

**Victoria, McPherson Library, Fragm.Lat.3**  
**Acc. 2006-023**  
**Fragment of Azo of Bologna's *Summa Codices***  
**France(?) XIII<sup>1</sup>**

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This work was completed by a University of Victoria undergraduate student as part of coursework for a manuscript studies class with Dr. Adrienne Williams Boyarin, as follows:

- Identification, description, transcription of fol. 1va83-1vb83, textual notes for fol. 1va83-1vb83, and bibliography by Angela Kaneen, December 2018.

Transcription conventions follow those set out by Raymond Clemens and Timothy Graham in *Introduction to Manuscript Studies* (Ithaca, 2007), pp. 75-78. Textual notes on manuscript features, scribal hands, and corrections follow the transcription. The work has been checked and lightly edited by Dr. Adrienne Williams Boyarin.

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1. ff. 1r-1v Incipit mel destiterant. vt ... Explicit ¶ Commitur autem alias. vt cum quis statu

Azo of Bologna, *Summa Codices*. Consisting of the six complete divisions (from “De accusationibus et inscriptionibus” to “Si quis imperatori maledixerit”), and two partial divisions (the end of “Qui accusare non possunt” and the beginning of “Ad legem iuliam maiestatis”) that summarize the first eight titles of Book 9 of Justinian’s Code.

Azo. 1563. *Symma Azonis, Locyples Ivris Civilis Thesavrvs*. Basel, Switzerland: Ioannem Heruagium.

<https://books.google.ca/books?id=ICJ1oVeSJUoC&dq>.

Azo. 1596. *D. Azonis Symma Avrea, id est, Locyples Ivris Civilis Thesaurus*. Lyon, France: Iacobi Stoer.

<https://books.google.ca/books?id=ujlhAAAaAAJ&dq>.

### **Codicology**

Single leaf of parchment. Flesh side is the recto, hair side the verso. 300x190 mm (265x163 mm), trimmed for use as a pastedown. Text in two columns, in a Gothica Textualis bookhand. Ruled in plummet, text in black ink. Initials in red and blue outside the text, paraps in alternating red and blue normally inside the text. Recto damaged from use as a pastedown, obscuring much of its text, especially in the upper half and the bottom left. A rubrication on the verso has been erased and corrected by a later hand.

### **Provenance**

Origin unknown, though the cramped and highly abbreviated Gothic bookhand is typical of the French university system. Dr. Erik Kwakkel has dated the script to the first half of the thirteenth century and the corrected rubrication to the fifteenth century, so the leaf’s time as a pastedown

postdates the fifteenth century. Acquired by Herman Mulder of Belgium in 1994 from Antiquariaat Hermione of the Netherlands. Purchased by Erik Kwakkel from Mulder for the University of Victoria in 2006.

### Textual Remarks

The *Summa Codices* (likely produced between 1208 and 1210) was the best known work of the influential glossator Azo of Bologna (d. ca. 1230). Azo and his fellow Bolognese glossators analyzed and interpreted the *Corpus Iuris Civilis*, the sixth-century Roman emperor Justinian's canonical compilation of Roman law. Azo's work continued to be widely read and cited until the sixteenth century, although there have been no modern editions of his work beyond a 1966 reprint of a 1578 edition and *Select Passages from the Works of Bracton and Azo* (1895), which does not include Fragg.Lat.3's passages. Azo's *Summa Codices* summarized the Code, Justinian's compilation of his predecessor's constitutions, one of the four texts that make up the *Corpus Iuris Civilis*.

Throughout Fragg.Lat.3 are citations to the Code, and well as the Digest and the Institutes, two other texts in the *Corpus Iuris Civilis*. These heavily abbreviated citations follow medieval convention: the particular text is indicated, then the rubric of a title, then the *initium* or number of that title's divisions and, if applicable, its subdivisions. Medieval citations do not note which book of a text is being cited. Modern citations of the *Corpus Iuris Civilis* list the text's initial, then the book, title, division and subdivision by numbers. Because the *Corpus* made its way to western Europe piecemeal over the course of the twelfth century, the medieval vulgate versions are somewhat incomplete and divide themselves into five parts that do not line up with the four parts of modern editions. For this reason, the *Corpus*'s numerical divisions sometimes differ between the medieval vulgate version that Azo is citing and modern editions. In the notes that follow this transcription below, I have inserted modern citations to the *Corpus Iuris Civilis* and indicated in parentheses when their numbers differ from those of the medieval vulgate.

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### TRANSCRIPTION

#### [fol. 1v a83-24]

- a83** ¶ S(ed) si custodia  
**b1** se int(er)fec(er)it. (ue)l p(re)cipitau(er)it. militis culpe ascribitur. I(d est). casti  
**b2** gabitur. q(uod) si custos ip(s)e custodiam int(er)fec(er)it. (ue)l p(er)cipitau(er)it  
**b3** homicidit reus e(st) (er)go si ca(s)u custodia dicatur defu(n)cta te-  
**b4** stimoniis id p(ro)band(um) e(st). (et) sic uenia dabitur. vt. ff. e(odem) l(ege). vlt(ima).  
**b5** ¶ Reman(et) aut(em) incarceratus in custodia. Don(e)c fine(m) acci-  
**b6** piat c(aus)a. vt. S(upra). t(itulo). i. l. ii. in fi(ne). Sed n(ec) t(un)c statim patitur pe(n)am  
**b7** Immo [[de]] carc(er)e extrahitur. vt. audiatur q(ua)liter sit co(n)uict(us)  
**b8** (et) it(eru)m re[[d]]it in carcere(m). postmod(um) educetur (et) audietur.  
**b9** si quis ob[[ii]]c(er)e possit. vt. I(nfra). e(odem). [lege] si quis. (ue)l h(oc) e(st) cu(m)  
acc(us)atus e(st) de [[c]](r)i-  
**b10** mine co(n)fessus (et) no(n) co(n)uictus. vt. ff. de q(uesti)o(n)ib(us). l(ege). i. § diuus.  
**b11** (et) § si quis. S(ed) cu(m) co(n)uic(n)itur nic(h)i(l) expecto. vt. I(nfra). e(odem). l(ege).  
vlt(ima). in p(r)in(cipio).

- b12** (et) l(e)ge. i. in p(r)in(cipio). nisi in ca(s)u q(ua)n(do) seuerior e(st) inpo(s)ita pe(n)a. vt. I(nfra). d(e)
- b13** pe(n)is. [lege] Si vindicari. ¶ Si aut(em) crim(en) graue n(on) sit admissum
- b14** pot(est) acc(us)atus tradi custodiend(us) (ue)l militi (ue)l sibi. (ue)l sid(e)uisso(r)ib(us) h(oc)
- b15** aut(em) p(ro)co(n)sul estimat p(ro) q(u)alitate criminis. (ue)l p(ro)p(ter) hono(r)em. (ue)l p(ro)p(ter) a(m)
- b16** plissimas facu[[l]]tate. (ue)l p(ro) innocentia p(eri)o(n)e. (ue)l p(ro) dig(n)itate eius
- b17** qui acc(us)atur. vt. ff. e(odem). l(e)ge. i. ¶ da(m)pnatur aut(em) sid(e)iussor i(n)-
- b18** q(u)a(n)titate(m) c(er)tam. si ea(m) p(ro)misit. (ue)l si n(on) sit c(er)ta q(u)a(n)titas p(ro)missa
- b19** ip(s)e p(re)tor estimabit q(u)a(n)titate(m) nisi co(n)suetudo sup(er) q(u)a(n)tita-
- b20** te sit inducta t(un)c eni(m) s(er)uabit iudex. ¶ It(em) (et) extraodi(n)ari-
- b21** am pe(n)am inpo(n)it sideiusso(r)i. si dolo n(on) exhib(e)at reum. vt.
- b22** ff. e(odem). l(e)ge. si quis reum. S(ed) (et) dominus p(ro) suo s(er)uo acc(us)ato pot(est) si-
- b23** d(e)iub(er)e. (et) an(te)q(u)a(m) recipiatur in ui(n)cula. (et) p(ost)ea. n(is)i post lo(n)gu(m) t(em)p(u)s h(oc) d(e)-
- b24** sida(re)t dominus fac(er)e. vt. ff. e(odem). l(e)ge. si s(er)uus.

[fol. 1v b24-33]

- b24** **de p(ri)uati carcerib(us)**
- b25** **D**iximus S(upra). d(e) pu(bli)cis carcerib(us) os(er)ua(n)dis Nu(n)c audiam(us)
- b26** d(e) p(r)iuatis carcerib(us) inhi(b)endis. Est quid(em) nemini lic(et) p(r)iuat(um)
- b27** carc(er)em h(ab)ere. (ue)l ex(er)c(er)e pot(est) q(u)am mag(ist)atui. quid (er)go si c(ontra) h(oc) factu(m) fu-
- b28** erit. (ue)l quid si iudices qui se(m)p(er) debent e(ss)e in speculo n(on) ui(n)dica-
- b29** ue(r)int. (ue)l quid si offitior(um) p(r)imates n(on) intimaue(r)int. c(er)te ta(n)q(u)a(m)
- b30** imp(er)i(al)is maiestatis uiolato(r)es. ultimo supplitio p(er)cellentur
- b31** Nam (et) illud c(er)tum e(st) eos qui p(r)iuatum cerc(er)em ex(er)cue(r)int.
- b32** vt pote crim(en) maiestatis co(m)mitt(e)ntes ultimo subiugan-
- b33** dos e(ss)e supplitio. vt. I(nfra). e(odem). l(e)ge. una.

[fol. 1v b33-51]

- b33** **Si reus (ue)l acusator mort(us)**
- b34** **C**Epto criminali iudicio. sepe moritur **fuert. R(ubrica).**
- b35** acc(us)ator (et) reus q(ua)n(do)que (etiam) moritur alt(er)ut(er) eor(um). (et) id(e)o quid iuris
- b36** sit si h(oc) co(n)tigat uideamus. ¶ Et c(er)te si acc(us)a(tor) solus deces-
- b37** s(er)it acc(usati)o cepta expirat. nec enim hrdes acc(us)ator(um) cogun-
- b38** tur exeq(ui) crimina. vt. ff. d(e) acc(us)a(tionibus). l(e)ge. diui. veru(m) ab alio reus
- b39** pot(er)it acc(us)ari. ¶ Si u(er)o d(e)cess(er)it acc(us)atus. o(mn)is criminatio e(st)
- b40** exti(n)cta nisi in c(r)imine lese ma(iestatis). (et) repetundarum (et) a-
- b41** posta\ta\tus (et) h(er)re)seos. vt. ff. d(e) acc(us)a(tionibus). l(e)ge. ex iuditor(um). (et) s(upra). d(e) apo-
- b42** sta(tis). l(e)ge. apostataru(m). ¶ h(oc) si acc(us)atus n(atu)ralit(er) moriatur pen-
- b43** dente c(au)sa p(r)incipali. secus si co(n)sciu(er)it si(bi) morte(m) post lit(em). (contra) (ue)l
- b44** postq(u)a(m) fu(er)it in scel(er)e dep(re)h(e)nsi. t(un)c eni(m) h(er)re)dib(us) bo(n)a sunt
- b45** auferenda. Est eni(m) durius seip(su)m occid(er)e q(u)a(m) p(r)incip(e)m tru-

- b46** cidare. vt. ff. d(e) bo(nis). e(orum). qui. an(te). s(e)n(tentiam). mor(tem). si(bi) consiuerunt.  
**b47** l. iii. (et) I(nfra). e(odem). l(ege). d(e)fu(n)ctis. ¶ Si aut(em) pe(n)dente ap(pellatione).  
 moria-  
**b48** tur ac(cu)tatus. id(em) e(st) q(u)a(n)tu(m) ad crim(en) s(ed) q(u)a(n)tum ad bo(n)a si  
 quid(em) fu-  
**b49** e(r)int ade(m)pta exp(re)ssim p(er)fitienda e(r)it appell(ati)o. si aut(em) fu-  
**b50** e(r)int ade(m)pta tacite. extincta c(aus)a p(r)incipali in crimine  
**b51** extiguitur q(uesti)o bo(n)orum. vt. I(nfra). e(odem). l(ege). vlt(ima).

[fol. 1v b51-62]

- b51** **Si quis i(m)perator**  
**b52** **Supra d(e) ac(cu)tatio(n)ib(us) in g(e)n(er)e diximis. (N)u(n)c aut(em) maledixerit.**  
**R(ubrica)**  
**b53** pon(it) p(er) spe(cies). (et) ita incip(it) a maximo crimine lese ma(iestatis) q(ue)  
**b54** offenditur q(ua)n(doque) facto de quo dicitur. I(nfra). t(itulo). p(ro)x(imo). (et) q(ua)n(doque)  
 dicto.  
**b55** in quo u(er)satur hui(us) tituli tenor. (et) c(er)te si quis inp(er)atore(m) di-  
**b56** x(re)it p(er)fidu(m) atroce(m) ruffu(m) (ue)l quid simile p(ro)fudit si ex leui-  
**b57** tate p(ro)cessit. co(n)te(m)pne(n)d(us) e(st) lubricum eni(m) lingue. ad pe(n)am  
**b58** facile trahi n(on) d(e)b(et). vt. ff. ad. l(egem). iul(iam). mage(statis). l(ege). famose. si-  
**b59** ex insania furoris (ue)l rabie uini. mis(er)atio(n)e dig(n)issimu(s)  
**b60** si aut(em) ex d(e)lib(er)atio(n)e remitt(e)nd(us). (itto)auttri/id est transmittendus) dume(n) ad  
 p(r)in-  
**b61** cipe(m). (et) ip(s)e p(er)pend(et) ex q(u)alitate p(ers)o(n)arium utru(m) crim(en)  
 p(re)t(er)mit-  
**b62** ti an exqu(i)ri (et) puniri d(e)b(e)at.

[fol. 1v b62-83]

- b62** **ad. l(egem). iulia(m) maiestis. R(ubrica).**  
**b63** **Offenditur imp(er)ator f(a)c(t)o aliquo co(m)mitt(e)nte crim(en) in eu(m)**  
**b64** Sicq(ue) audiamus co(n)stitutio(n)es ad lege(m) iul(iam) magestatis.  
**b65** lese int(er)p(re)ta(n)dam. (et) expo(n)endam. ne(m)pe istud crim(en) excellit  
**b66** int(er) o(mn)ia crimina. vid(e)am(us) ita(que) q(uid) sit crim(en) lese maiesta-  
**b67** tis (et) qui admittantur ad h(uius)mo(d)i acc(us)atio(n)em. q(uante) sint pe-  
**b68** ne hui(us) criminis (et) q(u)atenus dur(et). ¶ Est aut(em) crim(en) le-  
**b69** lese maiesta. v(bi)cum(que) quis c(ontra) urbem aliquid mollitur.  
**b70** (ue)l q(uod) p(ro)fugit ad hostes. (ue)l q(uod) hostes q(u)alit(er)cu(n)que iuuat (ue)l armis  
**b71** (ue)l pecc(un)ia (ue)l co(n)salio. (ue)l q(uod) subiectas p(ro)ui(n)cias nittitur face(re) tre-  
**b72** belles (ue)l q(uod) seditio(n)em mou(et) in ciuitate. (ue)l q(uod) mag(ist)ratus occi-  
**b73** dantur (ue)l p(r)inceps. (ue)l qui c(ir)ca latus eius militant. (ue)l q(uod) arma-  
**b74** sumit (ue)l occupat loca c(ontra) re(m)pu(bli)cam/. vn(de) appellatur h(oc) crim(en) p(er) du-  
**b75** ellio(n)is. ea rat(ione). vt dicunt quidam q(uia) h(ec) p(ro)batio p(er) duellu(m) ad-  
**b76** mittebatur. (et) n(on) in alio ca(s)u s(ed) e(st) alia melior r(ati)o. q(uia) p(er)du-  
**b77** elles d(icu)n(tu)r hostes. vt. ff. d(e) v(erbo). si(gnificatione). l(ege). quos nos hostes. d(icitu)r  
 (er)go c(r)i-

- b78** m(en) p(er)duellio(n)is. i(d). hostile. vt ex p(re)d(i)c(t)is pat(et). (et) d(icitu)r. ff. e(odem). l(ege). i.
- b79** ii. (et) iii. (et) iu. s(ed) (et) alias co(m)mittitur (et)i(am) n(on) c(ontra) remp[[u]](bli)\cam/. (ue)l ei(us)
- b80** securitate(m). (et) id(e)o n(on) d(icitu)r t(u)c crim(en) p(er)duellio(n)is. s(ed) si(m)plicit(er) lese
- b81** maiestatis. Et sunt h(ec) intelligenda d(e) urbe roma. v(er)bu(m)-
- b82** eni(m) p(ro)latum simplicit(er) roma(m) sig(n)ificat. vt. instit(utiones). d(e) iur(e).
- b83** na(turali). § s(ed) ius. ¶ Commitur aut(em) al(ias). vt cu(m) quis statu-
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## NOTES ON CITATIONS

- b4** D.48.3.14
- b6** C.9.3.2.in fine
- b9** “lege” missing from citation.
- b9** C.9.4.2
- b10** D.48.18.1.17
- b11** D.48.18.1.27
- b11** C.9.4.5.pr
- b12** C.9.4.1.pr
- b13** “lege” missing from citation.
- b12-13** C.9.47.20
- b17** D.48.3.1
- b22** D.48.3.4
- b24** D.48.3.2
- b24** black rubrication written over erasure in a fifteenth-century hand
- b33** C.9.5.1
- b37** should be “h[e]r[e]des” but is missing an abbreviation mark
- b38** D.48.2.19
- b41** D.48.2.20
- b41-42** C.1.7(10).4
- b46-47** D.48.21.3
- b47** C.9.6.5(4)
- b51** C.9.6.6(5)
- b58** D.48.4.7
- b77** D.50.16.234
- b78-79** D.48.4.1, D.48.4.2, D.48.4.3, D.48.4.4
- b82-83** Inst. 1.2.2

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