

## RECENSIES

wie zijn voorstelling van de zaken wil bestrijden zal met materiaal uit de bronnen moeten komen. Zijn eigen oordeel over het calvinisme en het remonstrantisme lijkt me wat ongenueanceerd: was dat Hollands calvinisme inderdaad zo eenvormig geworden omstreeks 1600 en hoorden Arminius en zijn geestverwanten werkelijk niet thuis binnen het vaderlandse gereformeerde protestantisme? Het valt op dat de auteur aangaande Arminius zich aan ietwat oude beschrijvingen houdt en niet verwerkt heeft wat sedert 1960 van remonstrantse zijde is gepubliceerd. En als hij de remonstranten aanwrijft dat ze nooit openlijk zeiden wat ze tegen confessie en catechismus hadden (235), was uit Gelderland en Utrecht nog wel het een en ander te vermelden geweest. Maar deze vragen betreffen de theologie en daarvoor zal men dit boek niet in de eerste plaats raadplegen. De grote verdienste van dit werk is dat het laat zien hoe een geloofsgemeenschap een centrale plaats in de samenleving kan innemen en hoe die samenleving bij het wel en wee van die geloofsgroep betrokken raakt. Persoonlijker gezegd: het boek geeft weer hoe mensen - geleetterde en ongeletterde - bezielt zijn geraakt door een bepaalde overtuiging, en hoe hun individuele beslissing onze politieke en kerkelijke geschiedenis heeft beïnvloed. En aan de auteur komt zeker het gezag toe, dat de zes hiervoor genoemde historici plachten te hebben. Het boek zal jaren mee moeten. De uitgever heeft dat gelukkig qua vormgeving en correctie ingezien.

O. J. de Jong

T. J. Veen, *Recht en Nut. Studiën over en naar aanleiding van Ulrik Huber (1636-1694)* (Zwolle: Tjeenk Willink, 1976, xiv en 404 blz., f 95.-, ISBN 90 271 1114 6).

In recent years, seventeenth-century Europe has been the subject of much debate and reinterpretation. The breakdown of the socio-political structures and cultural attitudes associated with the middle ages has been subjected to new and careful scrutiny and the old view of Aristotle and Feudalism fleeing before the inexorable advance of modern science and the modern state has been abandoned. Instead, the seventeenth century has become an age of tension, of confrontation and compromise, of 'general crisis'. The attempt to hammer out a new identity still continues, however, and if professor Rabb is right in suggesting that the key may lie in intellectual attitudes<sup>1</sup>, Dr Veen's doctoral dissertation *Recht en Nut. Studiën over en naar aanleiding van Ulrik Huber* should be doubly welcome: firstly, as a study of the rejection of Aristotle in the fields of political theory and natural law and secondly as a valuable addition to our knowledge of the life and work of the Frisian jurist, Ulrik Huber.

The book consists of six essays, five of which are devoted to various aspects of Huber's life and work, and one which deals more generally and at length with the rise of *jurisprudentia universalis* (*algemeen staatsrecht*). The *Inleiding* and the German *Zusammenfassung* usefully present the main themes and arguments while 120-odd pages of source material and bibliographical data and commentary in the *Bijlagen* will prove invaluable to the reader who combines an interest in Huber with a knowledge of Latin. The essays are of unequal length and uneven quality - the historical interpretation does not always match up to the careful research and textual analysis - but on the whole they make a useful and substantial contribution to seventeenth-century intellectual history.

1. T. K. Rabb, *The Struggle for Stability in Early Modern Europe* (OUP, 1975).

The main theme of the book is

de idee dat uit de traditionele aristotelische politica een aparte, ten opzichte van de praktische filosofie autonome leer van het algemeen staatsrecht moet worden afgesplitst. Het doel van de rechtskennis is de rechtmatigheid, dat van de praktische kennis [de politica], de doelmatigheid (V, 15).

In other words, *recht* and *nut*. The author argues that the latter half of the seventeenth century virtually completed the break with Aristotelian politica which Macchiavelli had heralded a century and a half earlier. He has used Huber's writings to illustrate and analyse the confrontation between Aristotelianism and Macchiavellianism which, in his opinion, gave rise to an entirely new branch of jurisprudence, namely *jurisprudentia universalis*.

The classical view of the political community as the only environment in which man could develop fully had merged with medieval Christian attitudes to turn politics into a discipline which was as much ethical and judicial as pragmatic and utilitarian (105). Within this framework, jurisprudence was treated as a part of politics, a subordinate whose task it was 'het recht toe te passen op personen en zaken en om processuele handelingen in de juiste vorm te gieten'. This conceptual framework was to become increasingly unacceptable, mainly because of two developments: first, the idea of sovereignty provided a focal point and a foundation for evolving a legal conception of political authority and relationships; secondly, Natural Law became the vehicle whereby the concept of law was freed from the predominantly positivist character of human and divine law (27-28). Although one might question whether the availability of suitable conceptual apparatus is of itself sufficient to explain the use to which it is put, it is clear that the intellectual environment of the seventeenth-century was conducive to a declaration of independence on behalf of Public Law.

Grotius pointed the way in the Prolegomena to his *De Jure Belli ac Pacis*:

Ik heb mij onthouden van zaken die tot een andere discipline behoren, zoals die welke leren wat profijtelijk is om te doen: want die hebben hun eigen bijzondere wetenschap, de politica... Op enkele plaatsen heb ik van het nuttige toch gewag gemaakt... met de bedoeling om dit des te duidelijker te onderscheiden van wat rechtvaardig is (106).

Huber was, if not the first, certainly one of the earliest to follow this lead and treat politics and universal public law as two separate and independent disciplines. As he himself claimed in 1682:

Er zijn weliswaar geschriften verschenen die het algemeen staatsrecht betreffen, maar ik heb er nooit een kunnen ontdekken dat het hele staatsrecht van hoog tot laag behandelt; ... als ik niet de eerste ben die deze wetenschap zo heeft behandeld dan heb ik althans geschreven alsof ik er het eerst gestalte aan gaf (14).

This claim is assessed in chapter IV, 'Over de opkomst van de Jurisprudentia Universalis', by comparing the way in which the principal Grotius commentators reacted to the extract from the Prolegomena cited above. Apart from Ziegler (1666), 'de vroege zwaluw die geen zomer maakt maar hem wel aankondigt' (141), a clear progression from 'onbegrip' in the 1650s to 'onvoorwaardelijke aanvaarding' by the turn of the century is traced, to which Huber's contribution was both influential and to a great extent independent.

But although Huber urged the necessity for a new analytical framework, he was not prepared to abandon the traditional basis of Natural Law nor the traditional criteria of political morality. In the field of law, his Calvinist theology in particular led him to condemn the Cartesian belief in the autonomy of human reason and its pernicious effect, as he saw it, on Hobbes' view of Natural Law and sovereignty (chap. V). As for Politics, he was too much a man of his own time to give it the moral autonomy in practice which his definition suggested it should have in theory, and too much of a jurist to give it the time and thought which a coherent political philosophy required (78-79). For him, as for so many of his contemporaries, a political action could still be good or bad regardless of whether it was politically wise. That this could lead to ambiguity, even inconsistency, is shown in his treatment of 'the best state' which in chapter VI is compared with that of Spinoza. Nevertheless, Huber's combination of old and new proved exceptionally fruitful, laying the intellectual basis for modern liberalism in the Netherlands<sup>2</sup>. The author is perhaps unnecessarily apologetic for Huber's failure to produce a philosophically coherent treatment of politics. He himself observes that it was Huber's essential pragmatism which gave his work a contemporary relevance which neither Hobbes nor Spinoza ever really achieved:

Alleen door niet helemaal consequent te zijn kon Huber het politiek bestel van zijn vaderland aanvaarden, kritiseren en de richting wijzen waarin het zich zou moeten ontwikkelen zonder genoodzaakt te zijn het categorisch af te wijzen of als de hoogste politieke wijsheid te prijzen. Maar Spinoza stond daar helemaal buiten (214).

For the reader who is unfamiliar with the subject, the structure of the book has certain disadvantages. The essays were originally intended to be published as separate articles and although this does not seriously impair the unity of the book as a whole, it does mean that inevitably much background and introductory comment is repeated. The author draws attention to this and expresses the hope that such repetition will prove helpful to the reader. One can accept the principle so long as the repetition is summary and limited. But in fact the amount of useful background material grows steadily through the book and even the *Zusammenfassung* contains material not found elsewhere. Some judicious editing and a more comprehensive *Inleiding* would have added greatly to the clarity, cogency and cohesion of his argument.

More serious reservations attach to the author's claim 'de ideeën die ten grondslag liggen aan Huber's theorie van het algemeen staatsrecht te plaatsen in het kader van de zeventiende-eeuwse rechtsgeleerdheid en politieke theorie' (12). The detailed and illuminating study of the texts has unfortunately too often been at the expense of the historical and intellectual context in which they were written and the resulting historical vacuum seriously weakens the impact of the analysis. One wishes that the author had not only cited J. W. Allen's classic work on the sixteenth-century<sup>3</sup>, but had also followed the advice contained in its Introduction. The historian of political ideas, Dr Allen reminded his readers, must possess

a thorough knowledge of the conditions... under which that thought was developed, ... he must never forget that his own opinion on questions discussed are completely

2. The author refers here to E. H. Kossmann, *Politieke theorie in het zeventiende-eeuwse Nederland* (Amsterdam, 1960) 82-103.

3. J. W. Allen, *A History of Political Thought in the Sixteenth Century* (1928). Cited on pp. 22-23.

irrelevant... [and] the endeavour to exhibit ideas of the past in relation to something vaguely called modern thought... may amount to a distorting obsession<sup>4</sup>.

Dr Veen falls short on all three counts.

His 'whiggish' approach makes him unsympathetic towards the traditionalists and gives the impression that we are observing not a conflict of perception but the slow emergence of some kind of 'truth'. For example, Graswinkel in his defence of Grotius, 'kraamt onzin uit' not just because he misunderstood Grotius but because his distinction between intra- and international relations and his belief that 'wat recht is niet nutteloos kan zijn [al] is het niet in alles of overall strikt op de doelmatigheid gericht' are in themselves 'wrong' (111, 133). As both these views were commonplace in the seventeenth century<sup>5</sup> such a curt dismissal seems singularly out of place. On the other hand, Ziegler's ideas, because more modern (134) are apparently also more correct - a highly contentious criterion.

In approaching the problem of Huber's place in the intellectual history of the time, the author has amassed and compared a great number of political and juristic texts to support his case that Huber displayed a greater logical consistency and conceptual precision than most of his contemporaries. His case is made vigorously and persuasively. But the danger of a highly 'textual' approach is that one too easily confuses logical precision with validity of content - an attitude excusable in some philosophers but not in a historian. All too often the semantic sword-play takes place in a historical no-man's land from which the anxieties, the motives, the audience, even the personalities of the protagonists are excluded. Furthermore, it is frequently in the obscure, the second-rate, that the ideas of an age are to be found. But though the author has read their works and cites them, often at length, he sends them on their way without stopping to question whether to have read their words is really to have understood their message. No attempt is made to relate them to contemporary political practice, the prevailing moral climate or the changing role of lawyers and their corresponding political and intellectual pretensions. Even on the level of abstract ideas, there must surely have been room for more than a passing reference to the Scientific Revolution<sup>6</sup> and its destructive impact upon the Aristotelian world-view. And in this connection it is disappointing to find no mention of Thomas Kuhn whose work<sup>7</sup> has had such a profound influence upon seventeenth-century intellectual history, in particular upon the vexed question of the meeting between old and new which forms the main theme of this book. (Equally surprising in some respects is the absence of even a bibliographical reference to Gierke's work on *Natural Law*<sup>8</sup> which comments on nearly twenty of the author's own sources). *Recht en Nut* shows convincingly that in the later seventeenth-century a significant shift took place in the perception of the relationship between Law and Politics. Unfortunately it does not explain adequately why this change occurred, nor why it was important.

However, the book contains more than this. On the one hand there is the sheer quantity of primary source material, and on the other, the lengthy digressions on individuals and events which provide a scrap-book of information on seventeenth-century academie life.

4. *Ibidem* (University Paperbacks, Methuen, 1960) xviii-xxi.

5. Cf. *inter alia* W. F. Church, *Richelieu and Reason of State* (Princeton, 1972).

6. Page 104 where reference is also made to E. J. Dijksterhuis' monumental and whiggish *De mechanisering van het wereldbeeld* (Amsterdam, 1950).

7. T. S. Kuhn, *The Structure of Scientific Revolutions* (Chicago UP, 1962-70).

8. O. von Gierke, *Natural Law and the Theory of Society 1500-1800*, transl. and edited by Ernest Baker (CUP, 1934).

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The chapter on Huber's travels in Germany with the circumstantial account of his doctoral promotion, his polemic against Duker, the correspondence with his father and others, provide fascinating glimpses into contemporary academia. The lengthy quotations and paraphrases from contemporary sources provide useful insights into prevailing patterns of juristic thought. The *bijlagen* with their source material and biographical data, the detailed analysis and description of the *Dissertationes Politicae*, the transcript and translation of the 'Summaria', the critical commentary on the various editions of the *De Jure Civitatis*, the wide-ranging biographical notes, cross-references and observations on editing, pagination and dating lay bare with unusual clarity the work-methods of the historian and the problems with which he has to contend. The student will find such a ready-made case-study invaluable; the general historian will be grateful for the considerable addition to our knowledge of the life and work of Ulrik Huber and many of his contemporaries.

The actual title of the book is rather like De Lyncker's edition of Huber's *De Jure Civitatis*: 'een vat dat zijn eigen inhoud niet kan verdragen'. The author's rather narrow approach to the relationship between *recht* and *nut* does not in itself warrant the extensive treatment which it receives. But by filling this particular 'vat' to overflowing with the diverse and sometimes tenuously related results of his researches, he has greatly added to our knowledge of a relatively little-known area of seventeenth-century intellectual history.

C. R. Emery

Walter W. Davis, *Joseph II, an Imperial Reformer for the Austrian Netherlands* (Den Haag: Martinus Nijhoff, 1974, xv en 338 blz., kaart, f 47,50).

Het was de bedoeling van W. Davis in dit werk niet enkel een relaas te geven van de hervormingsactiviteiten van Jozef II als soeverein van de Oostenrijkse Nederlanden, maar tevens dit gebeuren te situeren binnen de bestaande situaties in de Nederlanden en tegen de achtergrond van 's keizers opvattingen, vorming en karakter. Blijkbaar omdat de auteur kon steunen op een uitvoerige en ook recente literatuur, komen de complexe figuur van Jozef II, zijn motivatie en zijn optreden in de erflanden goed uit de verf. Veel minder is dit het geval met het naar de man genoemde 'josefisme'. Ondanks het vele dat hierover reeds geschreven werd, komt Davis nergens tot een definitie of een samenhangende omschrijving van dit begrip. Het genuanceerde beeld dat toch mogelijk was, is hier vervangen door louter simplismen.

Veel erger is het gesteld met wat wordt gezegd over de Oostenrijkse Nederlanden, de situaties aldaar en het optreden van de keizer. Zonder systematisch bronnenonderzoek een synthesewerk schrijven over een onderwerp dat sinds de negentiende eeuw erg werd verwaarloosd en dat op zowat alle punten opnieuw aan dringend detailonderzoek toe is, kan enkel een vermetele onderneming genoemd worden. Dit werk dan nog te publiceren net op het moment dat dit detailonderzoek weer op gang komt en dat elk jaar een paar kapitale studies ter zake het licht zien, maakt zo'n boek van af zijn verschijnen achterhaald en overbodig. Men kan nog hopen een aantal interessante perspectieven of werkhypothesen erin te ontdekken, of suggesties die prikkelen tot nieuw onderzoek, maar ook op dit punt stelt het boek van Davis elke min of meer geïnitieerde lezer zwaar teleur. Na de geduldige lectuur van de tien flinke hoofdstukken die deze studie beslaat, is men bovendien op nog zoveel andere tekortkomingen gestoten, dat men enkel kan concluderen