

**An unknown seventh-century manuscript  
of the  
Lex romana Visigothorum**

The *Lex romana Visigothorum* or Breviary of Alaric was promulgated in 506 A.D. It served as the Visigothic kingdom's basic codification of Roman law until its abrogation, which took place no later than the middle of the seventh century.<sup>1</sup> The fact that the Breviary continued to serve as the essential reference work of Roman law in early medieval Francia explains both its historical importance and the comparative wealth of its manuscript tradition.<sup>2</sup>

The *Lex* was last edited *per se* by G. Hänel, in the middle of the last century.<sup>3</sup> Although it remains indispensable today, this edition leaves much to be desired.<sup>4</sup> Its text has been subjected to over-zealous correction according to classical norms.<sup>5</sup> The critical apparatus is highly abbreviated, although Theodor Mommsen's edition of the *Codex Theodosianus* partially remedies this difficulty.<sup>6</sup> Finally, new manuscripts have come to light: a seventh-century León uncial palimpsest<sup>7</sup>

<sup>1</sup> H. F. Jolowicz and B. Nicholas, *Historical introduction to the study of Roman law* (3d ed. Cambridge 1972) 466-467, P. D. King, *Law and society in the Visigothic kingdom* (Cambridge 1972) 10-11, R. Buchner, *Die Rechtsquellen*, Beiheft to Wattenbach-Levison, *Deutschlands Geschichtsquellen im Mittelalter: Vorzeit und Karolinger* (Weimar 1953) 9-10. The basic state of the question will be found in J. Gaudemet, *Le Bréviaire d'Alaric et les Epitome* (Milano 1965). I should like to thank Canon Gérard Fransen and Prof. Léopold Genicot for rereading this article with the good will and insight to which I have grown accustomed. As the notes show, I owe a special debt to Prof. Bernhard Bischoff.

<sup>2</sup> The essential work remains A. von Wretschko's study 'De usu Breviarum alariciani forensi et scolastico per Hispaniam Galliam regionesque vicinas' in T. Mommsen and P. Meyer's edition of the Theodosian Code: *Theodosiani libri xvi*, I.1 (Berlin 1905) cccvii-cccix. Complementary information will be found in M. Conrat, *Quellen und Literatur des römischen Rechts* 41-46, F. Dumont, 'Bréviaire d'Alaric', DDC 2 (1937) col. 1104-1111, J. Gaudemet, 'Survivances romaines dans le droit de la monarchie franque, du v<sup>e</sup> au x<sup>e</sup> siècle', TRG 23 (1955) 149-206, especially 160ff. and P. Riché, *Enseignement du droit en Gaule du VI<sup>e</sup> au XI<sup>e</sup> siècle* (Milano 1965).

<sup>3</sup> *Lex romana Visigothorum* (Leipzig 1849). The Louvain fragments correspond to the text found on p. 190 and 196-198 of this edition.

<sup>4</sup> Gaudemet, *Bréviaire* 15.

<sup>5</sup> Buchner, *Rechtsquellen* 9 n. 25a.

<sup>6</sup> *Theodosiani libri xvi*. This edition reviews and reports the textual tradition of the Theodosian Code as it appears in the Breviary of Alaric.

<sup>7</sup> Archivo catedralicio 15; see E. A. Lowe, *Codices latini antiquiores. A palaeographical guide to Latin manuscripts prior to the ninth century* (= CLA) XI (Oxford 1966) 17, no. 1637. A facsimile and transcription were published in *Legis romanae visigothorum fragmenta ex*

and a manuscript in Rhaetian minuscule have provided significant new information on the Breviary's text.<sup>8</sup> I should like to draw attention to the existence of another uncial manuscript which can be dated to the first half of the seventh century.<sup>9</sup> It offers fragments of the text corresponding to *Lex romana Visigothorum* 9.15.2-9.17.1 and 9.24.2-9.26.1.

### 1. THE DOCUMENT

The document in question consists of two loose leaves of very fine parchment. Today they are found in the Section des manuscrits of the Bibliothèque centrale of the Catholic University of Louvain. The leaves were once in the possession of the well-known French paleographer, Henri Auguste Omont (1857-1940).<sup>10</sup> At present they bear the reference Fragmenta H. Omont 2A and 2B. In the fourteenth century, fragment 2B served as a fly-leaf in a manuscript associated with the diocese of Langres.<sup>11</sup> That a similar fate befell fragment 2A is evidenced by the horizontal crease and binding holes which mark both documents. All indications are that both 2A and 2B come from the same manuscript of the *Lex*.

Fragment 2A is in rather poorer condition. It has been torn almost in half along the horizontal crease. The upper inside corner has disappeared. 2B is of thicker, less delicate parchment. There is a large hole (1.5 cm in diameter) in its upper interior corner. Both fragments are marked by worm holes and appear to have been at least slightly cut down.

The fragments measure 31 × 23 cm. The ruled writing space of both is 23 × 20.5 cm. 2Ar has 28 long lines of text, 2Av, 29; there are 27 lines on 2Br and 29

*codice palimpsesto Legionensis ecclesiae . . . edidit regia historiae academia hispana* (Madrid 1896). On the imperfection of this work, see Mommsen, *Theodosiani* I.1 lxxi.

<sup>8</sup> Stuttgart, Hauptstaatsarchiv, Fonds Klosterarchiv Rot. See K. O. Müller, 'Eine neue Handschrift der Lex Romana Visigotorum (Breviarium Alaricianum) in churrätischer Schrift aus der Zeit um 800', ZRG Germ. Abt. 57 (1937) 429-442, with a review of the manuscript tradition. Cf. CLA IX (1959) 36, no. 1362.

<sup>9</sup> A comprehensive list of the Breviary's manuscripts will be found in G. Dolezalek et al. *Verzeichnis der Handschriften zum römischen Recht bis 1600* (Frankfurt am Main 1972) IV 'Tituli', s.v. *Breviarium Alarici*, *Breviarium Alarici fragmentum* etc. A number of MSS listed here do not appear to have been known to Mommsen. Among these I notice: Holkham 212, Milan, Ambrosianus C.51 sup., Paris, Bibl. Nat. nouv. acq. lat. 2389; Vatican, Reg. lat. 1837 (olim 2639), Karlsruhe, Badische Landesbibliothek, Fragmentum Augiense 143 (cf. CLA VIII (1959) 31, no. 1131, where this fragment is identified as 'Passio cuiusdam sancti?'). To these must be added the fragments which Prof. Bernhard Bischoff informs me J. Leisebach has discovered at the Grosser Sankt Bernhard.

<sup>10</sup> On Henri Omont, see M. Roques, *Comptes rendus des séances, Académie des Inscriptions et Belles-Lettres* (Année 1940) 486-500 and C. Brunel, BEC 102 (1941) 371-378. On the acquisition of Omont's library by the University of Louvain, see M. McCormick, 'Un fragment inédit de lectionnaire du VIII<sup>e</sup> siècle', RB 86 (1976) 75-82, here 75.

<sup>11</sup> According to a note in Omont's hand which accompanies 2B.

on 2Bv. The differences are due to the larger spaces which have been left for the *tituli*.

The ruling is barely apparent on 2B. It does, however, stand out quite clearly on 2A. There it has been drawn in dry-point on the recto, i.e. hair side. The horizontal ruling continues past the inner bounding line to the sheet's inner edge, and was guided by prickings which are located outside the bounding lines.<sup>12</sup> What appears to be a quire signature is found in the center of 2Ar's lower margin. It cannot be read with certainty, even under ultraviolet light.

Each side of each folio is marked by running titles. Like the text and rubrics, they are in uncials. The text is in a black brown ink which has more or less scaled off on 2A.

The rubrics and certain official titles (e.g. con[sulibus]) are in red. Except for the *interpretatio* of title xxv and the rubric of title xxvi, the red ink has almost entirely disappeared.

If we examine the text's uncials, we find that on both folios, the lower bow of the B protrudes considerably. The hasta of the e is formed in the middle of the letter and the eye is generally open. The cross stroke of the T often curls to the left. There are sharp endings to many of the rather long downward strokes (f, g, p, q). On 2Bv we find an interesting ligature-like combination of the letters 'us', at the end of line 6. Words are not separated. Punctuation consists of small median points or *virgula*. One dry-point cross occurs on 2Av; a significant space would seem to be found on 2Bv.

Although the scripts of the two fragments present great similarities, their general aspect is quite different. That the scribe of 2A must be distinguished from that of 2B is evidenced by the different ways in which each forms the letters a and d.<sup>13</sup>

Among non-technical abbreviations, the most frequent is the omission of the final *m* which is indicated by a horizontal flourish above a dot to the right of the vowel. It occurs often, even in mid-line. Final *-bus* is marked by a *b* followed by a hook; a similar procedure is used for *-que*. The principal technical abbreviations are as follows: *inter* with a stroke above, *augg* or *imppp* with a stroke, *ppm*, *ppo* and *pp* with strokes above for *praefectus praetorio*, *nbp* and *uircr*. The latter is apparently a corruption of *uicario*.

Spelling departs widely from classical norms. The most common peculiarity is the use of e for i (*defenitum*) and i for e (*diibus* in correction). We also find ae for e (*diae*), ti for ci (*benefitio*) and vice versa (*reuerencia*), o for u (*tabolis*), b for v

<sup>12</sup> If we were to express the ruling in L. Gilissen's formula, the result would be something like this: LL 29 (27, 28 or 29) / 4.205.4 (213) x 230; UR 8.21; where 4 mm refers to the space between prickings and vertical rulings. See L. Gilissen, 'Un élément codicologique trop peu exploité: la réglure', *Scriptorium* 23 (1969) 150-62. The relative value of these figures is of course determined by the craftsmanship of the manuscript maker.

<sup>13</sup> Thanks are due to Prof. Bischoff, who confirmed my impressions on this point in a letter dated 26 December 1975.

and vice versa (*bissellia* for *Visellia* and *fauiae* for *Fabiae*). Faulty aspiration occurs (*nihil hominus*; *ae* and *uiusmodi* have been corrected). C is found for g (*neclexerit*) t for d (*quatragisimae*) and consonants are sometimes doubled. The text has undergone no little correction.<sup>14</sup>

In response to my query, Prof. Bernhard Bischoff examined photographs of fragments 2A and 2B with his customary good will and acumen. In his opinion, the paleographical evidence of this document confirms what one might suspect on the basis of its content: it is of French provenance. Furthermore, he was kind enough to point out that the most similar hand to be found in the *Codices latini antiquiores* is quite likely that of a medical fragment dated to the second half of the seventh century.<sup>15</sup> A comparison of the documents reveals several differences, not least of which is the Louvain fragment's *L*. In Prof. Bischoff's opinion, the paleographical evidence would indicate that 2A and 2B should be attributed to the first half of the seventh century. He sees no objection to placing the corrections in the same century.<sup>16</sup>

In addition to the original text, fragment 2Br displays a few pen trials in fourteenth-century Gothic hands. The longest of these is found in the space between lines four and six; it is written upside down with respect to the uncial text. It is a court hand, as is appropriate to the text and reads: 'viro can(onico) et disc(reto) offic(iali) lig. .s s(a)l(ute)m in d(omi)no d d d d d'.<sup>17</sup> The same *probatio pennae* would seem to occur in the recto's upper right corner, but it has been thoroughly erased. Only *viro* can still be read today.

What we have here is a pen trial which gives the *salutatio* of a document addressed to an episcopal judge delegate, an *officialis*. The formula *officialis talis* is the normal one from the end of the thirteenth century onward; the word following *officialis* is certainly a place-name.<sup>18</sup> The wording of the *salutatio* is consistent with common usage and tells us that the *officialis* in question was a canon.<sup>19</sup>

<sup>14</sup> See below, section 3.

<sup>15</sup> Sélestat, Bibliothèque municipale 1 (A); CLA VI (1953) 38, no. 830. In view of the Louvain fragments' late medieval home, as well as the presumed Lyons origin of other very ancient MSS of the *Lex*, it is not impossible that the newly found fragments originated in the same area. One strand of evidence may point in this direction. In the letter to which I have already referred, Prof. Bischoff was good enough to inform me that Ivrea, Biblioteca capitulare 17 / xxxv contains corrections in a ninth-century hand reminiscent of Lyons. On the Ivrea MS and its relation to our fragments, see below, section 2.

<sup>16</sup> Although he considers the *post* added to 2Av somewhat difficult to place with precision: letter cited above, n. 13.

<sup>17</sup> I should like to thank Prof. Philippe Godding for his help with this text.

<sup>18</sup> See P. Fournier, *Les officialités au Moyen Age: Étude sur l'organisation, la compétence et la procédure des tribunaux ecclésiastiques ordinaires en France, de 1180 à 1328* (Paris 1880) 291. For a recent bibliography on the French institution, see A. Lefebvre-Teillard, *Les officialités à la veille du Concile de Trent* (Paris 1973) 5-19.

<sup>19</sup> See Fournier, *Officialités* 293, n. 3.

The place-name which follows the title *officiali* poses a paleographical and historical problem. The letter which follows the *g* has been rewritten; it may well be an *o*; the following letter may be read in a number of ways: *r* or *n* seem the most probable. The reading ligons may tentatively be proposed: the resolution would then be *ligon(en)s(i)*. Although the most common Latin form for Langres is *Lingonia civitas* or *Lingonensis*, the form *Ligonica* is attested.<sup>20</sup> In this case, the *salutatio* would be that of the *officialis* of the bishop of Langres. It would, however, be imprudent to be categorical on this point. The restitution of the letters is too uncertain, and there are rather a few place names in the diocese of Langres which begin with 'Lig-'.<sup>21</sup> Moreover, the problem of the officiality and the *officiales forenses* of the diocese of Langres has not yet been sufficiently elucidated.<sup>22</sup> The full significance of this pen trial must await a specialist in the diocesan institutions of that bishopric.

In the upper margin of the recto we read 'anno' or perhaps 'Aimo'; the same word is seen in the lower margin of the verso. And finally, lest the reader think that all is drudgery in medieval manuscripts, one further pen trial deserves his or her attention. In the outer margin of the recto, we find this happy mention in Middle French: 'Alice chiere dame', 'dear Lady Alice'.

## 2. THE PLACE OF THE LOUVAIN FRAGMENTS IN THE MANUSCRIPT TRADITION

Certain external characteristics of the Louvain fragments (hereafter referred to as Lv) also occur in other early manuscripts of the *Lex romana Visigothorum*. The red letters used for *tituli* and certain official titles are a constant feature of the pre-800 A.D. manuscripts of the *Lex*. The same can be said for the running titles at the top of the page on each side of 2A and 2B.<sup>23</sup> One feature of Lv that deserves special note is the rope-like decoration at the end of short lines, sketched in the same ink as the text. The scribes of Lv — or perhaps those of Lv's exemplar — have misunderstood the Tironian sign for *consularibus*, which presumably occurred in their model, and they have rendered it just as they found

<sup>20</sup> Graesse, Benedict, Plechl, *Orbis latinus: Lexikon lateinischer geographischer Namen des Mittelalters und der Neuzeit* II (Braunschweig 1972) 391.

<sup>21</sup> See J. Laurent, *Cartulaires de l'abbaye de Molesme, ancien diocèse de Langres, 916-1250* I (Paris 1907) 289ff. on the *pagi* of the medieval diocese of Langres, and the map of the diocese in 1267, facing p. 304.

<sup>22</sup> Fournier's view of the Langrois *officiales forenses* (*Officialités* 14, n. 1) is too summary. See J. Laurent and F. Claudon, *Province ecclésiastique de Lyon, 3<sup>e</sup> partie, Diocèses de Langres et de Dijon, in Abbayes et prieurés de l'ancienne France: Recueil historique des archevêchés, évêchés, et prieurés de France XII* (Archives de la France monastique 45; Ligugé and Paris 1941) 122.

<sup>23</sup> Examples: H (CLA XI.17, no. 1637); the Rhaetian MS (CLA IX.36, no. 1362); P (= Berlin, Deutsche Staatsbibliothek, Phillipps 1761; cf. CLA VIII.13, no. 1064) etc.

it.<sup>24</sup> There are two clear indications that the sign's significance eluded them: on one hand, the rubricator has added the abbreviation CON *after* the Tironian symbol. On the other hand, the same symbol occurs in a place where it does not belong (2Br line 20). In this last instance, it has been extended in such a way as to leave its decorative nature unmistakable.

The great age of Lv lends importance to the question of its place in the Breviary's manuscript tradition. In point of fact, Mommsen's evaluation of the Breviary's textual transmission led him to classify almost all *antiquiores* as *deteriores*. Does this hold true of Lv as well?

The only practical method of determining the place of Lv in the *Lex*'s transmission, short of a new collation of the known manuscripts, is to compare Lv's variants to those reported in the critical edition. Because Hänel's apparatus is of the most summary nature, it is practically useless to this end. Mommsen's apparatus is much more highly developed, although his collation is not exhaustive.<sup>25</sup> Nonetheless, the comparison gives a fair, if not definitive idea of where Lv fits into the Breviary's textual tradition.

Mommsen's cautious analysis of the *codices* led him to distinguish two main groups of manuscripts, of which one (AOEHNBG) furnishes a better text and one (XCPMLSQK 14 16 17) a text which is less satisfactory. Again, the former group can be divided into manuscripts offering a purer (OAHN) or more contaminated text (EBG). Müller showed that the fragment which he discovered (Ro) must be classified with EBG.<sup>26</sup>

Lv contains a number of variants which are not otherwise attested in Mommsen's apparatus. Some of these seem to reveal the shortcomings of our scribes; for example, the unnecessary duplication of syllables<sup>27</sup> or the errors resulting from problems of word separation.<sup>28</sup> Others generally involve case endings or spelling.<sup>29</sup>

<sup>24</sup> Thus the Lyons MS P, s.VI<sup>2</sup> and the So. French MS M (= Munich, Clm 22501), s.VI. Excellent plates in E. A. Lowe, *Codices Lugdunenses antiquissimi: Le Scriptorium de Lyon, la plus ancienne école calligraphique de la France* (Lyons 1924) pl. xxv and Fac. sim. 1. On dates and provenance: CLA VIII.13, no. 1064 and CLA IX.26, no.1324. The rope decoration occurs in Mommsen's *codices* 14 (= Montpellier, Bibl. Univ. (Méd.) 84; cf. CLA VI.28, no.793 and H; cf. CLA XI.17, no. 1637.

<sup>25</sup> E.g. Mommsen, *Theodosiani* I.1 lxxi and lxxxi.

<sup>26</sup> 'Neue Handschrift' 439-40.

<sup>27</sup> 2Ar line 5 intetenderit, line 25 in interdicto.

<sup>28</sup> 2Ar line 19 competet · et actio, line 26 fuerit · factum, 2Bv lines 8-9 proposita · sanctionis (for propositas actiones).

<sup>29</sup> If I may cite them pell-mell: 2A criminale (criminales Ed), recuperandam (recuperanda Ed), actionem (actione Ed), his (is Ed), commendatum (commentatum Ed), modum (postmodum Ed), tribuetur (tribuitur Ed), 2B: state<sup>ae</sup> state(m)<sup>ae</sup> (statim Ed), albucione (Albuciano Ed), uir er (vicarius Ed), inhebuatur<sup>ae</sup> (inhebeatur Lv<sup>ae</sup> Ed), anno (anni Ed), quas (quam Ed), infames (infamis Ed), aūg. (aa. Ed), p̄p (ppo. Ed), emensum (emenso Ed), siue (sibi Ed), personam (persona Ed), accusatorem (accusatore Ed), seueriore (severiore Ed).

A careful examination of the variants which are reported by Mommsen's apparatus indicates that the text of Lv has the greatest number of significant similarities with two witnesses from the ninth and tenth centuries, E and G.<sup>30</sup> Among these we might cite:

- 2Ar 16. ualentinianus gratianus et ualens LvG (valens gratianus et valentinianus EEd)  
 17. p̄p̄m LvE (p̄fū G, p̄p̄o Ed)  
 19/20. utrasque Lv<sup>ae</sup>G (utraque Lv<sup>ae</sup>Ed)  
 24. iuditio ius Lv<sup>ae</sup>G (iuditio Lv<sup>ae</sup>Ed)  
 26. iulia LvG<sup>v</sup> (Cornelia Ed)
- 2Av 4. et LvGEC (ut Ed)  
 5. intenta Lv<sup>ae</sup>GEC (intentata Lv<sup>ae</sup>Ed)  
 6. quae Lv<sup>ae</sup>E (qua Lv<sup>ae</sup>Ed)  
 24. testamentum LvG (testamento Ed)  
 28. constantinus LvGEO (Constantius Ed)
- 2Br 11. DE QUAESTIONIBUS · IMPPP gratianus . . . Lv. Here Lv's rubricator has put the first word of the title's *intitulatio* in red.<sup>31</sup> This would seem to explain how EG developed the form of title xxv which they alone attest: *De quaestionibus imperatorum* (instead of correct *De quaestionibus*). At some point a scribe noticed and supplied the missing imperial title before the names of title xxv's authors to give 'DE QUAESTIONIBUS IMPERATORUM. Imppp gratianus etc.'
17. aug LvE (om.G; a.I Ed)  
 21. ACTIO LvE (QUAESTIO Ed)  
 24/25 sub scriptione Lv<sup>ae</sup>GVPMLS *Iust* (sub inscriptione Ed)
- 2Bv 11. cyciliano Lv: ciciliano EHL (Caeciliano Ed)  
 17. qui adstitit LvS<sup>2</sup>: qui adstetit E, qui asstitit G (quia destitit Ed)  
 21. consensum LvE (consensu Ed)  
 22. iuditium LvEG\*CPML (iudicum Ed)

Moreover, E and G contain numerous variants for readings in which Lv agrees with Mommsen's text.<sup>32</sup> This indicates that Lv's text must be situated closer to the archetype than E or G.

<sup>30</sup> E = Eporediensis (Ivrea), Biblioteca capitolare, 17 / xxxv: Mommsen, *Theodosiani* I.1 lxxvii-lxxviii and A. Professione, *Inventario dei manoscritti della Biblioteca Capitolare di Ivrea*, rev. I. Vignono (Alba 1967) 27. Against Mommsen, Professione and Dolezalek, Prof. Bischoff informs me that E is to be dated to the first half of the ninth century. G = Gothanus, memb. I.84; G<sup>a</sup> = text of G before correction, G<sup>b</sup> = correction, G<sup>v</sup> = whatever is added to the text (G<sup>v</sup>); cf. Mommsen, *Theodosiani* I.1 lxxii-lxxiii and Dolezalek, *Verzeichnis* I, s.v. 'Gothanus'. In general, the variants of Lv which agree with MSS other than EG are neither numerous nor excessively important. Thus: 2Ar line 2 cum aliquis LvO (Civiliter cum aliquis Ed), line 9 inscriptione LvPMLS (inscriptionem Ed), 2Av line 1 bissellia LvT (Visellia Ed but cf. uissellia G<sup>v</sup>), line 9 triurum LvN\* (treu. Ed), line 13 criminalis agatur LvOPML (criminales agantur EdGCS), line 22 fraude LvCPMLS (fraudem Ed), 2Br line 4 n̄bp LvN\* (Nob. P. Ed), line 7 iniuria uel infamia LvHPMLS (iniuriam vel infamiam Ed), 2Bv line 5 triu LvPMN\* (treu. Ed).

<sup>31</sup> Same phenomenon: 2Av line 28; imperial title not rubricated: 2Ar line 16, 2Br line 22.

<sup>32</sup> As evidence I need only cite the first few instances: 2Ar line 2 falsi LvEd: falso GE, crimen LvEd: crimine E, line 4 si LvEd: et si GEC, ad LvEd: a E, et LvEd: et si GE, iudicum LvEd: invicem G, etc.

It would seem then that Lv offers a text which is related to that of E and G, but better than it. Lv must then take its place among Mommsen's *meliores*. The significance of Lv in the history of the manuscript tradition is clear: with the León palimpsest, Lv is the oldest manuscript of consequence which offers a reasonably good text of the *Lex romana Visigothorum*. It offers very valuable information on the state of the text outside of the Visigothic kingdom in the period during which the *Lex* continued to serve as the basic Roman codification of Gothic Spain.

### 3. CORRECTIONS OF THE TEXT

Correction techniques are an important, if somewhat neglected, aspect of early medieval manuscripts.<sup>33</sup> Successive efforts to establish a correct text may provide no little insight into the history of a *codex*. This is particularly true when a document has been subjected to intensive correction. Such is the case of Lv.

For convenience's sake, we may divide Lv's corrections into two main types. The first comprises the addition of letters, groups of letters or whole words, while the second includes the removal or substitution of letters. Further distinctions can be drawn according to the technique and the paleographical character of the correction.

Two distinct groups stand out among the additions which have been made to the text. The first is formed by additions in a hand and ink which offer the closest resemblance to those of the text itself. These additions are placed in the space between the lines, roughly above the place where they should figure in the corrected form of the word (e.g. 2Av *consti* \ *tu* / *tum*). In our apparatus, we designate this group of corrections as I.

Another addition technique is observed on 2Av. Here additions have been introduced in the space above the word to be corrected. In contrast to the preceding group, the corrector has indicated the exact place where the letters are to be added by means of *signes de renvoi* in the form of a point or colon. The ink of these additions is noticeably lighter than that of the text. We may call this group of corrections II.

<sup>33</sup> Cf. Lowe's remarks on a related subject CLA I (1934) x; C. H. Beeson, *Lupus of Ferrières as scribe and text critic: A study of his autograph copy of Cicero's De oratore* (Cambridge Mass. 1930) 27ff. H. J. M. Milne and T. C. Skeat, *Scribes and correctors of the Codex Sinaiticus* (London 1938) offer useful reflections on this problem, albeit in a Greek context. See especially B. Bischoff, 'Über Einritzungen in Handschriften des frühen Mittelalters', *Mittelalterliche Studien: Ausgewählte Aufsätze zur Schriftkunde und Literaturgeschichte* (Stuttgart 1966) 1.88-92 and the discussion of correction in Neil Ker, 'The beginnings of Salisbury Cathedral Library', *Medieval learning and literature: Essays presented to Richard William Hunt* (Oxford 1976) 23-49, here 31-34 and 44-47.

By far the most numerous group of substitutions is made up of the correction of actual or putative spelling errors by a very simple technique: a slanting stroke is drawn through the lower part of the letter to be replaced and the new letter is written above and partially over the first letter. In some instances, the slanting stroke seems to have been omitted.

This type of correction occurs some thirteen times on our two folios. Today at least, the ink is much lighter in color than that of the text and can often be seen only under ultraviolet light. The most frequent 'error' concerns e which is replaced by i, sometimes incorrectly (e.g. 2Br *diebus* corrected to *diibus*); t's are replaced by c's, and once, *tempos* is corrected to *tempus*. As even a cursory examination of our transcription will show, the corrector has overlooked numerous mistakes. Only one correction by this technique seems to attempt a true emendation of the text: on 2Br *discerpserit* (*Lex* 9.24.2; Mommsen, p. 489.1) has been corrected to read *discripserit*, an otherwise unattested variant. In the apparatus, this correction technique will be referred to as III.

Another technique is observed on 2Br: a long hooked stroke has been drawn through the letters which are to be removed (*macedoniae* to *macedonia* and *inhebuatur* to *inhebeatur*). On the basis of the form of the minuscule e which appears in the second correction, these corrections should probably be associated with the e which has been inserted in line 6 of 2Av (*qua* to *quae*) and perhaps with that of 2Bv, line 19 (*ponam* to *poenam*). The ink of this group of corrections is practically invisible to the naked eye. These corrections will be designated as IV.

There are several other corrections which do not seem to fit any of these groups. They have been so indicated in the apparatus.

### 4. THE TRANSCRIPTION OF THE FRAGMENT

We have already alluded to the shortcomings of Hänel's text. Mommsen's edition is an inadequate point of reference, for it attempts to reconstitute the text of the Theodosian Code, not that of the Breviary of Alaric. For 'his reason, it is appropriate to furnish a full transcription of Lv.

The normalization of spelling, punctuation, and the like are matters which can only be determined on the basis of an overall review of the manuscript tradition. The problem is especially delicate for manuscript traditions which span the Carolingian *reformatio*, for from mid-eighth century on, manuscript spelling and syntax are often subjected to automatic scribal 'correction'.<sup>34</sup> Our transcription attempts to reproduce the manuscript as closely as possible. Letters for which the reading is not certain have been italicized. We have always given the original form in the text; corrections appear in the apparatus. This offers the advantage

<sup>34</sup> On this subject see E. Löfstedt, *Late Latin* (Instituttet for sammenlignende Kulturforskning A.25; Oslo 1959) 4.

of presenting the text in its earliest possible state, before corrections and eventual contamination. Capitals imply red letters.<sup>35</sup>

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Fragmentum H. Omont 2A  
*Lex romana Visigothorum* 9.15.2 - 9.17.1

2Ar lib(er) VIII

INTERP(RETATIO) de falso potest et criminaliter et ciuilliter  
i cu(m) aliqu n quib(us)libet scripturis non falsi crimen  
biecerit sed uiretate(m) scripturae quaerere uellae se  
dicit nam si ad iudicem uenerit accusator et falsi cri  
5 men intetenderit iudex tribuat accusatori spatium  
ut deliberet utrum(m) criminaliter agere an ciuilliter  
uellit qui si reuersus ad iudicem in obiecto falsitatis  
crimine perseueret in potestate iudices eret utrum(m)  
inscriptione celebrari uellit an obiectu(m) crimen  
10 sine inscriptione discutere quod cu(m) iudex de obiecto  
ne falsitates audierit seu inscriptione habeta seu  
omissa aut in accusatum si falsitas adprobatur  
aut in accusatorem si falsa obiecerit proferatur  
ex lege sententia  
15 XVI UICTU(M) CIUILITER AGERE CRIMINALITER  
posse imp<sup>pp</sup> ualentinianus gratianus et ualens  
augg<sup>g</sup> ad antonium ppm<sup>m</sup> a plerisq(ue) prudentium  
generaliter defenitu(m) est quotiens de re fami  
liari et ciuillis et criminalis competet et actio utra  
20 q(ue) licere experire nec si ciuilliter fuerit actum crimi  
nale posse consumi sic deniq(ue) et per uim possessione(m)  
deiectus si de ea recuperanda(m) in interdicto unde ui  
erit usus non prohibetur tamen etiam lege iulia de ui  
publico iudicio instituere accusatione(m) et subpresso

2Ar 2 i lacuna, agi Ed aliqu n damaged text, aliquis in Ed 3 biecerit lacuna,  
obiecerit Ed sed: here a layer of parchment has clearly slipped off and down; the ed of sed is  
now visible on top of the si of line 4 11 falsitates corrected to falsitatis technique III  
19-20 utraque corrected to utrasque the s being added at the end of the line 24 iudicio ius  
has been added above the line subpresso corrected to subpresso technique I

<sup>35</sup> I should like to thank Prof. Roger Van Schoute for permission to study this fragment  
under the excellent conditions afforded by the Laboratoire d'étude des œuvres d'art par les  
méthodes scientifiques, Université catholique de Louvain, as well as Head Librarian Joseph  
Ruwet. M<sup>me</sup> Muriel Liétaert-Parmentier stinted no effort in procuring the photograph which  
accompanies this note and has my thanks.

25 testamento cum e interdicto de tabolis exhiben-  
dis fuerit tactum nihilominus ex lege iulia testa-  
ntaria poterit crimen inferri et cum libertus se  
dicit ingenuu(m) tam de operis ciuilliter qua(m) etia(m) lege

2Av theodosiani

bissellia criminaliter pteret perurgueri quo in gene  
re habetur forti actio et leges fauiae constitu(m) et  
una excepta sit causa de morebus excentalia su  
quae numerari non possunt et cum altera prius  
5 actio intenta sit per alteram quae supererit iudi  
catum liceat retractari qua iures definitione  
non ambigitur etiam falsi crimen de quo ciuilliter  
iam actum est criminaliter esse repetendum  
data prid id ianuar triurum ualente ui et ua  
10 lentiniano ii augg cons  
INTERP(RETATIO) sunt causae permixtae ciuiles pariter  
et criminales et possunt ae causae ita diuidi ut  
prius ciuillis deinde criminalis agatur si uo  
luerit accusator ita ut si quis de re sua fuerit  
15 uiolenter expulsus et rem ablatam ciuili pri  
mitus maluerit actionem repetere momentum  
sibi restitui petat et si de eius proprietate his  
qui expulsus est ciuilliter fuerit superatus  
criminali posmodum actione seruata recepto  
20 primitus momento potest modum inpetere uio  
lentum de testamento etiam si quis commenta  
tum a testatore testamentum in fraude heredes  
fortasse subpresserit et id heres scriptus iudi  
tio restitui petit testamentum per iudicium mo  
25 menti beneficio restituto potest modum de suppre  
so testamento criminalem proponere actionem +  
et reliquis similibus causis similes actio tribuitur  
XVII DE FALSA MONETA IMP Constantinus aug  
ontio ppo praemio accusatoribus proposito

25 e interdicto corrected to ex interdicto, the original i being rewritten as x and i being added  
above line; I? 26-27 testa ntaria lacuna, testamentaria Ed

2Av 1 pteret corrected to poteret, o added above the line; I? 2 constitum corrected to  
constitutum I et lacuna, et cum Ed 3 morebus excentalia corrected to moribus  
sexcenta alia III, IV? and II su lacuna, sunt Ed 5 intenta corrected to intentata I  
6 qua corrected to quae 12 ae corrected to hae II 19 posmodum corrected to  
postmodum, t being added above the line 20 modum corrected to postmodum II  
24 iudicium corrected to iudicium III 25-26 suppresso corrected to suppresso I  
28-29 aug. ontio lacuna, Leontio Ed

Fragmentum H. Omont 2B  
Lex romana Visigothorum 9.24.2 - 9.26.1

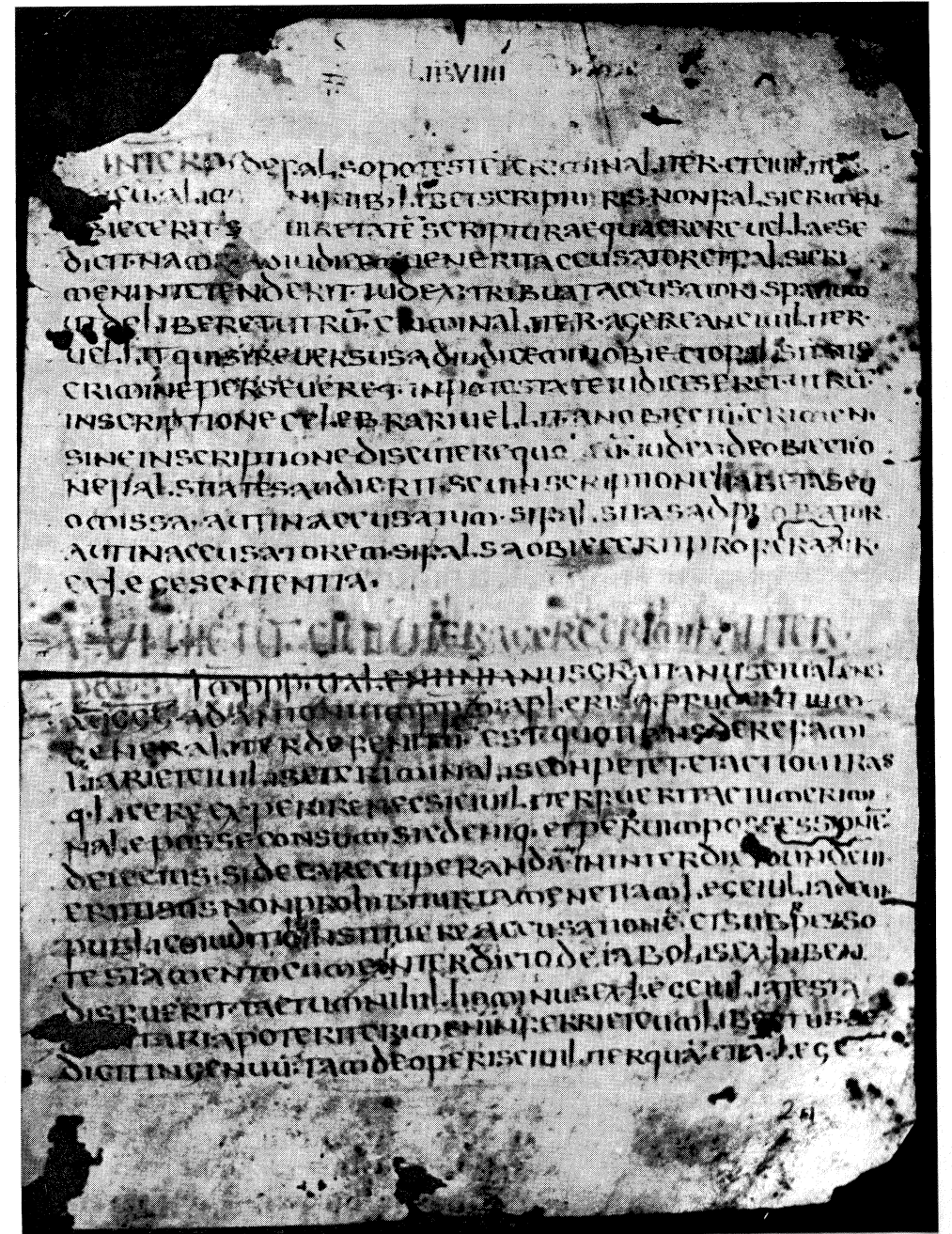
2Br lib(er) viiii

retinendum nisi prodederit auctorem nec euas  
 urum poenam uisumodi criminebus constituta(m)  
 si proditus fuerit quam retullisse quod lege  
 rit data x' iiii' kal' febr' constpl' honorio nbp'  
 5 et euodio con  
 INTERP(RETATIO) si quis cartholam famosam in cuiuscu(m)  
 q(ue) iniuria uel infamia in publico proposita(m)  
 uiderit et legerit et non state discerpserit  
 et cuicumq(ue) quae in ea leget fortasse rettulle  
 10 rit ipse uelut auctor huius criminis teneatur  
 XXV DE QUAESTIONIBUS IMPPP' gratianus  
 ualentinianus et theodosius auggg' albucio  
 ne uirer macedoniae quatragenta diebus  
 quia ospitio caeremoniarum pascale tempos  
 15 anteceptant omnes cognitio inhebuatur  
 criminalium quaestionum data vi' kal' april'  
 thessaln' gratiano aug' v' et theodosio aug' con  
 INTERP(RETATIO) diebus quatragesimae pro reueren  
 tia relegionis omnes criminales actio con  
 20 quiescat  
 XXVI UT INTRA ANNUM CRIMINALES ACTIO  
 TERMINETUR imppp' ualentinus theodo  
 sius et arcadius auggg' desiderio uirer  
 quisquis accusator reum in iudicium sub  
 25 criptione detulerit si intra anno tempus  
 accusationem ceptam persequi supersede  
 rit uel quod est contumachius ultemo anni

2Bv theodosiani

diae adesse neclexerit quarta(m) bonorum  
omnium partem multatus aculeos consultis  
sime legis incurrat scilicet manente infamia  
quas ueteris iusserant sanctionis data iiii id'

2Br 2 uisumodi corrected to huiusmodi I criminebus corrected to criminibus III  
 3 quam corrected to cuiquam I 8 state: a flourish in light ink has been added over the e  
 to read state(m) discerpserit corrected to discripserit III 13 macedoniae corrected to  
 macedonia IV diebus corrected to diibus III 14 tempos corrected to tempus III?  
 15 inhebuatur corrected to inhebeatur IV 18 diebus corrected to diibus III  
 19 omnes criminales corrected to omnis criminalis III 22 ualentinus corrected to  
 ualentinianus, a being written above the line 24 iudicium corrected to iudicium III  
 24-25 subcriptione corrected to subscriptione I



I. Louvain, Bibl. Univ., Frag. Omont. 2a recto (ultra violet light)

- 5 iul̄ triū arcadio auḡ et bautone con̄  
 INTERP(RETATIO) quicumq(ue) inscriptione praemissa cuius  
 cu(m)q(ue) criminis eum accusare uoluerit ab eo di  
 ae quo inscripsit intra annu(m) peragat propo  
 sita sanctionis qui si distulerit infames effec  
 10 tus honorum suoru(m) quarta(m) partem multabitur  
 IMPPP̄ honorius et theodosius auḡ cyciliano pp̄  
 post alia nouerint iudices cuilibet culmini  
 honoriue praesidentes necessariis utriq(ue)  
 parti si petantur dilationibus non negatis  
 15 a diae inscriptionis intra anni curricula  
 criminales causas limitandas quo emensu(m)  
 habeat accusator qui adstitit poena(m) siue  
 legebus constitutam et si personam uilior  
 fuerit cui damnum fame non sit iniuria pona(m)  
 20 patiat̄ur exilii nisi forsitan intra anni metas  
 consensum partium abolitione poposcerit  
 in iudicium autem debet esse diligentiam  
 ut si nulla rationabilis a reo uel accusatore(m)  
 dilatio postuletur urgant talium causaru(m)  
 25 notionem non expectatis annis mores si uero  
 accusator uel reos propter documenta  
 forsitan sibi necessaria annum uoluerint  
 custodire dare ad sensum debet patientia(m)  
 cognitores in alteram partem seueriore

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2Bv 7 eum corrected to reum I      14 dilationibus corrected to dilationibus III  
 19 fame: flourish added above a, cedilla added to e, read fa(m)mę      ponam corrected to  
 poenam IV?      22 iudicium corrected to iudicium I