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THE DISPUTE OVER THE TEACHING OF ROMAN LAW IN POLAND DURING THE ENLIGHTENMENT

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Abstract. The paper is devoted to the discussion that took place in the legal community in Poland during the Enlightenment on the advisability of teaching Roman law during law studies. The author presents the views of legal theorists and practitioners, speaking both for and against the presence of Roman law, taught since the Middle Ages as one of the basic university disciplines, in forming future lawyers. An attempt will also be made to answer whether this discussion influenced limiting or eliminating Roman law teaching at Polish universities until the loss of independence and at the beginning of the partition period.

Keywords: Roman law; legal studies; Enlightenment in Poland; Kraków Academy; Vilnius Academy; Zamość Academy.

INTRODUCTION

In the 18th century, as a result of the increased interest in the law of nature and nations and national laws, the position of Roman law, which had been unquestionable in the Middle Ages and the Renaissance, as a factor influencing the formation of law in a number of European countries and the general European legal culture, and as one of the two legal disciplines taught at universities, alongside canon law, was undermined. The law of nature was considered the third basis of university law teaching, which was reflected in the establishment of separate departments of this law. The lack of recognition of Roman law was partly caused by the postulates of a complete break with feudalism, and the source of many principles of feudal law was seen in Roman law [Jakubowski 1984, 16]. The connections between Roman law and feudalism led to its criticism as a law full of imperfections, and even immoral, if only because of the despotism of the emperors or the support for slavery [Wołodkiewicz 1986b, XI]; Roman law also did not provide sufficient support for the concept of subjective rights, which was the basis of the entire system of natural law

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[Sójka-Zielińska 1975, 110].[1] Finally, Roman law was seen as a cosmopolitan factor that hindered efforts to develop national laws, which intensified in the 18th century. Efforts to create national laws were supported by universities, which attempted to develop a theoretical basis for the application of native law in the form of a new field: the science of national law. This science contributed to the weakening of the position of Roman law at universities [Luig 1970, 68-71]. The interest in national laws was expressed through significant transformations in university law programs, which increasingly took into account national laws; this was accompanied by the commencement of lectures on specific legal subjects, such as civil, criminal, procedural and public law, which was associated with the general tendency to give law studies a practical and useful character in the name of the principle of utilitarianism – social utility [Sondel 1988, 11]. Such changes constituted the content of the reform of the curriculum at the universities of Göttingen and Vienna around the mid-18th century, and the slightly later reform carried out in Padua (1768).

1. CRITICAL OPINIONS ABOUT THE ROMAN LAW AMONG SOME POLISH THINKERS

The hostile attitude towards Roman law could also be noticed in Poland, where new ideas and philosophical systems began to reach from the 1740s. The period of strong influence of the French Enlightenment resulted in the creation of a program of reforms aimed at modernizing the state and ensuring its independent existence. The idea of the law of nature had a great influence on the efforts to reconstruct society and strengthen the system of government, and its most prominent supporters: Hugo Kołłątaj, Antoni Popławski and Hieronim Stroynowski, although questioning the thesis of the supremacy of the law of nature over positive law, considered it to be a set of principles constituting the basis for thinking about public matters [Hubert 1960, 90].[2] The concept of "natural freedom", expressing "the independence of man in the use of his property"

[1] The author notes that the attitude of natural law philosophers towards Roman law depended on the area of their activity. Particular reluctance was shown towards Roman law in the Reich, where it was combated with the help of natural law as binding *ratione imperii* and previously beyond any criticism. In France, however, there were no conditions for such opposition to arise, and Roman law was assessed in terms of its actual usefulness and compliance with the laws of nature, without being guided by political reasons.

[2] These concepts were used by Hieronim Stroynowski in his work *Nauka prawa przyrodzonego, politycznego, ekonomii politycznej i prawa narodów* (The study of natural law, political law, political economy and the law of nations – first published in Vilnius, 1785). See more: Hubert 1960, 61; Marchwiński 1930, 37.

and the sovereignty of states, played a special role in defending the violated rights of the Republic. The principles of the law of nature that penetrated Poland influenced the development of a new attitude towards the law of the Romans. The critical trend towards all areas of social and political life, breaking with previous authorities, also encompassed Roman law, perceived especially as affected by the symptoms of the decadence of Rome during the imperial period [Salmonowicz 1971, 361]. One example of Polish criticism of this law is the dialog published in 1770 in the Warsaw journal *Zbiór różnego rodzaju wiadomości z nauk wyzwolonych, filozofij, prawa przyrodzonego, historyi, polityki moralney, tudzież innych umiejętności y rozmaitych uwag do pożytku y zabawy publiczney służący* (*A Collection of Various Types of Information from the Liberal Sciences, Philosophy, Natural Law, History, Moral Politics, and Other Skills and Miscellaneous Remarks on the Use and Public Entertainment*) between two famous legislators of antiquity, Solon and Justinian, by François Fénelon. The author puts into Solon's mouth the words that negate the achievements of Roman law in the imperial period, especially Justinian's law: Roman law, which expressed the will of emperors devoid of ethical principles, made no one better or happier [Wołodkiewicz 1988, 249-60]. The inconsistency of certain solutions of Roman law with morality was also emphasized by Franciszek Salezy Jezierski: "The Romans and Greeks, despite the light of truth, despite the feeling of the heart and despite even a stirring of virtue, decreed the slavery of people in the form of the authority of law, deprived man of his freedom (if the misery of slavery can deprive man of the qualities of his nature) and transformed a neighbor similar to themselves into a thing of their own. People were sold for money like cattle, given away as a gift, and sometimes freedom was restored, calling it Emancipation or Manumission" [Jezierski 1791, 39]. Casuistry and the not always clear provisions of Roman law were contrasted with the simplicity and comprehensibility of natural law. Hieronim Strojnowski, a staunch supporter of the law of nature, and knowing Roman law as *doctor utriusque iuris*, put it as follows: "Whoever in Roman law, in feudal law [...] and even in the science and books of learned lawyers sees dark, inaccurate, contradictory and often clearly false ideas on which the established or given order of succession is based, cannot doubt that, as in others, so also in this matter, in order to find a sure path, one must go to the pure source of natural justice and draw from it those clear truths that certainly show what is due to whom, what is permitted and what is not" [Strojnowski 1938, 175]. A similar view was expressed by a lecturer of Roman law at the Kraków Academy, Bonifacy Garycki: "testamentary laws, founded at the beginning of the false and arbitrary Roman law, should be erased from the legislation applied to nature, as they are of no use only to lawyers themselves" [Garycki 1938, 95].

2. THE PLACE OF ROMAN AW IN THE PLANS FOR THE REFORM OF LEGAL STUDIES

One of the conditions for the success of the idea of systemic and political reforms was considered, in addition to the codification of Polish law, to be the modernization of education, especially secondary and higher education. At universities and secondary schools, there was no shortage of statements hostile to the principles of Roman law, opposing its dominant role in the teaching process. Father Hugo Kołłątaj spoke in favor of completely eliminating Roman law from the curriculum at the Faculty of Law of the University of Kraków; being an ardent supporter of the law of nature, he wanted to reform the University, where he received his education, in this spirit.[3] In his writing *Opis stanu Akademii Krakowskiej* (the Description of the State of the Kraków Academy) from 1776, he made the following observations on the subjects taught at the "Academy of Jurists": "The most profitable lesson [...] legal procedure, the most useless science, and the most famous in the Kraków Academy, is also the lesson of spiritual and civil law, i.e. ancient Roman law, in addition to the study of domestic law, the law of nations and the law of nature. The science of natural law, the law of nations and national law is so neglected that it is given in a theatrical rather than academic manner, everyone prefers to learn juridical process, spiritual law and ancient Roman law, while other lessons are completely abandoned" [Kołłątaj 1967, 91]. He expressed his position in *Raport z wizytacji Akademii Krakowskiej, odbytej w r. 1777* (the Report on the visit to the Kraków Academy, held in 1777), accusing Roman law of excessive complexity, which did not go hand in hand with practical usefulness: "When Legal Science began at the Kraków Academy, no other law was known in the whole of Europe than the rest of Roman law, the Decretal Letters of the Popes and the book collected by Gratian the Monk [...] It seemed to all legislators that it was impossible to depart from Roman laws and Justinian's decree and that nothing better in administration and justice could be invented. This prejudice can be seen in later

[3] The first attempt to introduce changes was made during the visitation of the Academy in 1741 by the Bishop of Kraków, Cardinal Jan Lipski, as its chancellor, but the results of this action did not lead to the modernization of the curriculum and work methods. The attempts at transformation initiated by Bishop Andrzej Stanisław Załuski proved more lasting, thanks to whom a chair of the law of nature and nations was established at the Faculty of Law. The intention to establish a chair of national law did not succeed; it was not until 1761 that ius Regni was introduced to legal lectures. Finally, in 1765, the Academy was visited by its chancellor, Bishop of Kraków Kajetan Sołtyk, but at least at the Faculty of Law, it did not cause any significant changes in the program. It is worth noting, however, that the visitation resulted in a project to establish, among other things, a chair of the law of nature at the Faculty of Philosophy. This project was to be submitted to the Marshal's Office at the Sejm in 1776, but this did not happen [Bartel 1970, 194-95; Chamcówna 1965, 8-11; Tokarz 1924, 31].

laws, which either monarchs or magistrates wrote for their nations. The ancient Roman law, filled with jurisprudence, terms and unnecessary subdivisions from the evasive patrons of Greece, was given to the Academy of Bologna, which until our times difficult terminology rather was preferred to teach than work on the invention of simple justice and its easy administration. It is a common defect of all Italian academies that the teachers of law are mostly advocates, who do not even forget about their own interests in the School and to whom the simplicity and clarity of the law are often unpleasant. The Academy of Cracow, on the other hand, at the beginning of its establishment, until now had no communication with any other nation except the Italians, nor could it, because when the science of Law in Germany and France began to improve, at that time the Academy of Cracow was in the greatest decline and for this reason its School of Law is nothing else but a true copy of Roman sapience…" [Kołłątaj 1953b, 161-62]. In the memorandum *O wprowadzeniu dobrych nauk do Akademii Krakowskiej* (*On the introduction of good sciences to the Kraków Academy*), Kołłątaj postulated replacing lectures on Roman law with the history of ancient law, because "ancient Roman law should be fundamentally neglected and consist only of a part with others in legal history" [ibid., 183]. In this memorandum, Kołłątaj presents the following vision of a lecture on the history of law: "The sixth lesson may consist of the history of all laws; having described the history of ancient laws for us, it will briefly describe the knowledge of the laws of all countries, their similarities, connections and equality among them [...] This lesson, I believe, will be more useful than the one given under the name of civil law, which bored the youth for several years with an enumeration of the laws of that Republic that fell long ago" [ibid.]. Such views were similar – as noted by I. Jakubowski [Jakubowski 1984, 44] – to the view of J.J. Rousseau, who believed that Roman law should be removed in Poland from schools and tribunals [Rousseau 1966, 248-49].

3. THE RELATIONSHIP BETWEEN LEGAL EDUCATION AND LEGAL PRACTICE IN OLD POLAND

The statement above encourages us to draw attention to the connections between legal education and the practice and legal culture of the noble society of this time. The poor functioning of courts, with tribunals at the forefront, causing the most voices of criticism, especially in the first half of the 18th century, was largely related to the lack of significant legal education among practicing lawyers [Michalski 1958, 276].[4] According to H. Kołłątaj, the study

[4] Based on the opinions of H. Kołłątaj, the author states that the lack of social demand for people educated in law was the fundamental reason for the decline of the science and importance of law in the first half of the 18th century. Kołłątaj explained this lack of demand by the anarchy prevailing in the Republic of Poland, because in other countries

of law at the University of Kraków, covering primarily Roman and canon law, was used by clergymen – future canonists, as well as candidates for the career of attorney in city courts; these specializations required knowledge of Roman law.[5] However, Roman law did not give prestige to representatives of the city bar,[6] while attorneys of noble origin, who had only superficial knowledge of it, not supported by university education, used Roman terms rather as a stylistic ornament, often without understanding their content. Józef Wybicki admits to this, recalling his youthful legal practice: "I pronounced Roman laws, the Magdeburg statutes like a parrot by habit, because that is what my whole worthy congregation did" [Wybicki 1927, 15; Jakubowski 1981, 64]. I. Jakubowski states that in the 18th century in Poland the authority of Roman law fell, but this law was not criticized as harshly as in other countries of Europe at that time [Jakubowski 1984, 45]. Despite attacks, mainly from supporters of the law of nature, Roman law also managed to resist them in these countries, although it lost its primary importance as the basis of all legal knowledge [Sondel 1988, 17]. In France, where there were no particularly sharp attacks on Roman law, it was precisely the representatives of the law of nature who saw in it its compliance with the requirements of reason and natural justice, and in Roman solutions they tended to see the best expression of the laws dictated by nature [Sójka-Zielińska 1975, 112].[7] The seventeenth- and eighteenth-century concepts of the law of nature

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the governments were interested in supporting the science of law. In Poland, on the other hand, lawyers in the courts of the nobility had enough of bar practice, while judges did not have to care about their legal education at all, because in them "they did not look for knowledge of law, but rather birth and flexibility in conscience", and "the science of law seemed, indeed, completely unnecessary in this universal confusion" [Kołłątaj 1953a, 79-80]. This state of affairs also raised concerns of Stanisław Leszczyński, who, emphasizing that even in rural courts abroad a judge was required to have a university law education, lamented: "... in other countries people spend their whole lives studying jurisprudence, here it seems that it is *scientia infusa*, there is no other school for this science, only chancelleries" [Leszczyński 1903, 90].

5 "…the Main School of Kraków should be considered as working on law only for the purpose it saw as necessary and accepted in the country, that is, on canon law and its practice, as well as on Roman law, useful for canonists and city patrons [...] For those willing to become a good patron in the assessory, it was not enough to know domestic law, but also Roman, civil and municipal law, diplomatic science in general and, in particular, privileges serving many cities; all this could not be dismissed with practice alone: it was necessary to know theory" [Kołłątaj 1953a, 102, 114].

6 "...however, such people, apart from the interests of the starosty, meant very little to us. There was no promotion for them in the country, and the noble bar despised them everywhere" [Kołłątaj 1953a, 114].

7 The author cites as an example the work of one of the leading French naturalists, Jean Domat, Les lois civiles dans leus ordre naturel, which is in fact a textbook of Roman law, but arranged according to the "natural order". J. Domat, as J. Sondel notes [Sondel 1988, 16], was not far from practically identifying the main maxims of Roman private law with the principles of natural law. The most outstanding French jurist of that era, R.J. Pothier [Arnaud 1969, 69, 111], also based his work on Roman law.

were eager to use Roman texts, and the law of nature was even identified with Roman law, or more precisely: with the spirit of Roman law, understood quite freely, treated as *ratio scripta* [Kodrębski 1986, 135]. A similar point of view was not characteristic only of French naturalists; it was also shared by numerous lawyers associated with the German Empire. Apart from H. Grotius, Samuel Pufendorf and Christian Wolff were thorough experts in Roman law, appreciating its practical significance; even Christian Thomasius, who was most openly hostile to this law, referred to it for practical purposes, finding no substitute system, although he saw its significance only in comparative studies [Luig 1967, 203]. Finally, Roman law was not supplanted by the law of nature and nations from the curricula of the reformed universities, retaining its significance as a propaedeutic for private law. J. Sondel emphasizes that although during the Enlightenment national legal systems gained the significance of separate subjects taught, nevertheless lectures and textbooks on these subjects were still based on the system of Justinian's Institutions, and in the case of gaps in national law, references were made to Roman law [Sondel 1988, 37]. Moreover, Roman law still remained one of the subjects taught, and what is more, in some universities its position was almost unshaken. An example is the Protestant university in Strasbourg, where studies consisted primarily of listening to lectures on Roman and canon law, supplemented by French and German law [Zdrójkowski 1956, 28].

4. SOME VIEWS SOME ON THE ROLE OF ROMAN LAW IN LEGAL EDUCATION AT THE END OF THE 18TH CENTURY

A favorable attitude towards Roman law also prevailed in Poland. The fascination with the culture of ancient Greece and Rome, characteristic also in other European countries, resulted in interest in the history and therefore in the legal systems of both of these countries. German influences, strong in the years 1750-1770, were of particular importance [Salmonowicz 1962, 60], because in Germany Roman law still enjoyed great respect. Although the popularity of the doctrine of the law of nature in Poland resulted in Roman law being deprived of the character of a leading discipline in legal studies, it was still the subject of scientific research. However, the modest scope of Roman studies in eighteenth-century Poland makes us reflect that in this field the distance that separated Polish and European science at that time was much greater than in other legal disciplines [Sondel 1988, 88]. According to S. Salmonowicz, "knowledge of Roman law still constituted […] the basic and almost the only theoretical resource of knowledge about law for every educated lawyer, but this was not tantamount to the development of Roman studies. Although the older generation of professors of the Kraków Academy (Lipiewicz, Mamczyński, Toryani, and especially

Franciszek Minocki) published legal dissertations until the 1780s, but rather Romanesque than strictly Roman […] Interest in Roman law therefore focuses rather according to some civil issues, and only in terms of the usefulness of this issue in reformist works: however, there are no representatives of classical elegant jurisprudence in Poland, and there are no works devoted exclusively to research on Roman law" [Salmonowicz 1962, 131].

The Polish drafters of the codes at that time, appreciating the influence of Roman law on the content of the projects, drew attention to its importance as an element of the intellectual formation of Polish lawyers. Andrzej Zamoyski required knowledge of this law in particular from patrons (attorneys),[8] and Hugo Kołłątaj, the chairman of the Crown Deputation preparing the Code of Stanisław August, stated that Roman law was taught in Poland, among others, for the needs of city patrons [Kołłątaj 1953a, 81].[9] These statements indicate that the importance of Roman law was noticed in the process of university education, and this subject, despite the great emphasis placed on the law of nature and national law, did not disappear from the curricula. Hugo Kołłątaj himself, as a reformer of the Kraków Academy, who was reluctant to lecture on Roman law at the Faculty of Law, considered it essential for canon studies at the Faculty of Theology. In the letter *Regarding the execution of the laws* prescribed for the academic state and resolving the inevitable problems of the Main Crown School from December 1782 addressed to the bishop of Płock Michał Poniatowski, president of the Commission of National Education, he wrote about the importance of law departments for theology students: "Collegium Iuridicum has just established two departments: the first of natural, economic, political and national law, the second of ancient Roman law and the history of ancient laws; both of these departments were started before the others because the students of Collegii Theologici cannot do without them, because the first is the foundation of all moral sciences, without the second one cannot thoroughly possess canon law" [Kołłątaj 1967, 172]. He also required the candidate for the Department of National Law at the Kraków Academy, Józef Januszewicz, to examine the influence of Roman law on Polish law, and in his opinion, a law teacher "should […] have good knowledge of ancient Roman law and its

[8] "A person who wants to be a patron must know at least and perfectly the Polish language and Latin, must be of good morals, should be familiar with public and civil domestic laws, and must also have knowledge of national history, as well as the laws of nature and common Roman laws," see *Zbiór praw sądowych przez ex kanclerza Andrzeja Ordynata Zamoyskiego ułożony i w roku 1778 drukiem ogłoszony, a teraz przedrukowany, z domieszczeniem źródeł i uwag, tak prawoznawczych, jak i prawodawczych, sporządzonych przez Walentego Dutkiewicza*, Skład Główny w Księgarni Gebethnera i Wolffa, Warszawa 1874, p. 95.

[9] I. Jakubowski assumes that Kołłątaj suggested in this statement that it was in the city law that the influence of Roman law could be seen, the knowledge of which was necessary for lawyers appearing before city courts [Jakubowski 1984, 58].

history, because it […] later became a model for all nations" [Sondel 1988, 50]. Also in a letter of 12 December 1805 to Tadeusz Czacki, who was organizing the grammar school in Krzemieniec, he wrote about teaching canon law: "Wherever it would be appropriate to give it, there a separate department of Roman law should be established; because canon law is its copy and in many places, both in institutions and in the process, it would be difficult to understand, without first understanding the institutions of Justinian and the old civil process" [Kołłątaj 1953b, 323-24]. In the same letter, giving advice to Stanisław Kudlicki, the future professor of that gymnasium, sent by Czacki to Hamburg to complete his education, he recommends: "he should listen to Roman law and commit himself to the same or another teacher who would give him a separate course in the history of law", because in German academies "he will find many departments of Roman law", which in Krzemieniec will be taught as part of historical and legal subjects [Kołłątaj 1953b, 338-39; Jakubowski 2015, 89]. We can therefore see the evolution of Kołłątaj's views on *ius Romanum*: from decidedly unfriendly to perceiving some of its advantages as a model system and an indispensable element of the education of canonists and law lecturers [Sondel 1988, 50; Jakubowski 1978, 86]. Moreover, his initially hostile views towards Roman law were not recognized by the National Education Commission, and the chair of ancient Roman law and its history was maintained within the Collegium Iuridicum. In practice, due to difficulties with staffing, this chair began to function only in 1782/83, and Fr. Bonifacy Garycki was appointed professor of Roman law [Patkaniowski 1964, 44; Sondel 2013, 100-101]. Of course, lectures on Roman law were held – although not always systematically – even before the Kołłątaj reform, but, as W. Bartel emphasizes, they did not play a major role in legal studies, because the ancillary nature of *ius civile* in relation to canon law was too strongly emphasized [Bartel 1970, 205]. It should be added that the Vilnius Academy did not cease to conduct lectures on Roman law, although in the years 1712-1721 (i.e. after the death of Professor Stanisław Paszkiewicz), which were exceptionally difficult due to war, epidemics, famine and fires, the chair of this subject remained vacant. Breaks in lectures, although not as long, occurred several times [Piechnik 1983, 62],[10] and at the end of 1759 the most famous professor of Roman law at the Academy, Antoni Ostoja Zagórski, began his lectures. In a speech delivered in 1761 entitled *The Speaker on the Righteousness, Need and Benefit of Jurisprudence*, he emphasized the importance of this law, which "of almost

[10] L. Piechnik refutes the belief prevailing in Polish historiography that after the period of the "Deluge" lectures on civil law were suspended at the Vilnius Academy until 1760; he states that despite the interruptions in lectures, the department of civil law basically existed. In the event of a vacancy, the rector received a warning from the provincial and an order to find a suitable professor [Piechnik 1983, 59].

the entire human nation from the most ancient wisdom of all ages and times gathered is a law for the eradication of rudeness and for the unification into one, as if by a single bond, of all the opinions, thoughts and hearts of all nations" [Sondel 1988, 56].

The law of the Romans was finally taught at the Zamość Academy. The curriculum of this subject was indeed specified in the foundation act of 1600, and the content of the lectures on Roman law, expanded by Tomasz Drezner to include other ancient laws and comparative law elements, testified to their high level, but the findings current in the first decades of the 17th century cannot be transferred without reservation to the situation a hundred years later. The crisis that hit the Academy in the second half of the 17th century must have caused a decrease in the level and perhaps also in the number of lectures. The stagnation and neglect prevailing at the Zamość Academy until the mid-18th century certainly did not contribute to improvement in this area or to the systematic conduct of classes. Although the lack of information about civil law professors in the rector's files for some years does not necessarily mean that lectures were actually discontinued, the signs of a serious crisis [Dyjakowska 2000, 53-64], and sometimes even the cessation of the Academy's functioning, do not encourage optimistic assumptions. Available sources do not allow us to determine the place of Roman law in the Academy's curriculum, at least until the mid-1750s. The requirement to print and distribute lesson plans (*horarum dispositiones*) was clearly imposed on the deans of individual faculties only by the reform decree of Bishop Laskaris from 1764 [ibid., 114]. Such plans, used to familiarize students with the scope and topics of lectures, were certainly also announced before the reform; they would have allowed for the determination of, among other things, the duration of lectures on Roman law, and perhaps also the order of the topics discussed. However, not a single preserved copy is known; probably the outdated university lesson plans were not considered worth keeping. Interesting information is contained in the curriculum published in the academic printing house and announced on the occasion of the opening of the boarding house for noble youth (Convictus Nobilium) in 1760, entitled The Laws of the Zamość Academy with a description of various Sciences for the benefit of Polish Youth Attending, collected and now, at the opening of the new Convict, upon the persuasion of many Worthy Persons, given for public information. In point III entitled *On the description of sciences and their benefits*, the scope of individual legal sciences and the goals of education in them are presented, among other things. The title of the curriculum suggests that it contains general academic regulations, and the opening of Convictus Nobilium is only an opportunity to remind them; it can therefore be assumed that this curriculum corresponded to the actual lectures given at the Academy. The lack of Roman law

in it is intriguing. Perhaps this subject was squeezed as the general foundations of private law into a lecture called "secular law"; the latter term should be understood as Polish judicial law (civil and criminal).[11] Although Roman law was not listed as a separate discipline, it was certainly taught, as evidenced by notes in the rector's files, providing the names of professors of individual subjects [Dyjakowska 2000, 121-29]. Another piece of evidence is the lecture script by Wawrzyniec Żłoba, probably written in the 1970s. Its subject is Roman law presented in the order of Justinian's Institutions, supplemented with information on Polish law. It is worth noting that despite separate lectures on Polish judicial and public law (referred to in the above-mentioned program as crown law and secular law), Polish law also served as a supplement to the discussion of the institutions of Roman law. Comparing the norms of Roman law with native law had its tradition at the Zamość Academy, to mention just a few works by Tomasz Drezner; in Polish science in the 17th century, this method was often used to enrich studies of Polish law with a description of Roman institutions, and the division of material into *personae – res – actiones*,[12] characteristic of Justinian's Institutions, was also in common use. In eighteenth-century European universities, the comparative method was used in lectures on Roman law. At the University of Turin, the professor of Pandects was also supposed to deal with native law in addition to his subject [Sondel 1988, 37], while the counsellor at the Châtelet in Paris, Andre-Jean Boucher d'Argis, when creating a project for the program of legal studies in France, emphasized the need to link Roman law with the history of French law [Wołodkiewicz 1986a, 166]. Also at the Faculty of Law of the University of Kraków, in accordance with the statutes adopted in 1742, a lecture on Roman law was provided for by a professor called Justinianeus, who was to show students *viam ad arcana legalis scientiae* based on Justinian's Institutions. In his lectures, however, he should go beyond pure ius civile, also taking into account the norms of customary and statutory law in force in the Republic of Poland, i.e. both land and city law, based on German law [Bartel 1970, 197]. As M. Patkaniowski supposes, this lecture consisted in mechanically comparing the provisions of Roman law with Polish law [Patkaniowski 1964, 19]; in practice, Professor Justinianeus also included provisions of canon

[11] "Secular law (the aim of which is peace in the Republic and the alleviation of upcoming controversies between citizens) not only designates and describes the prerogatives and privileges of various states, rewards for the deservings and punishments for the delinquents, but also provides effective methods for a just judgment and for maintaining one's rights" [Kuryłowicz and Witkowski 1980, 53; Kuryłowicz 1994, 43].

[12] Among Polish writers of the 15th and 17th centuries, the Romanist method was observed by, among others, Jakub Przyłuski, who included his knowledge of Roman law primarily in the prefaces and theoretical commentaries on the extracts from Polish laws he prepared, and Mikołaj Zalaszowski.

law in his lectures [Bartel 1970, 197]. The practice at the Zamość Academy of supplementing the Roman law taught with native law was therefore in line with modern methods of teaching this subject, also used at many other law faculties.

REFERENCES

1874. *Zbiór praw sądowych przez ex kanclerza Andrzeja Ordynata Zamoyskiego ułożony i w roku 1778 drukiem ogłoszony, a teraz przedrukowany, z domieszczeniem źródeł i uwag, tak prawoznawczych, jak i prawodawczych, sporządzonych przez Walentego Dutkiewicza*. Warszawa: Skład Główny w Księgarni Gebethnera i Wolffa.

Arnaud, André-Jean. 1969. *Les origines doctrinales du Code Civil français*. Paris: Faculté de Droit et des Sciences Politiques et Économiques Université de Strasbourg.

Bartel, Wojciech. 1970. "Dzieje Wydziału Prawa Uniwersytetu Jagiellońskiego przed reformą kołłątajowską." *Krakowskie Studia Prawnicze* 3:159-213.

Chamcówna, Mirosława. 1965. "Epoka wielkiej reformy." In *Dzieje Uniwersytetu Jagiellońskiego w latach 1765-1850*, vol. II.1, edited by Kazimierz Opałek, 7-59. Kraków: Państwowe Wydawnictwo Naukowe.

Dyjakowska, Marzena. 2000. *Prawo rzymskie w akademii Zamojskiej w XVIII wieku*. Lublin: Redakcja Wydawnictw Katolickiego Uniwersytetu Lubelskiego.

Garycki, Bonifacy. 1938. "Myśli do prawodawstwa cywilnego." In *Kodeks Stanisława Augusta. Zbiór dokumentów*, edited by Stanisław Borowski, 91-95. Warszawa: Nakł. Towarzystwa Prawniczego.

Hubert, Stanisław. 1960. *Poglądy na prawo narodów w Polsce czasów Oświecenia*. Wrocław: Zakład Narodowy im. Ossolińskich.

Jakubowski, Ireneusz. 1978. "Hugo Kołłątaj a prawo rzymskie." *Czasopismo Prawno-Historyczne* 302:71-92.

Jakubowski, Ireneusz. 1981. "Józef Wybicki a prawo rzymskie." *Acta Universitatis Lodziensis, Folia Iuridica* 4:59-79.

Jakubowski, Ireneusz. 1984. "Prawo rzymskie w projektach kodyfikacyjnych polskiego Oświecenia." *Acta Universitatis Lodziensis. Folia Iuridica* 15.

Jakubowski, Ireneusz. 2015. "Rozważania o prawie i jego nauczaniu w korespondencji Hugona Kołłątaja z Tadeuszem Czackim." *Studia Prawno-Ekonomiczne* 96:81-94.

Jezierski, Franciszek S. 1791. *Niektóre wyrazy porządkiem abecadła zebrane y stosownemi do rzeczy uwagami objaśnione*. Warszawa: Druk. Michał Gröll.

Kodrębski, Jan. 1986. "Monteskiusz a prawo rzymskie." *Acta Universitatis Lodziensis. Folia Juridica* 21:135-53.

Kołłątaj, Hugo. 1953a. "Stan oświecenia w Polsce w ostatnich latach panowania Augusta II (1750-1764)," edited by Jan Hulewicz. Wrocław: Zakład Narodowy im. Ossolińskich.

Kołłątaj, Hugo. 1953b. "Wybór pism naukowych," edited by Karol Opałek. Kraków: Państwowe Wydawnictwo Naukowe.

Kołłątaj, Hugo. 1967. "Raporty o wizycie i reformie Akademii Krakowskiej," edited by Mirosława Chamcówna. Wrocław-Warszawa-Kraków: Zakład Narodowy imienia Ossolińskich. Wydawnictwo Polskiej Akademii Nauk.

Kuryłowicz, Marek. 1994. "Prawo rzymskie oraz prawo kanoniczne w programie studiów prawniczych Akademii Zamojskiej." In *Akademia Zamojska i jej tradycje*, edited by Bogdan Szyszka, 35-48. Zamość: Muzeum Okręgowe.

Kuryłowicz, Marek, and Wojciech Witkowski. 1980. "Nauczanie prawa w akademii Zamojskiej." *Palestra* 7:38-56.

Leszczyński, Stanisław. 1903. "Głos wolny wolność ubezpieczający," edited by Aleksander Rębowski. Warszawa: Nakładem Świdzińskiego.

Luig, Klaus. 1967. "Die Anfänge der Wisenschaft vom deutschen Privatrecht." *Ius Commune* 1:195-222.

Luig, Klaus. 1970. "Institutionenlehrbücher des nationalen Rechts im 17. und 18. Jahrhundert." *Ius Commune* 3:64-97.

Marchwiński, Andrzej. 1930. *Poglądy filozoficzno–prawne Hieronima Stroynowskiego*. Warszawa: Skład Główny Instytut Wydawniczy Kasy Mianowskiego.

Michalski, Jerzy. 1958. *Studia nad reformą sądownictwa i prawa sądowego w Polsce w XVIII wieku*. Part I. Wrocław–Warszawa: Zakład Narodowy im. Ossolińskich.

Patkaniowski, Michał. 1964. *Dzieje Wydziału Prawa Uniwersytetu Jagiellońskiego od reformy kołłątajowskiej do końca XIX stulecia*. Kraków: Państwowe wydawnictwo Naukowe.

Piechnik, Ludwik. 1983. *Dzieje Akademii Wileńskiej*. Vol. III: *Próby odnowy Akademii Wileńskiej po klęskach potopu i okres kryzysu 1655-1730*. Rzym: Institutum Historicum Societatis Jesu.

Rousseau, Jean-Jacques. 1966. "Umowa społeczna oraz Uwagi o rządzie polskim i jego projektowanej naprawie," edited by Bronisław Baczko. Warszawa: Państwowe Wydawnictwo Naukowe.

Salmonowicz, Stanisław. 1962. "Krystian Bogumił Steiner (1746-1814), toruński prawnik i historyk. Studium z dziejów nauki prawa doby Oświecenia w Polsce." *Roczniki Towarzystwa Naukowego w Toruniu* 65(2).

Salmonowicz, Stanisław. 1971. "Le droit romain en Pologne *á* l'epoque des Lumierés." In *Studi in onore di Edoardo Volterra*, vol. II, Milano: A. Giuffré.

Sondel, Janusz. 1988. "Ze studiów nad prawem rzymskim w Polsce w okresie Oświecenia." *Zeszyty Naukowe Uniwersytetu Jagiellońskiego. Prace Prawnicze* 124.

Sondel, Janusz. 2013. "Z dziejów Katedry Prawa Rzymskiego Uniwersytetu Jagiellońskiego." *Polska Akademia Umiejętności. Prace Komisji Historii Nauki PAU* XII:81-116.

Sójka-Zielińska, Katarzyna. 1975. "Rola prawa rzymskiego w pracach kodyfikacyjnych wieku Oświecenia." *Czasopismo Prawno-Historyczne* 27, no. 1:109-23.

Strojnowski, Hieronim. 1938. "Myśli do prospektu Rozdziału VIII-go Księgi I-ej o sukcesji." In *Kodeks Stanisława Augusta. Zbiór dokumentów*, edited by Stanisław Borowski, 175-80. Warszawa: Nakł. Towarzystwa Prawniczego.

Tokarz, Wacław. 1924. *Komisja Edukacyjna i Uniwersytet Jagielloński*. Warszawa: Biblioteka Polska.

Wołodkiewicz, Witold. 1986a. „Andre Jean Boucher d'Argis – osiemnastowieczny autor Listów Sędziego z Paryża o prawie rzymskim i sposobie jego wykładania we Francji." *Acta Universitatis Lodziensis, Folia Iuridica* 21:155-71.

Wołodkiewicz, Witold. 1986b. "Le droit romain et l'Encyclopedie." *Antiqua* 38:I-XLVII.

Wołodkiewicz, Witold. 1988. "Dialog Solona i Justyniana u Fénelona a dyskusja o prawie rzymskim w Polsce XVIII wieku." *Czasopismo Prawno-Historyczne* XL, no. 2:249-60.

Wybicki, Józef. 1927. "*Życie moje oraz Wspomnienie o Andrzeju i Konstancji Zamoyskich*," edited by Adam M. Skałkowski. Kraków: Krakowska Spółka Wydawnicza.

Zdrójkowski, Zbigniew. 1956. *Teodor Ostrowski (1750-1802), pisarz dawnego prawa sądowego {proces, prawo prywatne i karne), jego projekty reformy prawa karnego w Polsce oraz ich związek z europejskim ruchem humanitarnym*. Warszawa: Wydawnictwo Prawnicze.