaced by *4. There are no other changes in the printed text. Thus the loose leaves of the first, the 1684 edition, show two different states⁶ for pages 79–80. The page beginning *legibus inferri potest. Nescio at illa CRUSIUS* is the final text and it appears again, although slightly altered (pp 45–46), in the 1688 edition. The text beginning *legibus inferri potest. Tu vero excipere . . .* was Huber's original text which he must have decided to change after it had been set up in print. Gyselaar, the university printer,⁷ instead of wastefully resetting the entire sheet,⁸ which also contained pages 65, 66, 71 to 74, merely printed the *cancellans* on the spare space on the last sheet, leaf *4, which contained some of the preliminaries. (These were usually set last as, being indices, contents lists etc., they were dependent on the pagination of the main text.) During the binding, the cancelled page, the *cancellandum* (pp 79–80) was cut out and discarded, the new leaf, the *cancellans* (leaf *4), was glued on to the stub.

That was the theory! The next step was to check any extant copies for clear evidence that the leaf containing the new pages 79–80 had in fact been included and that the necessary adjustments had been made. It is no secret that irregularities occurred in the binding even when there were no cancelled leaves to be replaced.

³ See Feenstra *BGNR Franeker*, p 72, no 208 for a partial listing. There are no copies in South Africa.

⁴ Prof. Cairns discovered these sheets twenty years ago but did not have time to examine them closely or to write them up. He rightly guessed that I would be fascinated and I sincerely thank him and the National Library of Scotland for passing photocopies of the originals on to me.

⁵ The so-called "Dieterichs' Collection" was part of the library of Georg Septimus Dieterichs (1721–1805) Count Palatine and Senator of Regensburg. After the Count's death the library was auctioned but the collection sold slowly and comparatively cheaply. Much of the collection was eventually bought by the Advocates' Library. It would appear that the Huber 1684 sheets were part of a bundle of unbound sheets, many perhaps originating from the Gyselaar Printers. See Meixner *Dieterichs' Collection*.

⁶ The term "state" usually refers to changes made to the text during printing. There can be different states of the leaves involved, when the *cancellandus* (leaf to be replaced) is corrected by substituting a corrected leaf (the *cancellans*). The *cancellans* is tipped in i.e. stuck onto the stub of the *cancellandus* which is cut away.

⁷ Johannes (Hans) Gyselaar was the official publisher to the *Staten* of Friesland and to the University of Franeker from 1674 to 1700. His predecessor was Johannes Wellens and a note under Feenstra *BGNR Franeker*, p. 51, no 136, suggests that Gyselaar could have taken over a number of already printed but as yet unbound sheets from his predecessor Johannes Wellens. In the late 1680's he appears to have joined forces with Henricus Amama and Zacharias Taedama, as can be seen from the title page of the 1688 *Digressiones*. Unfortunately, my requests to the Archives and Tresor in Franeker can produce no further information. From the point of view of this project Feenstra *BGNR Franeker* lists 166 entries under Ulric Huber, of these 30 deriving from the years 1677–1700 are printed by Gyselaar.

⁸ See Appendix B.

The first copy that has produced definite evidence that this alteration was successfully completed is the Leiden copy (shelf mark 499 G7:2). It was inspected by Dr Osler and he commented that this is “the standard version which the publisher and the author wanted to give to the public.” There are, however, three leaves of preliminaries which are misbound.⁹ I understand from Osler that Harvard and Yale have copies but as yet no information regarding them is available. Of the copies in Dutch libraries, the *Koninklijke Bibliotheek*’s copy (signature 378L 20:2) has the new pages 79 and 80.¹⁰ The Leeuwarden copy, a photostat copy of which was used for this work, apparently has the new *cancellans* version, and according to Dr Jacob van Sluis of *Tresoar het gekke is dat dit een halflos blad lijkt te zijn, dat er in ons exemplaar een beetje slap bij hangt*.¹¹ In Scotland there are two copies in the Advocates’ Library. A.68.2 has the 1684 *Dialogus* bound with Huber’s *Specimen Philosophiae* (1686), A.68.4 has the 1684 *Dialogus* bound with Huber’s *Auspicia Domestica* (1682). In both copies the *cancellans* has been substituted for the original leaf but there are no visible signs of a strip and pasting; no doubt because of the tight binding. In addition there is a copy in the London School of Economics bound with Huber’s *De Iure civitatis* (Archives-Special OU/1684/2B). This is reported to include the new pages 79 and 80. So far we have not found any copy containing the *cancellandum* which suggest that in general the binders did a professional job.

1.1. Possible reasons for the changes

So much for the technical aspects. Now let us consider the possible whys and wherefores of Huber’s changes. What was so undesirable about the original p 79¹² or so vital about its replacement that it deserved the time, trouble and expense of excising it? And why only that leaf when a mere 4 years later the 1688 edition in the *Digressiones* shows many radical alterations, including further minor alterations to these very pages?¹³

⁹ *3 is bound before *2. This is confirmed by Osler. See Feenstra *BGNR Franeker*, p 72, no 208.

¹⁰ This copy was inspected by Prof. Hallebeek.

¹¹ “The funny thing is that it appears to be a half-loose leaf which in our copy hangs a bit loosely.” Information provided by Dr Jacob van Sluis of *Tresoar* in a friendly letter to an enquiry by Prof. Hallebeek on my behalf, 14 January, 2008.

¹² Pages 79 and 80 (1684), sheet 12, sheet G. reads as follows: “. . . You indeed, continued CRUSIUS, seem to forget, my dear Huber, that we are engaged in a dialogue and I see that you are not far removed from the vehemence of a declamation. If I were to follow your example and if I were to consider that I should reply to every point you have raised, the sun would set and we would infringe on the policy which you initially stipulated and prescribed for us. (See 1684 p 11.) Otherwise it would be easy to show that you are not doing anything which cannot be defended by great writers or by better reasoning, and what Alciatus, Cujacius, Augustinus, Duarenus, the Fabri and others, without number, have practiced. Indeed you may recall something of the glory of legal textual criticism, and of the critics of the last century even although you are in no way reserved in your hatred for and aversion to that aspect of learning which we, despite snarling Envy but with the help of the Muses, will practice with alacrity while life shall rule these limbs, and we will not be deterred

If envy wishes to carp at our careful work

Until our age is ashamed of its accusations.

[Huber speaks.] Let us therefore furl our sails (I said) in the nearest port [80] for it does not please me to continue the thrust and parry of this argument from which you have withdrawn with such scorn but let me add this one point, I am glad that I followed the school of outstanding men from whom I learned my “trade”, the school of Vinnius, Matthaues II, and Wissenbach, who were . . .”.

¹³ These paragraphs can be compared with 1) pages 79 and 80 of the 1684 edition and with 2) pages 45 and 46 of the 1688 edition.

There is no doubt that the decision to cancel page 79 as set on E8 was a decision made by Huber himself. The resetting of page 80 was made necessary chiefly because there was an overflow of 5 lines from p 79 and this required resettling of the typesetting. Here the actual changes are minor — e.g. *ad spernari, atque* (l. 20) for *aspernari &* (l. 20); the addition of the Greek phrase τὸν πόνυ (l. 17).

The section under consideration occurs towards the end of the discussion on legal textual criticism. Huber is laying down the law on emending without manuscript authority and asserts that emendations should not be used to resolve conflicting arguments in support of the emender's own opinion. He is critical of Crusius' emendation of *obligare* for *obligari* in D.45.1.101.¹⁴ He passionately declares that these arbitrary emendations disrupt the certainty of the law and, if allowed to continue, might well be used to moderate the penalties for homicide, theft and adultery. In the original, rejected, version, Crusius replies that he cannot answer every point that Huber is making as they are discussing the work of Alciatus, Cujacius, Augustinus, Duarenus, the Fabri and many others. On the replacement sheet Crusius picks up Huber's argument, saying that he is exaggerating the danger of textual emendation changing the old jurisprudence. He concedes that penalties must sometimes be mitigated and refers to Alciatus' boy¹⁵ but maintains that the normal penalties for homicide must stand. Despite hostile criticism he will continue to practice textual emendation.

Then Huber suggests that they should conclude at this point as he does not like this arguing.¹⁶ He himself then launches into a defence of such as Vinnius, Matthaeus II and Wissenbach who, he says, were convinced that those who practiced criticism were not lawyers (an allegation often brought against the humanist philologists).

It is perhaps useful here to consider the further changes which were effected to this passage in the 1688 edition, anticipating the discussion in sections 2.1 and 2.2 below. After Crusius has said that he is not replying to other of Huber's points, he now says that it is foolish to foist unintended opinions on writers, when by the adjustment of a letter or two "good sense can be achieved for the ancients and honour for the subject".¹⁷ In Huber's speech a remark is added to the effect that Crusius and his fellows should not think that only those who practice emendations are knowledgeable of the law. Vinnius, Matthaeus II and Wissenbach are then cited as scholars who understood the law and practised criticism.

Considering the changes in the 1684 and the 1688 version together it would appear that Huber was reinforcing his arguments against those whom he saw as tampering with the received law. He certainly considered Noodt to offend in this regard. The addition and subtraction of many passages in the 1688 version indicate that he was not satisfied with the 1684 edition and perhaps we may conclude from these sheets that this dissatisfaction arose even before 1684 was published.

¹⁴ See Crusius' posthumous *Dissertatio ad Constitutionem Divi Marci de curatoribus minorum quinque et viginti annis*, Leiden 1712.

¹⁵ See Alciatus *Dispunctiones*, 1.17.; cf. the 1688 edition, p 79. This boy, says Alciatus, in a fit of anger struck a comrade with a knife, and hence it was argued that the full penalty of the law should be mitigated.

¹⁶ See 1684, pp 79-80; 1688, p 46.

¹⁷ 1688, pp 45-48.

2. THE 1684 AND THE 1688 VERSIONS COMPARED

The title page of the 1688 edition claims that this edition is *nonnullis aucta* ΠΑΡΑΛΙΠΟΜΕΝΟΙΣ, *paralipomena* being from the Greek *παράλειπω* = I pass over, i.e. including material which was formerly omitted. This is in fact only a half truth as not only does the 1688 edition contain additional material, but certain passages in the 1684 edition have been deleted, extirpated, pulled up by their roots.

2.1 The title changes — *Dialogus* or *Diatribē*

The first, although not necessarily the most important, question to be considered when comparing the first edition of 1684 with the *Digressiones* edition of 1688 is the alteration to the title. The 1684 edition made its appearance under the title *De ratione juris docendi et discendi Dialogus*. (A Dialogue on the method of teaching and learning law) With the second edition, included in Huber's *Digressiones* of 1688, the title was extended to read *De Ratione Juris docendi et discendi diatribē per modum Dialogi. Nonnullis aucta ΠΑΡΑΛΙΠΟΜΕΝΟΙΣ*. (A Diatribe in the form of a Dialogue on the method of teaching and learning law — with the addition of some material previously omitted) Now what, if any, was the distinction between a 'Dialogue' and a 'Diatribē'? The term 'Dialogue' does not present major problems. The derivation is from the Greek *διαλέγεσθαι* = to converse or reason. In Classical Latin a dialogue acquired the exclusive sense of an informal philosophical conversation, usually on a single theme but allowing for digressions. The prefix *δια* is sometimes seen as *δις* = two and gives rise to the understanding of a dialogue as a *duologue* and is often used in this sense in drama. In general, the connotations of a literary dialogue for Huber were not very different to those for the English speaker today.

'Diatribē' is less straight-forward. The modern English (and probably also the Dutch) reader when presented with a 'Diatribē' immediately conjures up a 'bitter and vitriolic criticism'. However, in English this meaning is said to be an early 19th century development.¹⁸ In the earlier English usage the term is merely implying a discourse or dissertation. Crusius entitled his 1669 discussion of D.28.5.41(40) a *diatribē*,¹⁹ and there the term is used more as a discourse, a discussion. However, the word 'diatribē' was used in its full pejorative and polemical sense in the verbal and legal controversy which initially involved Claudius Salmasius²⁰ tract *De usuris* of 1638 and Petrus Cunaeus²¹ of the University of Leiden. Mud-slinging and academic abuse escalated as Cyprianus Regnerus ab Oosterga²² of Utrecht and Johannes Jacobus Wissenbach²³ of Franeker joined the fray. Salmasius' *Diatriba de mutuo non esse alienationem adversus Coprianum quemdam iuris doctorem, auctore Alexio a Massalia, Domino de Sancto Lupo* (1640) was correctly entitled a *Diatribē* and its answer by Cyprianus Regnerus — *Petri Cunaei sententia defensa mutuum esse alienationem adversus*

¹⁸ See OED 'diatribē a bitter and violent criticism; an invective (1804)'; van Dale 'diatribē, scherpe kritiek'.

¹⁹ See Ahsmann and Feenstra *BGNR Leiden*, p 83, nos 115, 116.

²⁰ Salmasius (Saumaise), Claudius 1588-1653. He was invited to Leiden to give lustre to the university and was allowed to give lectures as and when he chose.

²¹ Cunaeus, Petrus 1586-1638. Professor of politics and law at Leiden, 1615.

²² Regnerus ab Oosterga, Cyprianus 1614-1687. Professor at Utrecht, 1641-1687.

²³ Wissenbach, Johannes Jacobus (1607-1665) Professor at Franeker, 1640-1665.

Sphalmasium quendam, dominum de Sancto Lupo (1640), was a continuation in the same spirit.²⁴ In view of Huber's well-known polemical tendencies it is not impossible that in the 1688 *Dialogus* he intended to join battle, as he himself would be the first to admit.²⁵

However, a glance at the origin of the word perhaps suggests another significance. 'Diatribē' is derived from the Greek διατριβήν one meaning of which is "to while away time". (This may be compared with the Latin *tempus terere* "to rub away time, waste time".) Couple this sense with Huber's statements about his 1688 *Dialogus*, which appears on p [3] of the *Praefatio* to the *Digressiones*. Having explained in the *Dedicatio* (to Zacharias Huber, his father) that the *Digressiones*, also referred to as *Observationes iuris humaniores* or *amoenitates*,²⁶ were intended to relieve the solid weight of the law, Huber remarks that he has included at the end of the *Digressiones*, the *Diatribē de Ratione juris discendi et docendi* "since this is nothing other than a Digressio".²⁷ The Latin *digressio* means a physical departure or, more commonly, a departure from a subject under discussion. The latter is today the most usual sense of the English "digression", from the verb "to digress". We digress in speaking or writing, often for a necessary explanation, illustration or elucidation.

Is that the spirit in which Huber wishes us to read his attacks on Noodt, four years after the original *Dialogus* of 1684? Is the emphasis now on the pleasantries? May we assume so?

2.2 Alterations to the text

There is a marked difference between the text of the first edition published in 1684 and that of the version published in 1688 as an independently paginated (pp 1-63) addition to Huber's revised edition of the *Digressiones* (1st edition 1670).²⁸ This 1688 version is much more readily available, possibly because of its association with the *Digressiones* which had already been reprinted in 1671, 1677 and was to be reprinted in 1696, again including the *Dialogus*. The minor typesetting variations in the 1688 edition from the 1684 edition are not of any significance²⁹; and will not be considered here. It is only the major alterations which will be considered.

In the 1688 edition some passages have been excised from 1684, others added. These alterations have been marked in the English translation. The insertions are indicated with ★ at the beginning and † at the end. The Latin words beginning and ending the passages are also provided. The excised passages are marked in the English translation as A₁, A₂, — A₁₄. In Appendix A the Latin has been copied and provided with an English translation.

²⁴ See Ahsmann *Collegia en Colleges*, pp 195-196, with especial thanks for the pointer to the etymologies of *Coprianus* and *Sphalmasius*. Ahsmann *BGNR Utrecht*, pp 121-122, nos 297, 298, 300, 301 and 306. Feenstra *BGNR Franeker*, pp 163-166, nos 481-483, 490-492.

²⁵ See, for example, the *Praefatio* to the *Digressiones* of 1688, p [3]. *Accidit aliquando ut de sententiis quorundam eruditorum huius seculi virorum nostras quoque in diversum opinions alicubi protulerimus*. (For it has sometimes happened that I have in some places produced opposing opinions regarding the views of certain learned men of this generation.)

²⁶ (More humanistic or classical observations on the law or pleasing accompaniments.)

²⁷ *cum ipsa nihil quam Digressio sit*.

²⁸ See Feenstra *BGNR Franeker*, p 72, no 208 and p 51f, nos 140-144.

²⁹ E.g. 1684, p 66 *ad formandos . . . validos Iurisconsultos, non erit, ut magnopere improbaretur, utcumque aliter deinceps visum fuerit posteris*; 1688 p 38 *ad formandos . . . validos Iurisconsultos, non erat ut magnopere improbaretur, utcumque deinceps aliter visum fuerit posteritati*;

A comparison of lineage will show that Huber added more (approximately 207 lines) than he removed (approximately 132 lines).³⁰ Of the three speakers Crusius loses 12 lines and gains 43, Böckelmann loses 80 but gains 137, Huber, perhaps understandably, is least affected. He loses 40 and gains 27. A brief comment on the distribution of these changes is relevant. The excisions are grouped.³¹ However, as Crusius and Böckelmann dominate the first half of the *Dialogus* and Huber the latter, it is to be expected that the Crusius and Böckelmann passages are removed from the beginning and Huber from the end. The additions do not correspond with the subtractions — either in position³² nor in length. They certainly cannot be regarded as replacements, as will be clear when the content is considered.

2.3 Content of the excised passages

Regarding the content of the excised passages, mention will be made in Chapter VI, of the removal of Rusius from the 1684 edition and the concomitant alterations in the text.³³

Of the longer passages, Böckelmann is the chief loser. On pp 28–30 (A₁) he admits that he has tried to persuade the loose-living students that they can achieve success in their studies³⁴ by following his advice, attending *collegia* (where a compendium will be used) and working steadily. This viewpoint is found in other writings on study habits³⁵ but does not reappear in the 1688 edition. There is no apparent reason why Huber should have removed it. Interestingly, it is re-introduced in the 1696 edition — in an abridged form on p 585. It is uncertain whether this renewal was thanks to Huber or to his son Zacharias.

On pp 40–42 (A₅) Böckelmann argues that he finds students who have not used his method perform badly in examinations but he will not condemn them just for this. However, those who pursue the more abstruse aspects, such as textual emendation and legal controversies, do not cope with the day to day problems and questions which arise in everyday legal business. This idea reappeared in the 1688 version,³⁶ especially where Böckelmann is blaming the students' failures on the untimely introduction of textual criticism. Huber also, in his own words, says much the same in the latter part of the *Dialogus* when he is stressing the need for practical lawyers. As above, this is re-introduced in an abridged form in 1696. On pp 46–47 Böckelmann argues that compendia are used to teach physics, ethics and theology and that everyone knows they are necessary at the early stages. This is said elsewhere³⁷ and perhaps this is the reason for its exclusion. Finally, on p 58,

³⁰ In considering the size of the changes, it is necessary to note that the text of the 1684 edition contains an average of 5 words per line and 26 lines per page. The 1688 version on average has 9 words per line and 33 lines per page. Thus comparisons of lineage in the Latin texts can only be rough and ready. The best compromise, as used here, is to standardize on the length of the English passages translated. These have approximately 12 words per line

³¹ 1684 — Between pp 28–35 four passages are excised (Böckelmann, 33 lines of text, Crusius 5, 6 and 18 lines); between pp 40 and 47 three passages (all Böckelmann, 52, 5 and 29 lines); between pp 58–63 only two passages (both Huber, 5 lines and 12 lines), on p 75, only one passage of 12 lines (Huber), between pp 100 and 103 two passages (both Huber, 20 and 15 lines respectively).

³² The additions occur more frequently after p 42. The two longest, however, start on p 13 and p 20 respectively.

³³ p 45, p 47, (twice) See Chapter VI.1.

³⁴ Cf. 1696 edition.

³⁵ For example, see C.Th. 14.9.1 and Rusius *De jejuna compendiaris* p 10, p 18.

³⁶ See e.g. the English translation pp 13–14, pp 18–19, also *Oratio* II passim but especially p 67.

³⁷ 1688 e.g. English text p 12, ft 34, cf. *Oratio* IV, pp 95–96.

Böckelmann says that Crusius prefers teaching textual emendations to disputing, which he and Huber regard as essential, as can clearly be seen from their publications. Why those lines are removed is difficult to see. Crusius does not lose any significant passages nor, in effect, does Huber.

2.4 Comment on the passages added in the 1688 edition

The 1688 *Praefatio* is the same as that of 1684, except for the addition of 11 lines justifying the use of compendia — an idea which Huber had expressed in his address to the students in his *Positiones* of 1682.

Let us first consider the gains made by Crusius. These consist of several shortish passages, some linked to additions to Böckelmann's speeches. First are two lines on p 17 repeating the *compendium/dispendum* issue which had been introduced on p 6 by Böckelmann. Here Crusius declares that compendia are a *damnum* (loss).³⁸ This use of *damnum* is picked up, in an insert, by Böckelmann on p 17 when he declares that Crusius is using *damnum* instead of *dispendum* to avoid a *παράνομοσται* (an illegal insult). These two inserts are clearly linked and were probably introduced to stress Noodt's use of *damnum* in his inaugural oration.³⁹ There are also 8 lines inserted on p 12, when Böckelmann remarks that although Justinian forbade the writing of commentaries on the *Pandects* and *Codex*, he wisely permitted *paratitla* as essential for beginners. With these lines added, the preceding statement that Justinian realised the need for beginners to have a simplified introduction is somewhat emphasised and provides an improvement on Huber's statement in A₉ which was removed from p 36.

With pages 13–16, a lengthy passage is accredited to Böckelmann, although, in fact, it is taken almost entirely from Huber's *Specimen philosophiae civilis* of 1686, which appeared two years after the first edition of the *Dialogus*, 1684. It was reprinted in the *Opera Minora* in the *Praefatio* (pp 7–11) to the *Institutionis Reipublicae Liber Singularis*.⁴⁰ Here Böckelmann's (Huber's) arguments deal with the fact that compendia are an important aspect of teaching and learning. The teacher must be able to reduce his knowledge to a condensed form, as must the student. Böckelmann then proceeds to argue that the classical epitomes did not, in fact, harm the great authors of the ancient world and probably stimulated students to read the originals as indeed happens with modern summaries. This passage is inserted in a section arguing that the ancient epitomes differ from modern compendia. The former are mere abridgements, the latter an analysis of facts. At the conclusion of the inset, Böckelmann refers to Julius Caesar's desire to provide a 'compendium' of Roman law. This passage, p 16, is taken from Huber's inaugural oration of 1665.⁴¹

Pages 20–22 include a substantial passage by Böckelmann with two interruptions by Crusius. On page 20 Crusius' speech declaring that Böckelmann is misunderstanding him loses 5 lines [A₂] but continues to assert that modern scholars are not agreed on *paratitla*. Hereupon Böckelmann again argues about *paratitla* and *indices*. Much of this section of the *Dialogus*, especially the words in italics in the Latin, are borrowed from Aegidius Menagius'⁴² *Amoenitates Iuris Civilis*. (The last few lines provide a link to Crusius' interrupted speech.) Here again, Crusius is saddled with views not of his own making. Possibly weight is added to the argument here by reference to Menagius. Böckelmann himself does not seem to have any opinions on the matter.

³⁸ See further on the significance of *damnum* Chapter V. 1.3.2.

³⁹ See Noodt *Corrupta jurisprudentia*, p 621 and English translation ft 31.

⁴⁰ See English translation p 13 ft 37.

⁴¹ See English translation, p 16, ft 43 and ft 44.

⁴² See English translation, p 21 ft 53.

The additions to Crusius' arguments are largely link words to help the debate change direction. Likewise, Huber's arguments from the 1684 edition are virtually unaltered. There is, however, one curious alteration. In the 1684 edition, Huber consistently writes of himself in the first person. So, too, in the 1688 version with the exception of three occasions towards the end when he refers to himself in the third person.⁴³

3. 1696 — A POSTHUMOUS EDITION

The 1696 edition of the *Dialogus* as included in the 1696 reprint of the *Digressiones* differs somewhat from its predecessors. In fact, the 1696 *Digressiones* differs somewhat from the 1688 version. It was printed posthumously as is indicated on the title page by the insertion of the words *dum viveret*, in the reference to Huber as *Supremae Frisiorum Curiae Ex-Senator* and further it was revised and corrected in various places by the author's son, Zacharias. In the *Praefatio* Zacharias says that the revisions were based on notes by his father. It is impossible to tell in how far these revisions and additions are to be credited to Huber or to his son but we shall assume that in general they reflect the views of Huber himself.

The four lines on page 585 referring to the social sacrifices to be made appeared in an extended form in 1684 where they were attributed to Böckelmann. They were removed from the 1688 edition but reappear here as spoken by Huber himself.⁴⁴ On p 602 two short additions are made to the 1688 paragraph on p 26 dealing with examining candidates. They state that those who have not followed Böckelmann's method but "declaring themselves to be textualists and despising systematica" are found to be ignorant of the foundations of law "without which certainly no one can practice as a lawyer".⁴⁵ Here, too, it appears that an idea removed from the 1688 edition is being re-introduced.

Otherwise there is only one other point to note. On p 601 the words *Quis non contra videt quod Crus. De Instit. Justiniani* are added. It would appear that this was done after the rest of the sentence was set, for the words *quod* to *objecit* intrude as an incomplete line leaving half a line open after *objecit* before the sentence continues with *si quis abhorreat . . .* There is a full stop after *objecit* because the typesetter presumably did not understand the sentence.

4. 1724 — THE BUDER EDITION

Finally, in 1724, there appeared in Jena from the *officina Hartungiana* a collection of essays and orations *De ratione ac methodo studiorum iuris illustrium et praestantissimorum iuris consultorum selecta opuscula conquisivit et praemissa praefatione adiectoque indice in gratiam studiosorum iuris*. The editor was Christian Gottlieb Buder (1693-1763), then librarian at the Academy of Jena. The book was aimed at easing the burden of law students struggling to master a twisting labyrinth and vast ocean of disorganised

⁴³ See 1684, p 72, *repliebam*, changed to 1688, p 41, *repliebat*; 1684, p 79, *regerebam* becomes 1688, p 46, *regerebat* Huberus; 1684, p 107, "Ego vero dissentio" *inquam*", . . . 1688, p 60, reads "Ego vero dissentio" *ille*" . . .

⁴⁴ *Omittendae sunt enim omnes voluptates, relinquenda studia delectationis, ludus, iocus, convivium, sermo etiam pene omnium familiarium deserendus iis quibus sit animus ad hanc facultatem enitendi.* (For all pleasures must be given up, the pursuit of amusement must be abandoned, games, jesting, drinking parties, even conversation with all one's friends must be forsaken by those who have the intention of excelling in this study.)

⁴⁵ i) *seque Textuales esse praedicantes, systematica contemnentis*
ii) *sine quibus certe nemo potest agere Iurisconsultum.*

information. To guide them through the labyrinth they needed an Ariadne's thread, to bring them safely to port over the vast ocean a guiding star.⁴⁶ These essays and orations were to help point the way.

It is with Ulric Huber's *De ratione docendi et discendi iuris* that we are here concerned. However, also included in the Buder edition are three of Huber's Orations — numbers IV, V and VI taken from the *Auspicia Domestica* of 1682.⁴⁷ These orations also feature in Huber's posthumous *Opera Minora* but that only appeared in 1746. The Buder edition of the *Dialogus* is to all intents and purposes a reproduction of the 1696 version.⁴⁸

5. CONCLUSION

So here we have four editions of the *Dialogus*. The last two are of no vital significance, their variations, with one or two exceptions, being little more than typesetters' whims. It is the 1684 first edition and the 1688 *Digressiones* edition which are indicative of Huber's thinking on the question of teaching and learning the law. Coupled with his didactic orations a picture emerges showing Huber the professor wrestling with the problems which faced both the teacher and the taught. He does not attempt to produce a rigorous set of rules. This would have been contrary to his usual intellectual approach which was sometimes inconsistent. It was his customary methodology to divide his arguments into points — his theses for disputations, his *Positiones*, his *Digressiones* show this clearly and the same approach is to be seen in the *Praelectiones* and the *Heedensdaegse Rechtsgeleerdheyt*. In the case of the *Dialogus* an orderly progression of arguments is vitiated by the demands of the dialogue format. Speakers alternate but the comments of one may well not relate to those of the previous speaker. Moreover, several diverse points may be made in one speech. Towards the end, when Huber is holding the floor, there is a greater line of argument. This loose construction lent itself to additions and excerpts without much difficulty and, as we have seen, Huber happily added passages from his other works. Thus there seems to be no coherent policy behind the alterations.

From what has been said above it should be clear why the 1688 edition was chosen for translation. It was the basis for the two posthumous editions, it was more accessible than the first edition and was the result, one imagines, of some second thoughts. It is those *παραλοπούμενα*, those previously omitted ideas, that argue a degree of revision. Be this as it may, the 1688 *Digressiones* edition is the version chosen as the basis of this project.

⁴⁶ See Buder *Opuscula*, p [2].

⁴⁷ One may ask why *Oratio II* was not included. Could it be that Buder saw it merely as a precursor for the *Dialogus*?

⁴⁸ There are copies of both the 1688 and the 1696 editions of the *Digressiones* in the library of the University of Jena. Thus if they were available to Buder in 1724, he presumably had a choice and selected the 1696 edition as being the latest and including Zacharias Huber's additions.