

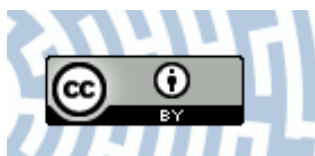


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## Scholarly Potential of the Lviv Interwar Romanist Community

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### **Abstract:**

This article presents the scholarly activity of two generations of researchers focusing on Roman law, associated professionally with the Lviv university in the interwar period. First, it shows the attainments of Leon Piniński and Marcelli Chlamtacz. Then, it focuses on the attainments of a younger generation of Lviv scholars, including Waław Osuchowski and Edward Gintowt. The presentation of the activities of these scholars made it possible to demonstrate the scholarly potential of the Lviv interwar Romanist community, which was one of the leading centers of research on Roman law in interwar Poland, if not the most important one.

**Keywords:** Roman law; Lviv; legal science; history of law

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The Lviv Romanist community was by no means a typical school of research at the turn of the 20th century. Rather, it may be described as a good breeding ground for talent, including, among others, Leon Piniński, Marcelli Chlamtacz or Leonard Piętak.<sup>1</sup> The representatives of the Lviv Roman legal science associated with the Lviv university were undoubtedly exceptional individuals with broad scholarly horizons. They participated in the international scientific discourse mainly due to their publications and research trips abroad. However, the outbreak of World War I destroyed the existing order. After its end in 1918, changes occurred on the political map of Europe. The regaining of independence by Poland meant a breakthrough for the scholars who could work for their own state since that moment, but it also entailed a whole series of problems, including those of an organizational nature. The changes also affected Lviv, which was within the borders of the reborn

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<sup>1</sup> NANCKA, G. Szkoła naukowa czy tylko kuźnia talentów? Lwowskie środowisko romanistyczne w latach 1857–1939 (School of research or only a breeding ground for talent? Lviv Romanist community in 1857–1939). *Czasopismo Prawno-Historyczne*, 2020, Vol. 72, No. 2, pp. 219–235.

state. Its university was transformed into the Jan Kazimierz University in 1918.<sup>2</sup> That new opening in the history of the Lviv world of science raises the question of whether and, if so, how the changes related to the reconstruction of Polish statehood affected the functioning of the Lviv Romanist community. It is also important to consider the scholarly potential of the Lviv Roman law studies in interwar Poland and its impact on the subsequent history of the native Roman legal science.

### **New beginning?**

Shortly before World War I, two Romanists were associated with the University of Lviv, where they had classes in Roman law. These were Marceli Chlamtacz and Ignacy Koschembahr-Łyskowski. In addition, Leon Piniński, a former governor of Galicia appointed to the position of honorary professor of Roman law in 1903, maintained contacts with the University.<sup>3</sup> The end of hostilities and the rebirth of Poland in 1918 coincided with personnel changes in the field of Roman law. Ignacy Koschembahr-Łyskowski, who came to Lviv in 1900 from Freiburg, finally left the Galician university and moved to Warsaw.<sup>4</sup> Thus, a vacancy for the position of full professor arose in the second chair of Roman law at the Lviv faculty of law. Leon Piniński, who was in Lviv at the time and declared his willingness to return to the University, was an obvious candidate. Those circumstances meant that a body of professors requested the Ministry of Religious Denominations and Public Education to entrust him with a substitution in the vacant chair, for which consent was obtained fairly quickly.<sup>5</sup> Leon Piniński gave substitution classes until 1923. Then a request was made to reappoint him full professor of Roman law.<sup>6</sup> This took place by way of a decision by the President of the Republic of Poland of 22 May 1923.<sup>7</sup> He conducted classes as a full professor until his retirement in 1935. Then he was reappointed honorary professor. Consequently, he maintained contact with the university, giving classes intermittently.<sup>8</sup>

After his return to the university in 1918, Leon Piniński was not particularly active in the area of research. This is hardly surprising given that he was already well established in the scholarly community. He was primarily known as the author of a two-volume work titled “Der Thatbestand des Sachbesitzerwerbs nach gemeinem Recht”<sup>9</sup> published in the 1880s, in which he expressed his opinion on the nature of possession, joining in a discussion with the most prominent scholars of the time. The appreciation for this dissertation shown by Rudolf von Ihering, who held the view that the second volume of L. Piniński-

<sup>2</sup> Cf. REDZIK, A. (ed.). *Academia Militans. Uniwersytet Jana Kazimierza we Lwowie* (Academia Militans. Jan Kazimierz University in Lviv). Kraków: Wysoki Zamek, 2017.

<sup>3</sup> Archive of New Records (hereinafter: AAN), Ministry of Religious Denominations and Public Education (hereinafter: MWRiOP), Personal records – Leon Piniński, record no. 2/14/0/6/5015, p. 60.

<sup>4</sup> WOŁODKIEWICZ, W. Ignacy Koschembahr-Łyskowski (1864–1945). In: WOŁODKIEWICZ, W. *Europa i prawo rzymskie. Szkice z historii europejskiej kultury prawnej* (Europe and Roman law. Essays on the history of European legal culture). Warsaw: Wolters Kluwer, 2009, pp. 616–626.

<sup>5</sup> AAN, MWRiOP, Personal records – Leon Piniński, record no. 2/14/0/6/5015, pp. 47–48

<sup>6</sup> Ibidem, pp. 62–64.

<sup>7</sup> Ibidem, pp. 67–69.

<sup>8</sup> Ibidem, pp. 145–155.

<sup>9</sup> Cf. PINIŃSKI, L. *Der Thatbestand des Sachbesitzerwerbs nach gemeinem Recht. Eine zivilistische Untersuchung. Vol. I.* Leipzig: Duncker & Humblot, 1885; IDEM. *Der Thatbestand des Sachbesitzerwerbs nach gemeinem Recht. Eine zivilistische Untersuchung. Vol. II. Sukzession in den Besitz, Besitzerwerb animo solo, Besitzwille, Lehre von den juristischen Willenserklärungen.* Leipzig: Duncker & Humblot, 1888.

ki's work should be ranked as one of the greatest advances in science in the 19th century, meant that the name of the scholar associated with the University of Lviv became recognizable in the European Roman law studies.<sup>10</sup> Leon Piniński made his mark also as the author of a dissertation titled "Pojęcie i granice prawa własności według prawa rzymskiego", which was as bold as his work on possession.<sup>11</sup>

Leon Piniński's first interwar publication on Roman law was published in the commemorative book in honor of Oswald Balzer. In his work "O stosunkach prawnych niebronionych skargą",<sup>12</sup> Piniński discussed in detail the various events that are exempt from legal coercion by the intention of the parties or a provision of law, paying close attention to the issue of natural obligations. His next work was published in a commemorative book in honor of Władysław Abraham. In a dissertation titled "Wpływ błędu »in corpore« i »in qualitate« na ważność umów według prawa rzymskiego"<sup>13</sup> he took issue with Friedrich Carl von Savigny's views, pointing to cases where a legal act is valid in spite of an error in the essential and important qualities of a thing. It should also be noted that in 1935, Leon Piniński gave a lecture titled "W 1400-letnią rocznicę kodyfikacji Justyniana", which was later published.<sup>14</sup> These were the only publications related to Roman law published in the interwar period by this Lviv Romanist. Moreover, Leon Piniński did not manage to educate a successor in the chair of Roman law. This may have been due to the fact that he was deeply engaged in political activity and his second area of interest, apart from Roman law, was art. He was such an art lover that he was regarded as a historian of art, despite his lack of education in that area.<sup>15</sup>

The second Romanist, Marcelli Chlamtacz, was associated as a full professor with the Lviv university both before and after World War I. However, he was not so renowned as Leon Piniński. M. Chlamtacz's habilitation dissertation titled "Die rechtliche Natur der

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<sup>10</sup> IHERING, R. *Der Besitzwille. Zugleich eine Kritik der Herrschenden juristischen Methode*. Jena: Gustav Fischer, 1889, pp. XIV–XV; PIKULSKA-RADOMSKA, A. – SKRZYWANEK-JAWORSKA, D. Leona hr. Pinińskiego Wprowadzenie do teorii posiadania (Count Leon Piniński's introduction to the theory of possession). In: LITYŃSKI A. – MATAN, A. – MIKOŁAJCZYK, M. – NAWROT, D. – NANCKA, G. (eds.). *Verus amicus rara avis est. Studia poświęcone pamięci Wojciecha Organiściaka* (Verus amicus rara avis est. Studies in memory of Wojciech Organiściak). Katowice: Wydawnictwo Uniwersytetu Śląskiego, 2020, p. 676.

<sup>11</sup> PINIŃSKI, L. *Pojęcie i granice prawa własności według prawa rzymskiego* (Notion and limits of the ownership right under Roman law). Lviv: Drukarnia E. Winiarza, 1900. This work was published two years later in German: *Begriff und Grenzen des Eigenthumsrecht nach römischen Recht*. Wien: Manz, 1902.

<sup>12</sup> PINIŃSKI, L. O stosunkach prawnych niebronionych skargą (On legal relations undefended by complaint). In: *Księga pamiątkowa ku czci Oswalda Balzera* (Commemorative book in honor of Oswald Balzer). Vol. II. Lviv: Zakład Narodowy im. Ossolińskich, 1925, pp. 189–253.

<sup>13</sup> PINIŃSKI, L. Wpływ błędu „in corpore“ i „in qualitate“ na ważność umów według prawa rzymskiego (Influence of error in corpore and error in qualitate on the validity of contracts under Roman law). In: *Księga pamiątkowa ku czci Władysława Abrahama* (Commemorative book in honor of Władysław Abraham). Vol. I. Lviv: Gubrynowicz i syn, 1930, pp. 393–428.

<sup>14</sup> PINIŃSKI, L. *W 1400-letnią rocznicę kodyfikacji Justyniana. Odczyt wygłoszony we Lwowie na zaproszenie Towarzystwa Filologicznego* (1400th anniversary of Justinian codification. Lecture given in Lviv at the invitation of the Philological Society). Lviv: Gubrynowicz i syn, 1935.

<sup>15</sup> JOŃCA, M. Szekspirolog. Przyczynek do biografii Leona Pinińskiego (Expert on Shakespeare. Contribution to Leon Piniński's biography). In: KAMIEN, J. – ZAJADŁO, J. – ZEIDLER K. (eds.). *Prawo i literatura. Parerga* (Law and literature. Parerga). Gdańsk: Wydawnictwo Uniwersytetu Gdańskiego, 2019, pp. 172–175.

Uebereignungsart durch Tradition im römischen Recht<sup>16</sup> was sufficient for him to obtain a *veniam docendi* in Roman law. However, as Leon Piniński pointed out, it related to a subject already sufficiently examined in science and did not offer new insights into the issue subjected to analysis.<sup>17</sup> M. Chlamtacz was a fairly prolific author. At the beginning of the 20th century, he published some works on the issue of the acquisition of fruits by a holder in good faith, as well as the extension of the right of pledge to the fruits from a thing.<sup>18</sup> He held the view that under classical Roman law, all the fruits accrue to a holder in good faith.<sup>19</sup> He willingly commented on the current attainments of the Romanist community, both in reviews and review articles.<sup>20</sup> However, since 1908, he got involved in political activity and became increasingly absorbed in it. After Poland regained independence, M. Chlamtacz became deputy mayor of Lviv. He held the office in 1919–1927.<sup>21</sup> His political and social activity left its mark on his scholarly activity because he did not publish any work in the area of Roman law until 1930. A breakthrough in the life of the Lviv Romanist consisting in a withdrawal from political activity resulted in a return to intensive scholarly work. Until the outbreak of World War II, M. Chlamtacz published several dissertations. The first, and at the same time the most significant one, was titled “Kontrakty realne w prawie rzymskiem, w teoryi cywilistycznej i w projekcie polskiego Kodeksu cywilnego”. Relying on sources from Roman law, the scholar sought to demonstrate the

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<sup>16</sup> CHLAMTACZ, M. *Die rechtliche Natur der Uebereignungsart durch Tradition im römischen Recht*. Leipzig: Franz Wagner, 1897.

<sup>17</sup> See NANCKA, G. *Prawo rzymskie w pracach Marceliego Chlamtacza* (Roman law in Marcellus Chlamtacz's works). Katowice: Wydawnictwo Uniwersytetu Śląskiego, 2019, pp. 98–102.

<sup>18</sup> CHLAMTACZ, M. *O nabyciu owoców przez posiadacza w dobrej wierze w klasycznym prawie rzymskim z uwzględnieniem prawa cywilnego austriackiego i niemieckiego* (On the acquisition of fruits by a holder in good faith under classic Roman law, including civil Austrian and German law). Lviv: Gubrynowicz i Schmidt, 1903; IDEM. *O nabyciu owoców przez posiadacza w dobrej wierze w cywilnym prawie austriackim* (On the acquisition of fruits by a holder in good faith in Austrian civil law). *Przegląd Prawa i Administracji*, 1911, Vol. 36, no. 7/8, pp. 613–638; IDEM. *O ekstensyji prawa zastawu na owoce rzeczy w prawie rzymskim i cywilnym prawie niemieckim* (On the extension of the right of pledge on the fruits of a thing in Roman law and German civil law). *Przegląd Prawa i Administracji*, 1910, Vol. 35, no. 4/5, pp. 255–331; IDEM. *Podział pożytków przy zmianie osób do ich poboru uprawnionych według polskiego projektu prawa rzeczowego* (Distribution of fruits with a change in persons entitled to their collection under the Polish draft of property law). *Ruch Prawniczy, Ekonomiczny i Socjologiczny*, 1938, Vol. 18, no. 4, pp. 374–392.

<sup>19</sup> More on this issue see NANCKA, *Prawo rzymskie*, pp. 102–113.

<sup>20</sup> CHLAMTACZ, M. *Posiadanie w świetle teorii Wróblewskiego* (Possession in the light of Wróblewski's theory). *Przegląd Prawa i Administracji*, 1901, Vol. 26, no. 6, pp. 401–422; IDEM. *Pojęcie i granice prawa własności według prawa rzymskiego*, napisał L. Piniński (Notion and limits of the ownership right under Roman law, written by L. Piniński) Lviv 1900. *Przegląd Prawa i Administracji*, 1901, Vol. 26, no. 2, pp. 123–133; IDEM. *Prof. Fryderyk Zoll (senior), Historia prawodawstwa rzymskiego*, t. I – Kraków 1902 (Prof. Fryderyk Zoll (senior), History of Roman legislation, vol. 1 – Kraków 1902). *Czasopismo Prawnicze i Ekonomiczne*, 1904, Vol. 5, pp. 203–213; IDEM. *Dydyński Teodor: Historia źródeł prawa rzymskiego*, Warszawa 1904 (Dydyński Teodor: History of sources of Roman law, Warsaw 1904). *Kwartalnik Historyczny*, 1905, Vol. 19, pp. 84–93; IDEM. *Cesarz Hadryan. Studium historyczno-prawne*, napisał prof. Dr Teodor Dydyński, Warszawa 1899, str. 220 (Emperor Hadrian, historical-legal study, written by Prof. Dr. Teodor Dydyński, Warsaw 1899, p. 220). *Przegląd Prawa i Administracji*, 1899, Vol. 24, no. 7, pp. 502–511.

<sup>21</sup> See NANCKA, *Prawo rzymskie*, p. 38.

superiority of the real construction of the loan contract over the consensual construction. Thus, he criticized legislations that adopted the consensual construction of this contract and called for the introduction of the real concept of that contract into the Polish Code of Obligations, which was under development at the time.<sup>22</sup> His views attracted the attention of, among others, Franciszek Bossowski, who praised the work despite having a different point of view from M. Chlamtacz.<sup>23</sup> It was not the only work in which M. Chlamtacz made efforts to combine Roman law with the civil law of his time. The reason for the creation of the dissertation titled “Zagadnienie posiłkowej poręki w prawie rzymskim i w prawach nowożytnych. Studium historyczno-dogmatyczne” was probably the discussion on the shape of the institution of suretyship in the Code of Obligations taking place at the time of its publication. That work aimed to answer the question of how the ancillary suretyship was understood in classical Roman law and in Justinian law. He also assessed the correctness of the constructions of suretyship adopted by modern legislations through the prism of Roman law.<sup>24</sup> M. Chlamtacz also published works related in topic to the codification of law in interwar Poland.<sup>25</sup> Moreover, in the 1930s, he published two reviews of Waław Osuchowski’s works.<sup>26</sup> Marcei Chlamtacz also wrote a tribute article in memory of Leon Piniński, who died in 1938.<sup>27</sup> M. Chlamtacz’s publications were known primarily at home and in general did not gain recognition abroad. He maintained contact with the faculty until 1939, giving lectures and conducting examinations in Roman law, also after his retirement.<sup>28</sup>

### Younger Romanists

In the interwar period, younger Romanists Waław Osuchowski, Edward Gintowt, Adam Wojtunik and Mieczysław Pojnar appeared at the Lviv university. Waław Osuchowski was the first of them to conduct scientific research. He was awarded a master’s degree in law in

<sup>22</sup> CHLAMTACZ, M. *Kontrakty realne w prawie rzymskim, w teorii cywilistycznej i w projekcie polskiego Kodeksu cywilnego* (Real contracts in Roman law, in the civil law theory and in the Polish civil code draft). Lviv: Towarzystwo Naukowe we Lwowie, 1930.

<sup>23</sup> BOSSOWSKI, F. Jeszcze w sprawie kontraktów realnych (Still in the matter of real contracts). *Ruch Prawniczy, Ekonomiczny i Socjologiczny*, 1931, Vol. 11, no. 2, pp. 267–276.

<sup>24</sup> CHLAMTACZ, M. Zagadnienie posiłkowości poręki w prawie rzymskim i w prawach nowożytnych. Studium historyczno-dogmatyczne (Issue of ancillary suretyship in Roman law and in modern laws. Historical-dogmatic study). *Archiwum Towarzystwa Naukowego we Lwowie*. Wydział 2, Vol. 9, no. 3. Lviv: Towarzystwo Naukowe we Lwowie, 1932, pp. 1–87.

<sup>25</sup> See e.g. CHLAMTACZ, M. Problem posiłkowości (subsidiarności) poręki w polskim Kodeksie zobowiązań. (Issue of ancillary »subsidiary« suretyship in the Polish Code of Obligations). *Ruch Prawniczy, Ekonomiczny i Socjologiczny*, 1937, Vol. 17, no. 1, pp. 1–13; IDEM, Podział pożytków, pp. 374–392.

<sup>26</sup> CHLAMTACZ, M. W. Osuchowski. Media sententia. Studium nad zagadnieniem specyfikacji w klasycznym prawie rzymskim (W. Osuchowski. Media sententia. Study of the issue of specification in classical Roman law) Lviv 1930. *Ruch Prawniczy, Ekonomiczny i Socjologiczny*, 1930, Vol. 10, no. 2, pp. 325–328; CHLAMTACZ, M. O kontraktach nienazwanych w prawie rzymskim (On innominate contracts in Roman law). *Przegląd Prawa i Administracji*, 1933, Vol. 58, no. 4, pp. 253–269.

<sup>27</sup> CHLAMTACZ, M. Śp. Leon Piniński (wspomnienie pośmiertne i ocena działalności naukowej) (Late Leon Piniński »posthumous remembrance and assessment of scholarly activity«). *Gazeta Sądowa Warszawska*, 1938, no. 18, pp. 276–279; no. 19, pp. 289–290.

<sup>28</sup> REDZIK, A. *Prawo prywatne na Uniwersytecie Jana Kazimierza we Lwowie* (Private law at the John Casimir University in Lviv). Warsaw: C. H. Beck, 2009, p. 352.

1928 and started assistantship in the chair of Roman law.<sup>29</sup> At the same time, he undertook philosophical studies, which he completed in 1931. He defended his law doctoral thesis in 1930 and his philosophy doctoral thesis a year later. The young Romanist submitted a work titled “Media sententia. Studium nad zagadnieniem specyfikacji w klasycznym prawie rzymskim”<sup>30</sup> as his doctoral thesis in the field of law. The result of that work was not new, but it contained a number of new arguments, thanks to which he was awarded a doctoral degree.<sup>31</sup> Marcelli Chlamtacz and Maurycy Allerhand reviewed his thesis in scientific journals. Marcelli Chlamtacz had reservations regarding the young scholar’s work. Although he appreciated the thorough review of sources made by W. Osuchowski, he pointed to some shortcomings in the thesis.<sup>32</sup> The reviewer clearly avoided giving a conclusive assessment of the aspiring young Romanist’s work, limiting himself to a general comment that W. Osuchowski “submitted (...) a proof of full ability to solve problems in the field of private Roman law independently”.<sup>33</sup> In turn, apart from a short description of the work itself, Maurycy Allerhand<sup>34</sup> noted only that the author’s work showed that he was well-read.<sup>35</sup> W. Osuchowski explored those issues in two more works.<sup>36</sup> The freshly minted doctor got foreign scholarships to Rome and Munich.<sup>37</sup> After his return to Lviv, he finalized his habilitation. It was based on a thesis titled “O nieoznaczonych prawnie stosunkach kontraktowych w prawie rzymskim”.<sup>38</sup> The thesis, which presented the development of innominate contracts and showed that the *actio praescriptis verbis* had already been known to classical jurists, may be considered one of his most important attainments. In a review published in “Przegląd Prawa i Administracji”, Marcelli Chlamtacz criticized the scholar for departing from the subject of the thesis in its contents. The reviewer held that the author gave too much attention to the issue of *actio civilis incerti* and, in consequence, the thesis should instead be titled “*Agere praescriptis verbis* including legally unspecified contractual

<sup>29</sup> WIADERNA-KUŚNIERZ, R. Droga Wacława Osuchowskiego do profesury – w 100 lecie urodzin (1906–1988) (Wacław Osuchowski’s way to professorship – 100th birth anniversary »1906–1988«). *Studia Iuridica Lublinensia*, 2006, no. 8, p. 168.

<sup>30</sup> OSUCHOWSKI, W. *Media sententia. Studium nad zagadnieniem specyfikacji w klasycznym prawie rzymskim* (Media sententia. Study of the issue of specification in classical Roman law). Lviv: Nakł. aut., 1930.

<sup>31</sup> WIADERNA-KUŚNIERZ, Droga Wacława Osuchowskiego, p. 169.

<sup>32</sup> CHLAMTACZ, W. Osuchowski. Media sententia, p. 325.

<sup>33</sup> Ibidem.

<sup>34</sup> ALLERHAND, M. Wacław Osuchowski: Media sententia. Studium nad zagadnieniem specyfikacji w klasycznym prawie rzymskim (Wacław Osuchowski. Media sententia. Study of the issue of specification in classical Roman law), Lviv 1930. Pamiętnik historyczno-prawny pod redakcją Przemysława Dąbkowskiego T. X, zeszyt 1, p. 116. *Przegląd Prawa i Administracji*, 1930, Vol. 55, p. 433.

<sup>35</sup> Ibidem.

<sup>36</sup> OSUCHOWSKI, W. Na pograniczu między akcesją a specyfikacją. Szkic z prawa rzymskiego (In the borderland between accession and specification. Roman law study). In: *Księga Pamiątkowa ku czci Władysława Abrahama* (Commemorative book in honor of Władysław Abraham). Vol. 2. Lviv: Gubrynowicz i syn, 1931, pp. 199–207; IDEM. Problem przerobienia rzeczy w kodyfikacjach współczesnych (Issue of the specification of a thing in modern codifications). *Przegląd Prawa i Administracji*, 1932, Vol. 57, pp. 340–352, pp. 393–420; 1933, Vol. 58, pp. 25–28.

<sup>37</sup> KUPISZEWSKI, H. Wacław Osuchowski 1906–1988. *Prawo Kanoniczne*, 1990, Vol. 33, no. 3–4, p. 201.

<sup>38</sup> OSUCHOWSKI, W. *O nieoznaczonych prawnie stosunkach kontraktowych w klasycznym prawie rzymskim* (On legally unspecified contractual relations in classical Roman law). Lviv: Towarzystwo Naukowe we Lwowie, 1933.

relations”.<sup>39</sup> Even though the thesis could be more precise, M. Chlamtacz believed that it was a serious study and the results presented therein proved the author’s independence and criticism.<sup>40</sup> W. Osuchowski obtained a *veniam legendi* in Roman law on the basis of that thesis and the habilitation lecture given in 1933 under the title “Osłabienie formalnego charakteru stypulacji w rozwoju prawa rzymskiego”.<sup>41</sup> Soon afterwards he got a scholarship to Paris, where he conducted research that resulted in a publication titled “Kontrakt estymatoryjny w rzymskim prawie klasycznym i justyniańskim”.<sup>42</sup> On the retirement of M. Chlamtacz and L. Piniński, W. Osuchowski took up Roman law classes at the Lviv university and was, in fact, the only Romanist who could aspire to occupy the chair in Lviv. This view was also shared by other Polish Romanists, who indicated W. Osuchowski as a candidate. Franciszek Bossowski and Zygmunt Lisowski opted only for his candidacy, whereas Rafał Taubenschlag indicated also Adolf Berger and Edward Gintowt as possible candidates.<sup>43</sup> Leon Piniński opposed the idea of filling the vacant chair, as, in his view, there was no candidate in respect of whom there was certainty that he would succeed in the task entrusted to him.<sup>44</sup> Thus, the procedure for the appointment of W. Osuchowski to the chair lasted quite a long time – he became academic professor only on 14 September 1937, and he gave classes in Roman law until the outbreak of World War II.<sup>45</sup>

Another alumnus of the Lviv university specializing in Roman law was Edward Gintowt. The vicissitudes of life meant that he completed the studies he started in 1920 only eight years later.<sup>46</sup> He became doctor of laws also in 1928.<sup>47</sup> Then he made numerous research trips abroad, including Vienna and Rome. He returned home in 1934 and he got a job at the university library in Lviv. Two years later he became voluntary assistant in the Chair of Roman Law at the Lviv Faculty of Law.<sup>48</sup> He intended to do habilitation in Innsbruck, which was prevented by the Anschluss of Austria.<sup>49</sup> Then, E. Gintowt planned to leave Lviv in connection with an offer extended by Prof. F. Bossowski to give lectures at the Stephen Bathory University in Vilnius, as of 1 September 1939, which was, in turn, prevented by the outbreak of World War II.<sup>50</sup> Despite the problems E. Gintowt encour-

<sup>39</sup> CHLAMTACZ, M. O kontraktach nienazwanych, p. 254.

<sup>40</sup> Cf. NANCKA, *Prawo rzymskie*, pp. 231–236.

<sup>41</sup> WIADERNA-KUŚNIERZ, Droga Wacława Osuchowskiego, p. 170.; cf. also: OSUCHOWSKI, W. Znaczenie doktryny Arystona dla ochrony umów synallagmatycznych w prawie rzymskim (Significance of Ariston’s doctrine for the protection of synallagmatic contracts in Roman law). In: *Księga pamiątkowa ku czci Leona Pinińskiego* (Commemorative book in honor of Leon Piniński). Vol. 2. Lviv: Gubrynowicz i Syn, 1936, pp. 147–161.

<sup>42</sup> OSUCHOWSKI, W. *Kontrakt estymatoryjny w rzymskim prawie klasycznym i justyniańskim* (Aestimatium in classical Roman and Justinian law). Lviv: Towarzystwo Naukowe we Lwowie, 1936.

<sup>43</sup> WIADERNA-KUŚNIERZ, Droga Wacława Osuchowskiego, p. 172.

<sup>44</sup> Ibidem.

<sup>45</sup> Ibidem, p. 173.

<sup>46</sup> WOŁODKIEWICZ, W. Edward Gintowt – w dwudziestolecie śmierci (Edward Gintowt – twenty years after his death). *Czasopismo Prawno-Historyczne*, 1987, Vol. 39, no. 1, p. 162. In 1920, a year after Edward Gintowt started his studies, his father died and he had to find work.

<sup>47</sup> Archive of the Polish Academy of Sciences in Poznań (hereinafter: APAN in Poznań), Kazimierz Kolańczyk’s materials (hereinafter: KK materials), file no. P. III-76, file 48, CV of Prof. Dr. Edward Gintowt /scholarly/, p. 1.

<sup>48</sup> WOŁODKIEWICZ, Edward Gintowt, p. 162

<sup>49</sup> Ibidem.

<sup>50</sup> APAN in Poznań, KK materials, file no. P. III-76, vol. 48, CV of Prof. Dr. Edward Gintowt /scholarly/, p. 1.



tered on his scholarly path, he was involved in scholarly work, which manifested itself in his numerous studies. During his work in the university library in Lviv he published, among other things, the following articles: “Valeri Probi iuris notae: «R. A. Q. E. I. E»”<sup>51</sup> and “Über den Charakter der Interdikte und der Iudicia ex Interdicto”<sup>52</sup> which were very well received by critics and remain of relevance to contemporary research on the origin of interdicts in Roman law.<sup>53</sup> The protection of private rights<sup>54</sup> was not the only sphere of his prewar scholarly activity. At the time he was also interested in the influence of Greek thought on Roman law, as can be seen in his works published before World War II.<sup>55</sup> His prewar dissertations were highly appreciated. Juliusz Bardach, Karol Koranyi and Bogusław Leśniodorski devoted a lot of attention to those works in their opinion on the matter of granting the title of full professor to Edward Gintowt. They highlighted that the dissertation titled “Valeri Probi iuris notae: «R. A. Q. E. I. E»” concerned a specific, but extremely important issue. Contrary to the opinions of Otto Lenel, Edward Gintowt indicated in that work that interdicts should be treated as autonomous protection measures.<sup>56</sup> Arnaldo Biscardi<sup>57</sup> and Leopold Wenger<sup>58</sup> shared a similar view, and the latter pointed out that Edward Gintowt was a pioneer in that area. This study was all the more important as it was the starting point for E. Gintowt’s further works, which were a manifestation of his increasingly developing scholarly activity.<sup>59</sup>

<sup>51</sup> GINTOWT, E. Valeri Probi iuris notae: «R. A. Q. E. I. E». *Annali del Seminario Giuridico dell’Università di Palermo*, 1936, 15, pp. 219–236.

<sup>52</sup> GINTOWT, E. Über den Charakter der Interdikte und der Iudicia ex Interdicto. In: *Studi in memoria di Aldo Albertoni. II. Diritto romano e bizantino*. Padova: Cedam, 1937, pp. 233–297.

<sup>53</sup> WIADERNA-KUŚNIERZ, R. *Prawo rzymskie na Uniwersytecie Jana Kazimierza we Lwowie w okresie międzywojennym (1918–1939)* (Roman law at the John Casimir University in Lviv in the interwar period »1918–1939«). Warsaw: Wydawnictwo Adam Marszałek, 2015, p. 225.

<sup>54</sup> Cf. GINTOWT-DZIEWAŁTOWSKI, E. O charakterze środków prawnych z tytułu edyktu „De Interdictis” (On the nature of legal measures by virtue of “De Interdictis” edict). *Sprawozdania Towarzystwa Naukowego we Lwowie*, 1932, Vol. 12, no. 3, pp. 190–196; IDEM. Czy z przekazanych w Digestach rozstrzygnięć konkurencji w obrębie prawa interdyktalnego można wysnuć wniosek o charakterze iudiciorum ex interdicto? (Is it possible to draw a conclusion of the iudiciorum ex interdicto nature on the basis of decisions on competition within the interdictum given in the Digest?). In: *Księga pamiątkowa ku czci Leona Pinińskiego* (Commemorative book in honor of Leon Piniński). Vol. 1. Lviv: Gubrynowicz i syn, 1936, p. 313–319.

<sup>55</sup> GINTOWT, E. Handlungen met agnoias in Aristoteles Ethica Nicomachea, V, 10, 1135 b, II ff. *EOS*, 1939, Vol. 40, pp. 70–79; IDEM. Stopnie winy u Arystotelesa (Etyka Nikom. V, 10,1135 b, 11 i n.) a pojęcie „culpa” w prawie rzymskim (Degrees of fault in Aristotle »the Nicomachean Ethics V, 10,1135 b, 11 et seq.« and the notion of “culpa” in Roman law). *Sprawozdania Towarzystwa Naukowego we Lwowie*, 1939, Vol. 19, no. 1, pp. 31–37.

<sup>56</sup> APAN in Poznań, KK materials, file no. P. III-76, vol. 48, *Opinia w sprawie przyznania tytułu profesora zwyczajnego prof. Edwardowi Gintowtowi* (Opinion on the matter of granting the title of full professor to Prof. Edward Gintowt), p. 1.

<sup>57</sup> Cf. BISCARDI, A. *La protezione interdittale nel processo romano*. Padova: Cedam, 1938.

<sup>58</sup> Cf. WENGER, L. Arnaldo Biscardi, Prof. inc. nella R. Università di Pisa, La protezione interdittale nel processo romano. (Studi di diritti processuale diritti da Piero Calamandrei, Professore ordinario nella R. Università di Firenze, Nr. 12). Cedam. Padova. 1938. VI u. 158 s. *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte: Romanistische Abteilung*, 1938, Vol. 58, p. 364.

<sup>59</sup> APAN in Poznań, KK materials, file no. P. III-76, t. 48, *Opinia w sprawie przyznania tytułu profesora zwyczajnego prof. Edwardowi Gintowtowi* (Opinion on the matter of granting the title of full professor to Prof. Edward Gintowt), p. 2.

Mieczysław Pojnar and Adam Wojtunik also did scientific research in Lviv shortly before the war, but they did not manage to obtain academic degrees at the Lviv university. Mieczysław Pojnar was working on his doctoral thesis on the partnership contract in Roman law, but he was executed in 1944, leaving no publications behind. In turn, Adam Wojtunik published a few works and educational manuscripts for learning Roman law before World War II.<sup>60</sup>

## Conclusions

Leon Piniński and Marcei Chłamtacz can be counted among the continuers of the pandectist thought, scientifically formed in the spirit of the universal validity of Roman law. The departure of fully formed post-pandectist I. Koschembahr-Łyskowski from Lviv meant that a change in the methodological approach occurred in that center some time later. It was not until the 1930s that the change took place. Edward Gintowt and Waław Osuchowski, who were then at an early stage of their scholarly careers, could already see very clearly the distance between Roman law and the law of their time. Thus, from a methodological point of view, they were more historians of law than civilists.<sup>61</sup> They both visited universities abroad and published works in interwar Poland, which earned them recognition in the eyes of other Romanists. Each of them adopted a different working method. Given the fact that they were aspiring Romanists, their attainments were impressive, also as compared to the interwar output of their more senior colleagues. As it turned out in the long term, the education of the two Romanists at the Lviv university ensured continuity of native Roman law studies after World War II. If not for the potential of these two scholars, meticulously formed in the difficult reality of Lviv, the fortunes of the Polish Roman legal science may have, and certainly would have taken a different turn. Their direct and indirect impact on the development of Polish Roman law studies should be assessed as significant. Waław Osuchowski assumed a special place in the national science, since he was one of the four “giants” ruling the post-war Polish Roman law studies, along with Kazimierz Kolańczyk, Henryk Kupiszewski and Adam Wiliński.<sup>62</sup> It is clear that the Lviv interwar Romanist community had enormous scholarly potential, which, however, rested primarily in the hands of two young Romanists: Waław Osuchowski and Edward Gintowt.

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<sup>60</sup> NANCKA, Szkoła naukowa, p. 233.

<sup>61</sup> GIARO, T. Dogmatyka a historia prawa w polskiej tradycji romanistycznej (Dogmatics and the history of law in the Polish Romanist tradition). *Prawo Kanoniczne*, 1994, Vol. 37, no. 3–4, p. 96.

<sup>62</sup> KURYŁOWICZ, M. – JOŃCA, M. Prawo rzymskie trzeba zobaczyć! (Roman law must be seen!). *Zeszyty Prawnicze*, 2019, Vol. 19, no. 1, pp. 14–15.