SUMMARIA ANTIQUA CODICIS THEODOSIANI

(ex fragmentis Taurinensibus)

d'après l'édition de P. Krüger,
Codicis Theodosiani fragmenta Taurinensia,
Abhandlungen der
Königlichen Akademie der Wissenschaften
zu Berlin, 1879,
Phil. und hist. Klasse Abh. II
(Berlin 1880)

Note sur le texte

Dans les dits *fragmenta Taurinensia* du Code Théodosien se trouvent aussi quelques gloses. Il s'agit d'un manuscrit du Code Théodosien, écrit dans une onciale du début du VIe siècle, qui a été utilisé de nouveau au VIIIe siècle à Bobbio. Selon Lowe l'origine du manuscrit est très probablement l'Italie. Dans les marges on trouve quelques gloses dans une petite onciale cursive pleine d'abréviations. Elles contiennent souvent des renvois simples et ressemblent aux gloses de S2 dans le ms. Vat. reg. Lat. 886. C'est Krüger qui nous a fourni une transcription complète, avec les gloses. Les fragments sont perdus en 1904 à cause d'une incendie à la Bibliothèque de Turin.[1] Nous donnons une copie de l'apographum de Krüger de ces gloses, accompagnée de l'interprétation de Mommsen.[2] Il faut se rendre compte que probablement les lacunes ne sont pas des lacunes véritables, mais qu'elles sont dues au fait que Krüger ne pouvait pas lire le palimpseste. Il lui manquait, contrairement au texte des constitutions, un modèle pour vérifier la lecture incertaine.

[1] Pour la description et une bibliographie complète v. CLA IV 440.
[2] *Theodosiani libri XVI cum constitutionibus Sirmondianis edidit adsumpto apparatu P. Kruegeri Th. Mommsen*, Vol. I Pars prior, Prolegomena, Berolini 1904, p. XLII: à base de l'apographum de Krüger.

ad CTh 1.2.R (fol. 1 Verso):

[---]*i*n p(ro)u( ) i(n)dultum/ [---]sum exemplum/ [---]*n* graeg( ) lib(ro) .u.[1]

ad CTh 2.8.26 (fol. 5 Verso):

[---](tio)nes fi/ [---]llo s p(ro) oro/ [---] *(con)*nes sup/[er- ---]   t (constitutio)ni/ [---]f   ap(ro) s ac(tio)n*is*/ [---] iii t(ituli?) *(constitutio)* ultima/ [---]pando a   ur/ [---] lib( ) iii*i*   enan/ [---]   de pacto

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[1]   graeg: (codicis/corporis) Gregoriani?

ad CTh 3.5.10 (fol. 6 Verso):

τετ δ

\oc⁰ ιαϛεετροsτεριοκ χ|m̅p̅p̅p̅   { oc̥° ia q̄ ē et posterior
    τι °   { n *(vel u)* t i ϛ v

....oc con(stituti)o ia(?) q(uae) e(st) et posterior | ......u *(vel n)* t(it.) 1 con(stituti)o V (Mommsen ad CTh 3.5.10)

[---]o c(onstitu)(tio)   ia q(uae) e(st) et posterior/ [---]n t(it.?) i (constitu-tio) u

ad CTh 4.6.5 (fol. 8 Verso):

|aecaςoιnfraquadra   C O N S
ppetιtlegιtur ιn lιb   χυ   c ι p ι σ
equa   m RATU
ιι   c ι p ι τ

gr?| aeca c9 infra qu(?)ad(?)r(?)a(?)
   { o *(vel m vel ɔ)* petit leg(?)it(?)u(?)r(?) in(?) l(?)i(?)b   xu
   { e   qua   m(?)
   {   ii

[Gr]aeca constitutio infra qu(?)ad(?)r(?)a(?) | ... conpetit leg(?)it(?)u(?)r(?) in(?)l(?)ib xu** | ....e qua   m(?) ii (Mommsen ad CTh 4.6.5)

[---]aeca c(onstitu)(tio) infra quadra/[---]*(con)*petit legitur in lib(ro)   xu/
[---] *ii*   m[1]

ad CTh 9.1.15 (fol. 29 Verso):

χυ|δ A̅A̅A̅

accusaριpaρ   q·p   διcaτ   accusari p(?)a(?)r(?) q. p
                   Lυsτι

[---] accusari par q(ue)p

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[1] quadra[gesim-]?

ad CTh 9.1.19 (fol. 29 Verso):

ɔon l r̄ sei xreb   an...
lem

[---].on *l* r sei xreb   an/ [---]   lem

ad CTh 9.20.R (fol. 31 Recto):

iviliter crimị

uictus ciuiliter crim[inaliter ---][1]

ad CTh 9.24.1 (fol. 32 Verso):

n̄ mulieres testimonium
dicere n̄ posse

n(ota?) mulieres testimonium/ dicere n(on) posse

ad CTh 9.34.9 (fol. 33 Recto):

PROFITERIDICEREIN

profiteri dicere in[---]

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[1] *suivi par, par exemple,* agere possit.

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The Notae Iuris of Vat. Reg. 886

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THE NOTAE IURIS OF VAT. REG. 886

The marginal summaries of Vat. Reg. 886 (Codex Theodosianus, written in half-uncials), omitted in the Berlin edition of the Codex Theodosianus, have been published, very inaccurately (see Winstedt in Class. Phil. 1,399), in the "Studi Senesi" III-V (Siena, 1887-9), under the title "Carolus Manentius: Antiqua Summaria Codicis Theodosiani ex codice Vaticano iam primum anno MDCCCXXXIV a Gustavo Haenelio edita cum codice Vaticano singillatim noviter collata". These marginalia abound with Notae Iuris, of which I made as full a collection as I could in a short visit to Rome last year. In the following list I omit capricious and occasional suspensions, such as karthaḡ "Karthaginis" (ad x̄ 1 30, 32), as well as such common epigraphic symbols as KL (or KAL), with oblique cross-stroke through L, "Kalendae"-"arum", etc. Since the form of the letters and the position of the contraction-strokes often change with a change of scribe, I have sacrificed to typographical convenience the exact reproduction of most of the symbols. A letter is often suprascript in these marginalia for the sake of saving space merely, e. g. genᵉrale (fol. 70 v., where the third syllable of the word begins a new line), suffraᵍo (fol. 227 v., in the middle of a line). This practice must have been productive of error in transcription.

ā 'aut', passim. Ad xii 1, 33 (si XII iugerum sint possessores... sin minus ·a· xxv iugeribus habuerint) the Preposition 'a', in its late Latin use after a Comparative, is apparently meant. (Or 'agri'?)

    Ad xii 1, 102 (contra eos qui sunt ā obnoxii curiae non valere) is the symbol inserted in error?

    Ad xi 30, 64 (si ā infirmitate praegravetur ā iudex) 'aut' is probably meant in both cases, but the double 'aut' is an error of the scribe, or perhaps of the corrector, who has intervened here.

ān 'ante', frequent.

āp 'apud', passim.

app 'appello', etc., 'appellatio', etc., e. g. ad xiii, 30, 51 *appellationem*; ad xi, 30, 56 qui *appellationem* offert... quodsi poenituerit *appellatio*; ad xi, 30, 58 *appellare*; ad xi, 30, 63 *appellationis*; ad xi, 30, 68 *appellari*; ad xi, 36, 3 *appellans* (?)

a̅t 'autem', passim.

b̅ 'bona', '-nis', etc. (e. g. ad x 8, 5 b̅' 'bonorum', with, apparently, the 'um'-sym-
bol.)

c̅ 'causa', '-ae', etc. (e. g. ad xi 30,9 *causam*; ad x 4,3 in criminalibus *causis*; ad x
9,3 cum*causis* omnibus). Also c̅s 'causas' (eg. ad xii 1,23), c̅rs 'causis', c̅m (also
.c̅. m, e. g. ad xi 30,16) 'causam', c̅r' 'causarum' (e. g. ad xi 30,11), etc.
'co̅m 'comes', '-itis', etc. (but sometimes .c̅., e. g. ad xi, 30,45) where the .c̅. rp̅ of
the marginalia repeats the AD PELAGIUM C(omitem) R(erum) P(rivatarum) of
the heading of the law. Hence co̅mp 'c. privatarum' (e. g. ad x 3,7; ẋ 8,2,
and co̅m rp̅ (e. g. ad xi 30,49).

co̅ns 'consul', '-lis', etc.

c' 'cum' (also in 'qui*cum*que', etc.), passim.

ꝺ̃ 'constitutio', '-onis', etc., passim.

Ꙅ and Ꙅ 'contra', frequent (Also 'contro-' in *'contro*versia', (g. ad xi 30,55). Also
expressed by the 'con' symbol followed by the 'tra' -symb l (see below).

ꝺ̷ 'dicit', e, g, ad ix. 42, 16; ad ẋ, 1, 16; ad xi 30, 49 ; ad xii 1, 2. Not unlike, but
with the oblique stroke crossing the middle of the letter, is the symbol for 'die'
(ad xii 1, 53).

dia̅c, dia̅ 'diaconus','-ni', etc.

dn̅s 'domi̅nus', dn̅i 'domini', dn̅o 'domino', etc. Also do̅mns 'dominus' (e. g.
ad x 10, 27).

e̅ 'est', e̅e 'esse', e̅e̅t 'esset', etc., passim. Hence ide̅ 'id est' (e. g. ad ẋ 1, 6; ad
xi 31, 9).

e ℕ 'enim' (e. g. ad xii, 1, 22); but also wanting the *e* (ad xi, 36, 19 in nona *enim*
de debitoribus locutus est, hic de rationes non reddentibus).

epscm̅ 'episcopum' (e. g. ad xi, 36, 20. Also e̅psm, e. g. ad xi, 39, 8); epsco̅s 'epis-
copos'; e̅pscalis 'episcopalis', etc.

e̅t 'etiam', passim.

fidc̅ 'fidei commissum', -'i', etc., sometimes f̅c (e. g. fol. 102 r).

h' 'hoc' (e. g. ad xii, 1, 59 nec *hoc* nec illud; ad xii, 1, 104).

h̅h̅ 'heredes', h̅h̅ƀ 'heredibus', etc., frequent.

╬ 'inter', passim.
'id est' (see 'est').
imp̅ 'imperator', '-ris', etc., passim.

ka̅p 'kapitulum', '-li', etc., e. g. fol. 65 v in tertio *kapitulo* (or *capite?*).

ma̅g 'magistratus', -'ui', etc. (e. g. ad xii, 1, 29). But ludima̅g 'ludimagistros' (ad xiii, 3, 10).

m̊ 'modo' passim. Sometimes 'modum' (or else 'modo' by error for 'modum'), e. g. q. madm̊ 'quemadmodum' (fol. 110 r, etc.).

N̟ 'nam' (also in 'perso*nam*', etc.), passim.

n̅ 'non', passim.

N̦ 'nihil', passim.

N̦ 'nisi', passim.
(On the monogram of N and I as symbol of 'enim', see above, s. v.).

ṅ 'nunc', passim.

ṅ 'nota' (Imperative of 'notare'), passim. (The marginalia in which this symbol appears are not however the marginal summaries.)

num/o 'numero'.

o̅ 'oportere' (e. g. ad xi 30,36, xii 1,66, etc.). Often o̅re (e. q. ad xii 1.77; ad xii 1,87). We seem to find o̅ 'oportet' ('-teat'), ad xiii 3,5 doctores quales esse o̅ insinuat.

p̅ 'prae̅', passim.
   'privatus' (see under 'res', 'comes').
   'praetorium' (see under 'praefectus').
   publicus' (see under 'res').
   praefectus' (see below, s. v.).
p' 'post' passim. Also for 'pos' (e. g. *pos*sessio, *pos*sum).

Ᵽ 'per' passim.

Ᵽ 'pro', passim. The first two syllables of 'proprius' are often expressed by this symbol followed by the 'pri'-symbol (see below).

pat 'patrimonium' (abso pat m, e. g. ad xii, i, 49), 'patrimonialis' (ad x, 10,24 possessiones templorum reipublicae vel *patrimoniales* (?), quae subtractae sunt de isdem).

pec 'pecunia', -'ae', etc. (e. g. ad xii, 1,6).

ṗ 'potest' (e. g. ad xi, 30,36) Ad xi, 30, 11 (prohibet omnes proponere quod probare non ṗ) does the symbol mean 'possunt'? Or should 'probare' be 'probari'? The words of the law are 'quod quis probari posse desperet'.

pot (sometimes potest) 'potestas', '-tatis' etc. (e. g. ad ix, 43, 1 *potestate*).

pf (and pref) 'praefectus', '-ti, etc. Also pfis 'praefectis', pfos 'praefectos', etc. Also pf p 'praefectus praetorio'; pf ur, 'praefectus urbis', sometimes written pf u (e. g. ad xi 30,67) and pu (e. g. ad. xi 30, 13 non ad principem sed ad *praefectum urbis*; ad xi 34,2).

pre Ƅ 'presbyter', -'ri', etc., e. g. ad xii 1,49 *presbyteris*.

pp and pp 'propter', frequent.

proc 'proconsul', -'lis' etc.

Ᵽc 'procurator', -'ris' etc. (e. g. ad x, 1,17 *procuratoris*; ad ix 42,20 *procuratore*; ad xii 1, 20 *procuratores*); Ᵽc ƀ 'procuratoribus (e. g. ad xii, 1,6).

Ᵽu, prou 'provincia', 'provincialis' (ad ix, 23, 1 ut neque pecunias vendendi causa ab aliquo conflentur *provinciali* (?) et ut sit custodia itinerum), Ᵽus 'provincias', Ᵽuis 'provinciis', Ᵽules 'provinciales', Ᵽu ƀ and Ᵽuli ƀ 'provincialibus', etc. prout' (see below, 'ut').

(For' proprius', see under 'pro').

pub 'publicus', '-a', '-um', etc. Also publ, pubc, publc.

q' 'que', passim. Hence q· m 'quem', frequent.

q 'quae', passim. Also qe sometimes and (by error) q· (e. g. ad x 1, 8).

ꝗ 'quam' passim. The flourish at the top of the cross-line is often omitted. Ad x 1, 6 (ut intra annum quisque experiatur) this symbol (wanting the flourish) denotes

'que' (by error ?). When doubled, 'quamquam' is denoted (e. g. ad xii 1, 52 *quamquam* res conparaverunt).

ꝙ 'quod', passim.

q̊ 'qua' (also in ' aequalis', etc.), frequent. On the use (by error?) of this symbol, for 'quia', see below. Ad xii 1,106 (curiales honoribus perfunctos q̊ debent patriae persolvant) 'qua', in its late Latin use for 'quae', is, I think, meant.

q̇ 'qui', passim. Ad xi 36, 31 'officium... q̇ confessos debitum appellare permisit' corresponds to 'officium quod rettulit provocare convictos vel appellare confessos', in the law itself.

q̄a 'quia', e. g. ad x 10, 29 *quia* non debet; ad xi 39, 8 ; ad xii 1, 63. Also q̇a. Also q̊ (by error?), e. g. fol. 107 v.

A symbol resembling the carolingian 'quia'-symbol occurs sometimes in phrases like this (cf. Winstedt in Class. Phil. 1, 402): ad xi 36, 30 similis? nonae (*vel*-na) est, sed hic absolute de debitoribus iussit et xxx tituli similis est legi vii et xx. It should mean something like 'constitutio'. Perhaps 'ordinatio' is meant; and the letters really are OR in ligature : I noted elsewhere (ad xiv 1, 1) the shaftless form of *r* after *o*.

ꝗƀ 'quibus', frequent. Sometimes the letter *i* is written above. Sometimes the first syllable is writen in full, and the second is expressed by *b* with the oblique cross-stroke.

q̄s seems to denote 'quoties' ad x 15, 4 haec lex iudicibus data est ut, *quoties* causa fisci geritur, probatos causidicos tribuant. The words of the law are 'ut privatae rei nostrae, quotienscumque aliquas vel denuntiaverit vel exceperit actiones, idoneos tribuant 'advocatos'. Similarly, I think, ad xi 39, 6 q̄s scribtura (*corr.* — am) dicitur falsa (*corr.* — am) esse.

ꝑ 'res' (also in '*res*tituo', 'possessores', etc.), passim, etc. The capital form of the letter is often used. This symbol is used (by error?) for 're', ad xi 30, 11 pro qua *re* instrumenta causarum in iudiciis proferre necesse est. Also (by error?) for '-rum', ad xiv 3, 3 'pisto*rum* (*vix*-'ris') casas'. It seems to represent 'responsa' ad xii 1, 50 (quattuor responsa reddidit); but the opening words stand in rasura.

R· 'rem' (also in 'possesso*rem*', etc.), passim. Ad xii 1, 84 desertoR· seems to be 'desertores'; it can hardly be 'desertorem'!

rꝑ 'res privata' (in all cases) e. g. *reiprivatae*, ad x 10, 14. Similarly reiꝑ 'rei privatae', e. g. ad x 10, 15.

'res publica' (in all cases). Similarly reiꝑ̄ 'reipublicae', e. g. ad xi 31, 2.

The awkwardness of the Notae Iuris is clearly seen in this symbol, as it appears,

for example, ad xii 1, 16 *fugiens magistratus honorem, si pertinacia permanserint, ordinati ipsorum bona capiant... simili modo in omnibus qui fugiunt reip̄ functiones.* Only a reference to the words of the law can show us that 'rei publicae', and not 'rei privatae', is meant.

s' and s› 'sed', passim.

s̄ sunt', passim.

s̊ 'sint', e. g. ad xii 1, 49, etc. Similarly p' s̊ 'possint', e. g. ad xii 1, 29 quo *possint* expensas... restituere.

scaē (etc.) 'sanctae', (etc.), frequent.

sent̄ 'sententia', '-ae', etc. (e. g. ad xi 30, 50). Also sēn (e. g. ad xi 36, 17). Also sentēnt (e. g. ad xi 36, 23).

signf̄ 'significat' (e. g. ad xi 36,1).

sim̄ 'similis', '-li', etc., e. g. fol. 20 r. *similis* infra tituli xxvi... constitutioni (written in full on fol. 23 r. similis superiori); fol. 129 v. nota *similem* eodem libro tituli v constitutionem.

so ℔ 'solidi', '-dorum', etc. Sometimes the capital form of *l* is used.

sp̄ 'spectabilis', '-li', etc., e. g. fol. 20 r. sive *spectabilis* sive clarissimus.

s̄s̊ 'suprascriptus', '-ta', etc. Also ssis̄ (etc.) 'suprascriptis' (etc.), e. g. ad x̊ 10, 25. Possibly also 'superius', e. g. ad. xiii 1, 15 *potentem defendentem negotiatorem* s̄s *dictum ad solutionem constringi praecipit.* Hardly also 'superior', '-ris', etc., e. g. ad x 4, 2 *quod nunc ablatum est per superiorem (suprascriptam?) constitutionem divi Iuliani'.

Ӿ 'ter' (also in '*ter*tius', 'simili*ter*', etc.), passim.

t' 'tum' (also in 'addi*tum*' etc., and even with the ligature of N and T in 'tantum' ad xii 1, 41; 'quintum', ad xii 1, 95), passim. On the use of the same symbol for the syllables *tur* and *tus*, see below.

τ̓ 'titulus', '-li', etc., passim.

t 'tunc', passim.

Ad xiv 3, 5 tem (written without contraction-stroke, for 'tempore') is probably a mere error.

tēst 'testamentum', '-ti'; etc., e. g. ad xi 36,26. Also tes, e. g. ad ix 43, 1.

tm̄ 'tamen', frequent. Ad xii 1, 75 (II et XII similis. adclamatione (*ex* concl-) tm̄ civium si probati fuerint laborasse, honores, quos meruerint, sortiantur) 'tamen', not 'tantum', is, I think, meant.

ı̇ns 'trans' (see the syllable symbol 'ra', below).

ū 'vel', passim.
   'ver' (also in '*ver*um', 'accusa*ver*it', etc.), passim. Ad xii 1,55 it denotes 'verum' (by error?)
   'ut', passim. In this symbol the horizontal stroke properly stands above the second shaft of the letter. The symbol may therefore be called a ligature of *u* and *t* (*T*) like the well-known ligature of *N* and *T*.

ů 'vero', passim.

uxı̄s (etc.) 'uxoris' (etc.), e. g. ad xii 1, 124; ad xiv 3, 2.

xpı̄ 'Christi-' (in 'Christianus', etc.)

Syllable-Symbols.

d Final *m* may be expressed (really in ligature) by a wavy stroke above the preceding vowel, e. g. fol. 183 r. 'opinione*m*' (at the end of a line).

'con'. The reverted *c*-form is not so common as the form shown in the symbol of 'constitutio' (see above).

'am' (see 'nam', 'quam', above).

bus' (see 'us').

em'. Like R· 'rem' (see above) is d· 'dem' (e. g. ad xii 1, 29 'eis*dem*') and N· 'nem (e. g. ad xii 1, 74 'electio*nem*'; ad ix 42, 14 'mentio*nem*'; ad ix 42, 15 'donatio*nem*, etc).

'er' (see 'numero', 'per', 'ter', 'ver', above). As common as 'ter,' 'ver,' 'per' are ƀ 'ber', ƒ 'fer', ⊁ 'ser'.
'or' (see 'uxor', above).
ra', e. g. f̊ 'fra', g̊ 'gra', ṫ 'tra'.
're', e. g. ċ 'cre', g̊ 'gre', t 'tre'.

'ri' e. g. c̊ 'cri', p̊ 'pri' t̊ 'tri'.

'ro' e. g. g̊ 'gro' t̊ 'tro' (e. g. 'pat*r*onos', ad xii 1, 61).

runt' (see 'um'),

9 'tio'.

'um' (see 'cum', 'tum', above). Very common is R' 'rum' (whence R' t 'runt'). Occasionally with the minuscule form of the letter, so that 'rum' and 'ri' are very similar in appearance.

'ur'. Often t' 'tur' the same symbol as denotes 'tum' and 'tus'.

'us'. Sometimes B· (e. g. ad. xii 1, 85 'dua*bus*'); but usually ℬ represents 'bus'. Similarly ꝳ is found for 'mus' (e. g. 'adsta*mus*' fol. 81 r). Sometimes t' 'tus' (e. g. ad xii 1, 66 'exemp*tus*; ad xii 1, 74 'fac*tus*').