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Author M.L. Hewett  
Faculty Faculty of Law  
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# SUMMARY

## DE RATIONE JURIS docendi & discendi diatribed *per modum* DIALOGI

### with a Translation and Commentary

Ulric Huber (1635-1694), the author of this Dialogue *De ratione discendi atque docendi juris diatribe*, was one of the leading legal luminaries in Friesland during the last half of the 17th century. He was born at Dokkum on the 13 March 1636 (OS) and died in Franeker on 8 November 1694 (OS). In July 1651 he registered as a student at the University of Franeker, where in the first year he concentrated on the propaedeutic subjects, Greek, Philosophy, History and Rhetoric. In his second year he began to study law under Johannes Jacobus Wissenbach (1607-1665) but continued simultaneously with his history and language studies. This combination of law and the humanities underlay much of his future thinking about educating law students as is discussed in later chapters. In 1657 Huber defended his thesis *De Iure accrescendi* at the University of Heidelberg and was promoted *Iuris Utriusque Doctor*. Four months thereafter he returned to his *patria* to take up a chair in *eloquentia, historia* and *politica* at Franeker. This appointment to the Faculty of Arts was only a stepping stone to his preferred position in the Law Faculty. In 1665 when he became *Professor Primarius* with the responsibility of teaching the *Digest*, he delivered his inaugural lecture on the links between classical literature and jurisprudence, an oration discussed more fully in Chapter IV. In 1670 he extended his teaching programme to include the *Ius publicum universale*, breaking new ground and resulting in much of Huber's most significant contribution to the legal thinking of his day. This aspect of his work is, however, not included in this dissertation which focuses on Huber's didactic statements as expressed in the *Dialogus* of 1684 and 1688, in his inaugural lecture of 1665 and in *Orationes* II and IV of 1682, from the *Auspicia Domestica*.

By the time Huber published the first edition of the *Dialogus* (1684) he had a substantial body of publications to his credit. With the exception of three years between 1679 and 1682, when he was *Raadsheer* at the *Hof van Friesland*, his academic life was spent at the University Franeker, where after 1682, he held a privileged position. As *Oudt Raetsheer*, he took precedence over all but the *Rector Magnificus*, he was not required to give public lectures but was free to teach students at his home, concentrating on Roman Law, on General Public Law and on Frisian Law. He was encouraged to publish on all these topics as indeed he did, the works here considered being among the most significant of this period.

The central focus of this study is the 1688 edition of the dialogue, as printed (pp 1-63) in Huber's *Digressiones* of that year (see Feenstra *BGNR Franeker* pp 51-53, numbers 140-144). The Latin text is provided, together with a parallel English translation and basic footnotes explanatory of the text. Developing from the text and its translation is a commentary, running to IX chapters which attempts to set the work in its context and to provide an evaluation thereof. The *Dialogus* was first published as a small octavo volume by Joh. Gyselaar of Franeker in 1684. The print run was presumably short and today copies are rare. It is the second edition, significantly altered and expanded to appear as a separately paginated addition to Huber's revised *Digressiones* of 1688 which is the text chosen for this work. Here the

summary notes in Feenstra's *BGNR Franeker* (pp 72, 52–52, 95–96, nos. 208, 143–144. 285) are expanded to include the last-minute, pre-publication alterations to the 1684 edition, and an extensive analysis of the substantial differences between the 1684 and the 1688 edition, indicating the reasons why the latter edition was chosen. The greater or lesser significance of the changes is picked up as the commentary develops.

Prima facie the *Dialogus* appears to be a record of a relaxed discussion between four friends, Huber himself, JF Böckelmann, CG Crusius and a minor character, A Wijngaerden. The dialogue form, as used here by Huber, is reminiscent of the Ciceronian dialogue and lends itself to an informal debate on the reasons for *corrupta jurisprudentia* (the decline of jurisprudence).

This conversation is supposed to have taken place in 1670 or 1671 in a country estate owned by Böckelmann, beside the *Oude Rijn* and under the traditional plane tree. This sounds convincing and there are many homely touches to round out the picture. However, certain inconsistencies appear, one of the chief being the facts, proved by the documents, included in Appendix C, which show that Böckelmann only bought the plots at Hazerswoude in April and June of 1676. Chapter VII discusses the evidence in detail and concludes that the final version of the 1688 dialogue undoubtedly dates from the summer of 1684 and that in all probability Huber was indulging in a phase of creative writing to adorn his didactic philosophy.

To set the speakers' arguments against their contemporary academic background a brief historic resumé of the didactic issues concerned is provided in Chapter III. The emphasis here is on legal education in the late 17th century, especially as practised at the University of Leiden (established 1585) and University of Franeker (established?????). A brief sketch is given of the propaedeutic subjects and their relationship to the senior faculties of Theology, Law and Medicine. Attention then moves to the teaching of law lectures, *privatissima* and *collegia domestica* (see Ahsmann *Collegia, en Colleges* pp 274–323). The rôle of disputations is briefly examined — both its function in teaching and its contribution as a framework for future publications by the professor. One of the key issues in the Dialogue is the use or abuse of compendia and in Chapter II this question is briefly introduced, as is the issue of Humanism and its offspring, Textual Criticism. However both are left for fuller debate by the speakers.

A major concern of law teachers were the various reasons given for the decline of legal education — over-indulgent parents, premature promotion from the Latin schools to university courses, the students' inadequacies in Latin. Further, in their haste to qualify and leap into the world of careers and salaries, the young men skipped the propaedeutic courses in the humanities — still regarded by many as a necessary foundation for a knowledge of law. Finally students favoured professors who promised speed at the cost of true understanding. It was suggested that the Latin schools should be forbidden to pass students who were unable to communicate in Latin and were ignorant of Greek. If it were the students who were to blame, the authorities, supported by the Reformed Church, always saw a solution in greater control over those whose riotous and dissolute behaviour often defeated the purpose of their studies and brought the universities into disrepute.

As I worked on the Dialogue it became clear that it was necessary to probe the identity of the speakers, especially Huber, Böckelmann and Crusius and to verify the views attributed to them. Huber's rendering of himself is not distorted. His views, as expressed, present a fair reflection of his considered didactic policy as at 1684–1688. To assess this question it was necessary to read other of his orations and didactic writings especially the prefaces and letters to the reader (see Bibliography I under Huber for a list of his most important works consulted). The impression he gives of

himself here is of a professor seriously concerned with preparing young men for a career in law. He considers that knowledge of the classical background to the *Corpus Iuris* is desirable but love of Antiquity should not obtrude on the central business of Law. As a young professor he had attempted to include Classical references and allusions in his lectures but soon found that this was inappropriate and relegated them, together with more contemporary citations, to a separate publication — his *Digressiones* of 1670.

Böckelmann (1632-1681) is represented as the father of the compendary method as introduced by himself into the University of Leiden. He not only voices his own opinions, drawn largely from the *Praefatio* to his *Compendium* but not infrequently Huber's own words are put into his mouth. (This is indicated in the English text.) However, when we come to Crusius the position is very different. The Crusius of the *Dialogus* bears little resemblance to the Crusius of real life. According to Böckelmann's funeral oration on Crusius, 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, and especially hostile to Böckelmann's *Compendium*, declaring it to be a *Dispensium* (waste of time). As is shown in detail in chapter VII the opinions accredited to him are not his own but clearly he is being used as a vehicle for the ideas of the unnamed professor Gerard Noodt (1647-1725) with whom Huber had an ongoing polemic. Noodt was a far greater scholar than Crusius, a man of decided opinions, opposed to compendia and favouring the humanistic practice of textual criticism when teaching university students, but he was not inclined to be aggressive. In fact of the four speakers it was Huber who was known to be somewhat cantankerous. Further, the impression given by the *Dialogus* is that Crusius and Böckelmann were not on good terms. Is this a twisting of the truth? Nothing in Böckelmann's funeral oration for Crusius suggests any deep-seated hostility to the younger man.

This use of Noodt's opinions leads naturally to an attempt to probe Huber's reasons for attacking Noodt and further for attacking him in the person of the by now deceased Crusius. Some suggestions are made. These are drawn partly from an analysis of the real life relationships of Huber and his "friends" and partly from speculation.

The final section of the *Dialogus* displays a change in direction. Böckelmann introduces a topic which appears extraneous to the main theme of the debate — namely the quality and purpose of the *Ephemerides Eruditorum*, a comparatively new French-based journal more commonly known as the *Journal des Sçavans*. Each of the speakers, Böckelmann, Crusius and Huber have comments — mostly of a hostile nature — albeit somewhat patronising.

The conclusion attempts to summarize the value of Huber's *Dialogus* in the development of law teaching in the 18th century. The use of compendia, including Huber's *Positiones*, continued. Böckelmann's *Compendium* and Cornelis van Eck's *Principia Juris Civilis* seem to have been used most generally. In Huber's didactic writings, especially the *Dialogus*, his inaugural lecture, and *Orationes* II and IV we have a clear picture of the 17th century issues facing those teaching the elements of law to future practitioners.