

THE CODE OF OUR LORD THE MOST HOLY EMPEROR JUSTINIAN.

SECOND EDITION.

BOOK IX.

TITLE I.

CONCERNING THOSE WHO CANNOT BRING AN ACCUSATION.

1. *The Emperors Severus and Antoninus to Sylvanus.*

You should first answer the charges of murder and wounding of which you are accused by your adversary, because they are more serious, and then the judge will determine according to the circumstances of the case whether you shall be permitted to accuse your adversary, even though you may have been the first to bring an accusation.

Published on the fifth of the *Ides* of March, during the Consulate of Tertullus and Clement, 196.

2. *The Same Emperors to Ingenuus.*

If your guardians or curators consider the receipts, by means of which Secundinus says he can prove that the money has been paid to Eugenius, to be suspicious and false, they will not be prevented from bringing an accusation for forgery in their own names (as this cannot be done in the name of another), for neither guardians nor curators, who administer the affairs of their wards or minors, at their own risk, are readily branded with infamy, unless their guilt of malicious prosecution is clearly apparent to the judge.

Published on the twelfth of the *Kalends* of October, during the Consulate of Antoninus and Geta, 206. 3. *The Emperor Alexander to Rufus.*

Those who intend to bring an accusation of a public crime should not be permitted to do so, unless they have first committed the charge to writing, and have furnished a surety that they will prosecute. If, however, after having furnished security, they should not appear, they shall be notified under the Edict that they must come and conduct the case, and if they do not appear, extraordinary measures should be taken to punish them according to the discretion of the judge; and they shall also be compelled to pay the costs which those who have been summoned have incurred, as well as the travelling expenses of the latter.

Published on the third of the *Nones* of February, during the Consulate of Alexander, 223.

4. *The Same Emperor to Dionysius.*

If your wife thinks that the death of your cousin should be avenged, let her appear before the Governor of the province.

Published on the sixteenth of the *Kalends* of July, during the Consulate of Alexander, 623.

5. *The Same Emperor to Marcellina.*

A woman is not permitted by the Decree of the Senate to accuse the defendant of forgery under the *Lex Cornelia*, unless the property belongs to her. Therefore, as your sons have guardians and curators, they should determine whether the instruments by means of which you allege the adversary of your sons has profited should be denounced as forged.

Published during the *Kalends* of October, during the Consulate of Alexander, 223.

6. *The Same Emperor to Probus.*

You cannot renew the accusation which you allege that you have withdrawn.

Published on the fifth of the *Nones* of May, during the Consulate of Julian, Consul for the second time, and Crispinus, 225.

7. *The Same Emperor to Felix.*

If she who has accused you of a crime should delay to prosecute, a competent judge must fix a certain time for her to do so; and if she fails to proceed within that time, she will be understood to have abandoned the case.

Published on the fifteenth of the *Kalends* of September, during the Consulate of Agricola and Clement, 231.

8. *The Emperor Gordian to the Soldier Gaius.*

Soldiers are not forbidden to bring an accusation of a public crime, if they do so for an injury committed against either themselves or their relatives; hence We permit you to prosecute the murderer of your cousin.

Published on the seventeenth of the *Kalends* of August, during the Consulate of Pius and Pontianus, 239.

9. *The Same Emperor to Severia.*

A competent judge will understand that she who wishes to prosecute for, and avenge the death of her son, should not be permitted to file the accusation before she proves that she is his mother.

Published on the sixth of the *Nones* of March, during the Consulate of Gordian and Aviola, 240. perform the duty demanded by the requirements and responsibilities of the judicial office.

10. *The Same Emperor to Buccatrahius.*

If you desire to prosecute anyone for crimes committed against yourself or your relatives, commit your accusation to writing with the legal formalities, in order that you may have the Governor of the province preside in the case.

Published on the *Kalends* of August, during the Consulate of Gordian and Aviola, 240.

11. *The Emperor Philip and the Cessar Philip to Saturninus and Others.*

As you allege that the adverse party purposely burned your property, you can prosecute him under the *Lex Cornelia de Sicariis*.

Published on the thirteenth of the *Kalends* of July, during the Consulate of Peregrinus and Emilianus, 245.

12. *The Emperors Diocletian and Maximian, and the Cessars, to Corinthia.*

A woman is not permitted to bring an accusation of a public crime except in certain cases, that is to say, where the injury is committed against her or her relatives, and she is expressly authorized by the ancient law to do so; nor is such an accusation required to be committed to writing. Therefore, if you apply to the Governor of the province, he will, in the first place, examine whether the crime is one of those for which a woman is not forbidden to prosecute.

Given on the fifth of the *Kalends* of May, during the Consulate of the above-mentioned Emperors.

13. *The Same Emperors and Czesars to Asclepius.*

Where one brother brings the accusation of a serious or capital crime against another, he not only should not be heard, but he should be condemned to the penalty of exile.

Given on the tenth of the *Kalends* of February, during the Consulate of the Caesars.

14. *The Same Emperors and Ciesars to Mlia.*

If your natural love and affection do not prevent you, you can bring an accusation against your son before the Governor of the province, on account of the attempt which you allege he made against your life.

Ordered on the sixteenth of the *Kalends* of March, during the Consulate of the Caesars.

15. *The Same Emperors and Caesars to Lupio.*

If your reputation is good, you are by no means forbidden to bring a criminal accusation, of course at the risk of being punished for malicious prosecution.

Ordered on the third of the *Kalends* of March, during the Consulate of the Caesars.

16. *The Same Emperors and Caesars to Calluticus.* Your desire coincides with the rule of law which does not permit a third accusation to be brought by him who has previously brought two others, unless he desires to institute prosecution for an offence committed against himself or his relatives.

Ordered at Nicomedia, on the twelfth of the *Kalends* of December, during the Consulate of the Caesars.

17. *Extract from a Sentence of the Same Emperors and Csesars.*

Published on the fifth of the *Ides* of January, during the Consulate of the Emperors Diocletian and Maximian.

We think that it is unjust, and far from consonant with the auspicious events of Our century, that Thaumasius should have the power to accuse him in whose house (although he was freeborn) it is proved that he had remained from infancy. Therefore the accusation of crime which he has brought against Symmachus shall not be entertained. If, however, the said Thaunasius should wish to bring a civil action him before the Governor of the province, he can do so.

18. *The Same Emperors and Csesars to Julianus.*

If you wish to accuse your sister of a minor offence, you will not be prevented from doing so in the tribunal of the Governor of the province, by whom the said offence rashly committed will be punished with the proper penalty.

Given on the third of the *Kalends* of March, during the Consulate of Diocletian, Consul for the ninth time, and Maximian, Consul for the eighth time, 304.

19. *The Emperors Valentinian, Valens, and Gratian to Lauditius, Prefect of Sardinia.*

Accused persons are denied permission to accuse their prosecutors of a crime of equal or less gravity, unless it was committed against them or their relatives, before they themselves have, in accordance with the provisions of the ancient laws, been acquitted of the offence with which they are charged; but they can file their information even while the accusation against them is still pending.

Given on the day before the *Ides* of August, during the Consulate of Gratian, Consul for the third time, and Equitius, Consul for the fifth time, 374.

20. *The Emperors Arcadius and Honorius to Eutychianus, Prse-torian Prefect.*

If a retainer or slave belonging to someone's household should appear as an informer against, and an accuser of the latter, to whose family he belonged and whose society he enjoyed, which accusation would cause him to lose his reputation, his life, and his property, he shall be struck with the avenging sword before the witnesses are produced, and the examination of the case takes place, or even before the criminal accusation has been begun; for it is better to put a summary end to such a criminal charge than for it to be heard. We, however, except from this rule the crime of high treason alone.

Given at Constantinople, on the sixth of the *Ides* of November, during the Consulate of Csesarius and Atticus, 397.

21. *The Emperors Honorius and Theodosius to the Consuls, Pr%tors, Tribunals of the People, and Senate, Greeting:*

If freedmen should presume to accuse those who have manumitted them, or their heirs, they shall be liable to the same punishment inflicted under similar, circumstances upon slaves, and they shall pay the penalty before their forbidden accusation has begun.

Given on the seventh of the *Ides* of August, during the Consulate of Asclepiodotus and Marinianus, 423.

TITLE II.

CONCERNING ACCUSATIONS AND DENUNCIATIONS IN WRITING.

1. *The Emperor Alexander to Martian.*

The Governor of the province will not be ignorant that those who remove landmarks should be punished with extraordinary severity.

Published on the third of the *Kalends* of August, during the Consulate of Alexander, 223.

2. *The Same Emperor to Syrus.*

Where a slave is accused of any crime whatsoever, his master can defend him, appear in court, and answer the charge of his accuser. But after the proof of the crime has been established, not the master himself but the slave shall be condemned, for a master is only permitted to defend his slave in order to be able to make suitable allegations in his behalf.

Published on the eleventh of the *Kalends* of December, during the Consulate of Alexander, 222.

3. *The Same Emperor to Stephanides.*

The laws relating to public prosecutions permit persons who are accused of capital crimes, and who are absent, to be defended by an attorney.

Published on the fourth of the *Nones* of November, during the Consulate of Maximus, Consul for the second time, and Elianus, 224.

4. *The Emperor Gordian to Archelaus.*

In case the accusers are absent, and have not failed to be present in court through contumacy, and the Governor of the province, having been applied to by the party accused, has, without hearing the case, rendered a decision that he against whom you have complained shall be discharged, the criminal accusation will still continue to exist, as it was not dismissed through the contumacy or neglect of the accusers; and the said criminal case shall be heard by the same judge or his successor, in the ordinary way.

Published on the *Nones* of March, during the Consulate of Gordian, Consul for the second time, and Pompeianus, 242.

5. *The Same Emperor to Paulinus.*

He who brings an unjust accusation is none the less liable for a crime or an atrocious injury, for the reason that he alleges that another directed him to make it; for in this instance it is well established that proceedings can be instituted not only against the principal guilty party, but that his mandator is also personally responsible.

Published on the third of the *Ides* of September, during the Consulate of Gordian, Consul for the second time, and Pompeianus, 242.

6. *The Same Emperor to Avidianus.*

It is an ancient rule of law that a person who is absent cannot be accused of a capital crime; but it is only necessary for the accusation to be recorded, if the defendant is not present. Therefore, as you, while absent and ignorant that you had ever been accused of any crime, have, as you state, been unjustly sentenced to the mines by the Governor of the province, without, as you assert, ever having been able to learn that you had been prosecuted; in order

that the truth may now be ascertained in your presence, do not fail to appear before the Praetorian Prefect, who will take cognizance of any innovation contrary to the provisions of the Imperial Constitutions which may have taken place, and will correct it in conformity with justice.

Published on the fourth of the *Nones* of April, during the Consulate of Arianus and Pappus, 244.

7. *The Same Emperor to Proculus.*

It is a well-known fact that denunciations of crimes made by public officials before Governors should be examined without the ordinary formalities required in the case of accusations. The judge, however, should not fail to carefully investigate the grounds of the accusation, especially if it is suspected of being false, or is well known to be such.

Published on the eighth of the *Ides* of January, during the Consulate of Peregrinus and Emilianus, 245.

8. *Extract from the Imperial Letters of the Emperors Diocletian and Maximian.*

If anyone should think that he has sustained an injury from another, and desires to make a complaint against him, he should not apply to the *stationarii*, but should appear before the Governor, and either file his statement, or cause his complaint to be recorded.

Published without date or designation of Consulate.

9. *The Same Emperors to Honoratus.*

Anyone who has been charged with a public crime, cannot again be accused of the same crime by another person. If, however, several offences arise from the same act, and complaint is only made of one of them, it is not forbidden for an accusation of another to be filed by some other individual. The judge will grant a hearing for both crimes, as he will not be permitted to pass sentence for one of them separately before a thorough examination of the other has taken place.

Published on the fourteenth of the *Kalends* of September, during the Consulate of Bassus and Quintianus, 289.

10. *The Same Emperors and C&sars to Ursia.*

Anyone who holds out the hope of acquittal to an accused person, whose fate is under the power and in the hands of the judge, does not, by this unlawful promise, commit a crime of less gravity than that committed by someone who in violation of public order hires him to do this.

Published on the third of the *Kalends* of November, during the Consulate of Diocletian, Consul for the fourth time, and Maximian, Consul for the third time, 290.

11. *The Same Emperors and C&ssars to the Children of Our Beloved Crispina.*

If anyone thinks that he ought, in accordance with public law, to accuse someone of the crime of homicide, who has already been charged with the same offence by another, who was unable to prove him guilty, he must first show that there was collusion, and that the defendant was acquitted for this reason; as this has very properly been prescribed by Our predecessors, the Emperors.

If, however, he should not think that this can be done, you can compel him to prosecute the shepherds and robbers for the crime, and have it decided in your court, and if it is apparent that it was committed by the accused, he will be liable to public punishment under the law.

Given on the eighth of the *Ides* of April, during the Consulate of Annibalianus and Asclepiodotus, 292.

12. *The Same Emperors and C&ssars to Aurelius.*

An innocent person cannot incur the risk of prosecution where someone has voluntarily committed suicide.

Ordered at Sirmium, on the fourteenth of the *Kalends* of June, during the Consulate of the above-mentioned Emperors.

13. *The Emperors Valerian, Gratian, and Theodosius to Marini-anus, Vicegerent of Spain.*

If anyone should think that slaves ought to be accused, he must not subject them to bodily torture before filing a written accusation against them.

Given on the sixth of the *Kalends* of January, during the Consulate of Merobaudus, Consul for the second time, and Saturninus.

14. *The Same Emperors and Arcadius to Cynegius, Prsetorian Prefect.*

One and all judges are hereby notified that, in the prosecution of public crimes, they ought not to make use of decrees pronounced in other cases, or place implicit reliance upon statements drawn up by public officials, but should endeavor to ascertain the truth in each particular case.

Given at Constantinople, on the day before the *Kalends* of May, during the Consulate of Arcadius and Bauto, 385.

15. *The Same Emperors to Tatianus, Prsetorian Prefect, Sequel to Other Matters Stated.*

It is proper for men of high rank to appear personally in court, when their presence in criminal cases is demanded by a written accusation; although, in actions involving money, they can make their defence by means of attorneys.

Given at Milan, on the fifteenth of the *Kalends* of March, during the Consulate of Valentinian, Consul for the fifth time, and Neoterius, 390.

16. *The Emperors Arcadius and Honorius to Pasiphilus.*

In the trial of criminal cases it is proper that those accusations should first be heard which involve the most serious offences, and are prior in order of time, so that the authority of the law may terrify one or the other of the parties; and if this rule should be violated, those whose duty it is to preside shall be sentenced to pay a fine of five pounds of gold.

Given on the eighth of the *Ides* of January, during the Consulate of Olybrius and Probinus, 395.

17. *The Emperors Honorius and Theodosius to the Consuls, Praetors, Tribunes of the People, and Senate, Greeting:*

We order that the provisions heretofore enacted in the laws with reference to accusations shall be observed, so that whoever is charged with a capital crime shall not immediately be considered guilty, merely because he has been accused, in order that innocence may not be unjustly punished; but that the accuser shall appear in court, give the name of the defendant, make the accusation in writing, and become, as it were, a prisoner (proper consideration being had to his rank), to prevent him from making false statements with impunity, as the same punishment should be inflicted upon one bringing a false accusation as the latter intended should be imposed upon the innocent party. Let no one flatter himself that he can hope for pardon after having confessed under torture that he was guilty of crime, or that any attention will be paid to his false denunciation of persons of superior rank, or to any made against his enemies, whom he desires to involve with himself in a common fate, or expect that he can escape, either through the efforts or the privileges of those whom he named, for the provisions of the ancient law require that he shall be examined only with reference to offences of which he has confessed himself guilty, but not concerning those in which others are implicated, and therefore no one who admits that he is guilty of crime shall be examined as to the complicity of others.

Given at Ravenna, on the eighth of the *Ides* of August, during the Consulate of Asclepiodotus

and Marinianus, 423.

TITLE III.

CONCERNING THE PRODUCTION AND TRANSFER OF PERSONS ACCUSED OF CRIME.

1. *The Emperors Valentinian and Valens to Valentinian.*

When a soldier is found to have committed a public crime in a province, the Governor must take him into custody, and make a report setting forth the nature of the case, and the rank of the party implicated.

Given at Milan, on the twelfth of the *Kalends* of February, during the Consulate of Valentinian and Valens, 365.

2. *The Emperors Gratian, Valentinian, and Theodosius to Eutro-pius, Prsetorian Prefect.*

No accused person shall, under any circumstances, be confined in prison before he has been convicted. If he should happen to be a long distance away, the accusation shall not be received before the accuser formally agrees that, if he should fail to legally prove the charge, he will submit to the penalty which the other party would have suffered if he had been found guilty. A sufficient time, consisting of not less than thirty days, shall be granted by the judge of the district to the accused, for the purpose of arranging his business; and no more shall be granted to him who has been ordered to produce the defendant. After he has appeared in court, and an advocate has been appointed to defend him, the case shall be heard, and, whether the guilt or the innocence of the accused is established, he and his prosecutor must be treated in the same manner, without any distinction.

Given at Constantinople, on the third of the *Kalends* of January, during the Consulate of Gratian, Consul for the fifth time, and Theodosius.

3. *The Emperors Valentinian, Theodosii, and Arcadius to Dre-panius, Proconsul of Africa.*

We order that no one shall be produced in court unless the judge has directed that this shall be done.

Given at Milan, on the *Nones* of February, during the Consulate of Valentinian, Consul for the third time, and Neoterius, 390.

TITLE IV.

CONCERNING THE CUSTODY OF ACCUSED PERSONS.

1. *The Emperor Constantius to Florentinus.*

As soon as the defendant is produced in any case, whether an accuser is responsible for his appearance, or whether a public official has caused his arrest, his trial must at once proceed, so that if he is guilty, he may be punished, and if he is innocent, he may be discharged.

When the accuser is absent, or the presence of the accomplices of the accused is considered necessary, they should be found as soon as possible. In the meantime, however, handcuffs should not be placed on the defendant, which bind him closely, but he should be placed in longer chains (if the nature of the offence demands the harshness of chains); so that he may not be subjected to suffering, but still remain in safe custody. He should not, however, be confined in a dark dungeon, but where he can be reached by light, and enjoy it; and, as night demands double vigilance, he ought to be lodged in the vestibule of a prison, or some other healthy place, and, when day returns, he should immediately be brought out into the light, as soon as the sun rises, in order that he may not die through imprisonment, which is considered unfortunate in the case of innocent persons, but not sufficiently severe so far as those who are guilty are concerned.

The following rule must also be observed, namely, that it shall not be lawful for those who perform the duties of jailers, or their attendants, to sell their cruelty to accusers, by destroying

innocent persons through confinement in narrow dungeons, or, by delaying the hearing of their cases, cause them to waste away with disease; for a judge is not only liable to loss of reputation, but he will also incur serious risk if he does not punish with the penalty of death any jailer or his attendants, who, through negligence, or for any other reason whatever, permit anyone to remain in prison a longer time than he should, or to punish by starvation.

Given on the day before the *Kalends* of July, during the Consulate of Constantine, Consul for the sixth time, and the Caesar Constantius, 353.

2. The Same Emperor and Csesar to Evagrius, Prsetorian Prefect.

Where anyone is accused of such an offence or crime as to render him worthy of being confined in a filthy and narrow cell, he shall be publicly heard, and it must be decided whether he is liable to imprisonment, and afterwards, if it appears probable that he has committed the crime with which he is charged, he should be conducted back to prison. In this way information of crimes which have been perpetrated is obtained by testimony given in public, so that some restraint may be imposed upon judges who are prone to the exercise of unreasonable severity.

Given at Heraclia, on the third of the *Nones* of February, during the Consulate of Constantine, Consul for the seventh time, and the Caesar Constantius, Consul for the second time, 354.

3. The Same Emperor to Acindynus, Prietorian Prefect.

As the same prison is ordinarily used for the confinement of criminals of both sexes, We decree, by this law, that even if the nature of the punishment requires that those of both sexes should be incarcerated together, still it is ordered that males and females shall not be placed in the same cells.

Given on the *Nones* of April, during the Consulate of Acindynus and Proculus, 340.

Extract from Novel 134, Chapter IX. Latin Text,

At present, under the new law, We do not permit any woman to be sent to prison, locked up, or placed in custody, on account of money due the Treasury, or in any civil case, or for the commission of any crime; but if an action has been brought against her to collect a debt due to the Treasury, or to a private individual, she can legally answer by her husband, or by anyone else. Where, however, he either refuses to answer, or to conduct her case, execution can be issued against her property. If the offence is of such a character as to require her to be placed in custody, and she can furnish a surety, he shall be responsible for her appearance. If she should swear that she cannot furnish a surety, she can take the oath to appear in court when called upon to do so.

If the crime of which she is accused is of the most serious description, she shall be placed in a monastery, or a nunnery, or delivered up to certain women by whom she shall be guarded.

When judges who do not observe these rules are of superior rank, they shall pay a fine of twenty pounds of gold, and if they are of inferior station they shall pay a fine of ten. Their subordinates, who have failed to discharge their duty in the cases above mentioned, shall be deprived of their offices and sent into exile.

4. The Emperors Valentinian, Valens, and Gratian to Probus, Pr&-torian Prefect.

The custody and care of imprisoned persons devolves upon the jailer, who must not think that some abject and vile dependent will be responsible, if a prisoner should, in any way escape, for We desire that he himself shall suffer the same penalty to which the prisoner who escaped is shown to have been liable.

When, however, the jailer is necessarily absent from his post, We order that his assistant shall be bound to exercise the same vigilance, and shall be punished with the same severity.

Given on the third of the *Kalends* of July, during the Consulate of Gratian, Consul for the fifth time, and Probus, 371.

5. *The Emperors Gratian, Valentinian, and Theodosius to Eutro-pius, Praetorian Prefect.*

We clearly and definitely decree that persons who are in prison shall, if convicted, immediately suffer the penalty to which they are sentenced, or that, having been discharged, they shall not be oppressed by further confinement.

We also decree that the jailer shall, every thirty days, make a statement of the number of prisoners in his custody, the nature of their different offences, and the rank and age of the prisoners.

If he should fail to do this, We order that he shall pay twenty pounds of gold to Our Treasury, and We decree that a negligent judge, or one who has only manifested weakness and is unfitted for the office which he has obtained, shall be fined ten pounds of gold.

Given at Constantinople, on the third of the *Kalends* of January, during the Consulate of Gratian, Consul for the fifth time, and Theodosius, 380.

6. *This Law is not Authentic.*

TITLE V.

CONCERNING THE PROHIBITION OF PRIVATE PRISONS.

1. *The Emperor Zeno to Ba^zilius, Praetorian Prefect.*

We order that no one whosoever shall, under any circumstances, be permitted to have a private prison either in the magnificent city of Alexandria, or in the province of Egypt, or in any other part of Our Empire, or on his own land or in any of his houses, and We direct the illustrious Augustal Prefect, and the distinguished Governors of all the provinces, in the future to use every effort possible to repress the repeatedly mentioned insolence of unprincipled men who are guilty of such an offence. For, by this most salutary law, the eminent Augustal Prefect and the Governors of provinces shall unquestionably incur the penalty of high treason, if, having learned that a crime of this kind has been committed, they do not vindicate the offended majesty of the Emperor.

Moreover, all high officials are rendered liable to punishment for treason if, as soon as they have ascertained that this prohibited offence has been committed anywhere, they do not, at once, inform the judges under their jurisdiction, in order that the said atrocious crime may be punished; for it is clear that those who have committed a crime of this kind should be subjected to the extreme penalty, not only in accordance with the provisions of the ancient laws and constitutions, but also as guilty of high treason.

Given at Constantinople, on the *Kalends* of July, during the Consulate of Longinus, 486.

THE CODE OF OUR LORD THE EMPEROR JUSTINIAN.

SECOND EDITION.

BOOK IX.

TITLE VI.

WHERE THE DEFENDANT OR THE ACCUSER DIES.

1. *This Law is not Authentic.*

2. *The Emperor Antoninus to Eutychianus.*

Even if Marcellus, who was accused of the crime of forgery, is dead, and for this reason the crime is extinguished in his person, still the accusation is not annulled, so far as you are concerned, as you state that his wife, as well as yourself, has also been accused of complicity in the same offence.

Published on the seventh of the *Kalends* of October, during the Consulate of Lsetus, Consul

for the second time, and Cerealis, 216.

3. *The Same Emperor to Proculus.*

If he whom you have accused of homicide, or of any other offence whatsoever, is dead, proceedings instituted against you for having abandoned the accusation will be without effect, as both the crime and the penalty are extinguished by death; and, for the same reason, the necessity of proceeding with the accusation is no longer imposed upon you.

Published at Rome, on the fourth of the *Kalends* of October, during the Consulate of Sabinus and Anulinus.

4. *The Emperor Alexander to Veronitanus.*

If, as you allege, you are interested in a case involving the payment of money, although Annianus, whom your agent accused of forgery, is dead, you will not be prevented from bringing an accusation, if anyone should avail himself of the instrument, which is of doubtful validity, against you; for although the offence has been extinguished by the death of the principal, and can no longer exist, still, if anyone wishes to make use of the forged instrument, he must understand that he is liable to punishment for doing so.

Published on the sixth of the *Kalends* of January, during the Consulate of Albinus and Emilianus, 228.

5. *The Emperor Gordian to Rufus.*

It is a well-known rule of law that, where persons accused of the commission of public crimes, whether they themselves have perpetrated them or have ordered others to do so, die while the accusation is pending, their heirs will not be excluded from their estates, unless they have committed suicide.

Published on the seventh of the *Kalends* of November, during the Consulate of Pius and Pontianus, 239.

6. *The Same Emperor to Julianus.*

If anyone condemned to death or deportation should take an appeal, and die before it has been determined, the crime is extinguished by his death. The same rule shall be observed if the accuser should die while the appeal is pending. If, however, the culprit should be sentenced to the penalty of relegation, and to the loss of a part of his property, and should have recourse to appeal, the appeal must, nevertheless, be heard and decided even after his death; as it is proper to ascertain whether the confiscation of his property was valid or not.

Published on the sixth of the *Kalends* of August, during the Consulate of Gordian and Aviola, 240.

TITLE VII.

WHERE ANYONE REVILES THE EMPEROR.

1. *The Emperors Theodosius, Arcadius, and Honorius to Rufinus, Prsetorian Prefect.*

Where anyone, ignorant of modesty and without any sense of shame, thinks Our name should be attacked with dishonorable and petulant abuse, or if rendered turbulent by drunkenness, he should manifest discontent with the proceedings of Our reign, We are unwilling for him to be subjected to any penalty, nor do We desire that he be treated with severity or harshness; since if this was the result of levity, he is only worthy of contempt; if it was caused by insanity, he is an object of pity; and if it was done for the purpose of injury, he should be pardoned.

Wherefore, let any occurrence of this kind be, without reservation, brought to Our knowledge, in order that We may consider what has been said, and determine whether it should be passed over in silence, or investigated.

Given at Constantinople, on the sixth of the *Ides* of August, during the Consulate of

Theodosius, Consul for the third time, and Abundantius, 392.

TITLE VIII.

ON THE LEX JULIA RELATING TO TREASON.

1. *The Emperor Alexander to Paulinus.*

You are not only not permitted to accuse a judge of the crime of treason, because you allege that he has rendered a decision against Our Constitution, but I do not wish accusations of this crime to be made during My reign on any other grounds whatever.

Published on the third of the *Ides* of April, during the Consulate of Maximus, Consul for the second time, and Julianus, 224.

2. *The Same Emperor to Faustinianus.*

You entertain a singular idea of My disposition when, having in a moment of anger and without reflection sworn by the name of the Emperor that you would always treat your slave with severity, you think that you will be guilty of treason if you do not continue to do so:

Published on the third of the *Nones* of February, during the Consulate of Julian, Consul for the second time, and Crispinus, 225.

3. *The Emperor Constantine to Maximus, Prefect of the City.*

If one person should accuse another of the crime of treason, he who is accused, no matter what his rank or privileges may be, cannot protect himself from torture, and whoever brings the accusation is hereby notified that he also shall be put to the question (if he should be unable to prove his charge by convincing evidence) along with the person accused of a crime of this kind. He also, by whose advice and instigation the accusation appears to have been made, must be subjected to torture, in order that punishment may be inflicted upon all persons guilty of complicity in the offence.

Published on the *Kalends* of January, during the Consulate of Volusianus and Annianus, 314.

4. *The Emperors Valentinian, Valens, and Gratian to Olybrius, Prefect of the City.*

No one, under any circumstances, shall be forbidden to make use of any defence, either that of military service, or of any order to which he may belong, or of his family, to escape torture, without our knowledge and consent, where such defence is proper, except solely in cases of treason, in which the condition of all persons is considered to be equal.

Given on the eighth of July, during the Consulate of the Noble Prince Valentinian and Victor, 369.

5. *The Emperors Arcadius and Honorius to Eutychianus, Praetorian Prefect.*

Anyone who joins an infamous faction composed of either soldiers, private persons, or barbarians, whether he himself, as its head, receives the oath, or takes it as an individual, shall be put to death as guilty of high treason, and all his property shall be confiscated to Our Treasury, whether he has plotted the death of illustrious men who are members of Our Council and Consistory, and of the Senate (as they form part of Our government), or finally, of anyone else who is in Our service; for the laws punish with equal severity the intention to commit a crime and its actual perpetration.

(1) The sons of a person convicted of such an offense, to whom by special Imperial indulgence We grant the privilege of life (for they should be put to death by the same punishment as their father, as in their cases his example, that is the inclination to commit a crime, is inherited) shall be excluded from the estates and successions of their mothers and grandmothers, and all their remaining nearest relatives.

Nor shall they be able to receive anything under the wills of strangers, but shall always remain in want, and poor; and the infamy of their fathers will always attach to them, nor shall they

afterwards be eligible to any office, or be qualified to perform public duties; in short, such men shall remain in such a condition of perpetual indigence that death will be a consolation to them, and life a punishment.

(2) Finally, We order that those persons who attempt to intercede with Us for criminals of this kind shall not be pardoned, no matter what their rank may be.

(3) Again, We decree that the children of such persons, whatever may be their number, shall only be entitled to the Falcidian portion out of the estate of their mother, whether she left a will or died intestate ; so that the daughters may only have a moderate sum for their support, rather than the entire benefit and name of heirs. The rule, when applicable to them, should be enforced with moderation, as We think that they are less venturesome on account of the weakness of their sex.

(4) Emancipations granted by the persons aforesaid, either in favor of their sons or daughters, after the commission of the crime, are not valid. We also decree that all dowries, donations, and, finally, all alienations of any kind of property whatsoever, which it is established were made after the time when the person implicated decided to join the faction and association aforesaid, whether they were fraudulently or legally effected, shall be of no force or effect.

(5) The wives of the above-mentioned criminals shall recover their dowries, if any property received from their husbands by way of donation was given on condition that it should be reserved for their children; and they are notified that all of said property to which the sons may be entitled by law must be left to Our Treasury, and that the Falcidian portion of the same shall be considered to have been only reserved for the daughters, and not for the sons.

(6) We direct that what We have provided with reference to the aforesaid offenders and their children shall also apply to their followers, associates, and attendants; and We decree that their sons and their abettors shall be treated with the same severity.

(7) If any one of these persons, at the very beginning of the organization of the faction, being animated by a praiseworthy intention, should betray the conspiracy, he shall be honored and rewarded by Us. He, however, who becomes implicated, and afterwards reveals the secrets of the conspirators, unknown up to that time, shall be considered worthy of absolution and pardon.

Given on the day before the *Nones* of September, during the Consulate of Csesarius and Atticus, 397.

6. *This Law is not Authentic.*

7. *Paulus, On Public Crimes.*

It should be remembered that, where any act is alleged to have been committed against the majesty of the Emperor, it is customary for the crime to be prosecuted even after the death of the culprit, since the Divine Marcus ordered the property of the Senator Druncianus, who was the accomplice of Cassianus in his conspiracy, to be confiscated to the Treasury after his death; and, during Our reign, many heirs have been deprived of their right to estates under similar circumstances.

(1) Moreover, in a crime of this kind, involving the majesty of the Emperor, slaves are tortured to obtain evidence against their masters.

8. *Martianus on Criminal Prosecutions, Book I, Title: "On the Lex Julia, Relating to the Offence of High Treason."*

After the enactment of the Constitution of the Divine Marcus, We have adopted the rule that the accusation of this crime can be made even after the decease of the culprits, so that, if the offender should be convicted after his death, his memory may be condemned to infamy, and his heir deprived of his estate; for in this way a person who has conceived such a wicked design is considered to have been punished from that very moment. Thus the Divine Severus

and Antoninus decided that, from the instant when a man became guilty of an offence of this kind, he could neither alienate property nor manumit anyone, and that no one could legally pay him a debt. The Great Antoninus stated the same thing in a rescript. Under such circumstances, that is to say, where treason is involved, slaves are put to the question to obtain evidence against their masters.

If the person implicated should die before his case has been decided, his property must be deposited under seal, on account of the uncertainty of his successor; as the Emperors Severus and Antoninus stated in rescripts addressed to the Receivers of the Treasury.

Given on the third of the *Nones* of March, . . .

TITLE IX.

ON THE LEX JULIA RELATING TO ADULTERY AND FORNICATION.

1. *The Emperors Severus and Antoninus to Cassia.*

The *Lex Julia* declares that wives have no right to bring criminal accusations for adultery against their husbands, even though they may desire to complain of the violation of the marriage vow, for while the law grants this privilege to men it does not concede it to women.

Published on the thirteenth of the *Kalends* of August, during the Consulate of Lateranus and Rufinus, 198.

2. *The Same Emperors to Cyrus.*

Those are guilty of the crime of pimping who allow their wives taken in adultery to remain in marriage, and not those who merely suspect their wives of having committed adultery.

Published on the *Kalends* of July, during the Consulate of Anulinus and Fronto, 200.

3. *The Emperor Antoninus to Julianus.*

Not only the words of the *Lex Julia* concerning the repression of adultery, but also the spirit of the law, authorize a husband who desires to prove that his wife has been guilty of adultery to do so by torturing slaves of both sexes; and this applies only to the slaves of the persons specially mentioned in the law, that is to say, the woman, and her natural, not her adoptive father; and it forbids the said slaves to be either manumitted or sold within the term of sixty days, to be computed from the date of the dissolution of the marriage, and requires the husband to furnish a bond to the owners of said slaves to indemnify them, if the former should die under torture, or become deteriorated in value, and the woman be acquitted.

Published on the fifteenth of the *Kalends* of August, during the Consulate of Antoninus, Consul for the fourth time, and Balbinus, 214.

4. *The Emperor Alexander to Julian, Proconsul of the Province of Narbonne.*

If Numerius, who killed Gracchus at night in the act of adultery, did so under such circumstances that he could have taken his life with impunity by virtue of the *Lex Julia*, what was lawfully done will incur no penalty.

The same rule applies to sons who have obeyed the orders of their father, in a case of this kind. If, however, the husband, rendered insane by grief, killed the adulterer without being legally authorized to do so, even though the homicide may have been excusable, still, because it was committed at night, and his just grief diminished the criminality of the act, he can be sent into exile.

Without date or designation of Consulate.

5. *The Same Emperor to Vadantus.*

An adulterer cannot be accused after the lapse of five years from the time when the offence is said to have been committed, and these must be reckoned continuously, for the guilty party must not be deprived of the benefit of the prescription allowed by the laws.

Published on the *Ides* of June, during the Consulate of Maximus, Consul for the second time, and Julianus, 224.

6. *The Same Emperor to Sebastian.*

Sixty available days are granted by law to a husband desiring to bring an accusation of adultery, during which he will be allowed to do so either against the adulterer or adulteress. If this term should elapse, the husband can still proceed under the law conceding this right to strangers. He who brings an accusation of this kind should have no fear of the penalty for malicious prosecution, for My Divine relatives, the Emperors, have permitted the torture of slaves to establish proof of the crime in the same way as in the case of a husband.

Published on the second of the *Ides* of August, during the Consulate of Maximus, Consul for the second time, and Elianus, 224.

7. *The Same Emperor to Heruclanus.*

The man who afterwards married her cannot be a lawful accuser, where an adult virgin was violated before her marriage; and therefore he cannot prosecute the crime as her husband, unless he was betrothed to the girl who was violated. If, however, she herself, with the assistance of her curators by whom her affairs were transacted, should prosecute for the injury committed upon her, the Governor of the province will impose a severe sentence in accordance with what is required by law for a crime of this kind, if its commission should be established.

Published on the twelfth of the *Kalends* of June, during the Consulate of Maximus, Consul for the second time, and Elianus, 224.

8. *The Same Emperor to Domnus.*

The *Lex Julia* relating to chastity forbids the two parties guilty of adultery, that is to say, the man and the woman, to be prosecuted at the same time, and in the same case, but they can both be prosecuted in succession.

Published on the *Ides* of June, during the Consulate of Julian, Consul for the second time, and Crispinus, 225.

9. *The Same Emperor to Proculus.*

It is proper for the preservation of virtue during My reign that a woman convicted under the *Lex Julia* concerning chastity should suffer the legal penalty.

Moreover, anyone that knowingly marries, or takes back a woman convicted of adultery, who has in some way evaded the penalty prescribed for her crime, shall be punished by the same law as a procurer.

Published on the seventh of the *Kalends* of February, during the Consulate of Julian, Consul for the second time, and Crispinus, 225.

10. *The Same Emperor to Demetrianus.*

It is not lawful to condone the crime of adultery, and he who is guilty of collusion is in the same position as one who refuses to reveal the truth. Moreover, he who accepts a sum of money to desist from prosecution, in a case where adultery has been discovered, is liable to the penalty imposed by the *Lex Julia*.

Published on the fifth of the *Nones* of May, during the Consulate of Fuscus and Dexter, 226.

11. *The Same Emperor to Narvanus.*

No one doubts that a husband cannot accuse his wife of adultery if he continues to retain her in marriage.

Published on the *Kalends* of September, during the Consulate of Alexander, Consul for the second time, and Marcellus, 227.

Extract from Novel 117, Chapter XVIII. Latin Text.

Under the new law, however, he can do so, and if the accusation is proved to be true, he can then repudiate her, and he should file a written accusation against her. If, however, the husband should not be able to establish the accusation of adultery which he brought, he will be liable to the same punishment which his wife would have undergone if the accusation had been proved.

12. The Same Emperor to Bassus.

Although, as you allege, he who was convicted of the crime of adultery was not restored to his civil rights; still, since your sister, with whom the adultery was said to have been committed, was not accused, she could not have been subjected to any penalty, or rendered infamous, especially as you state that the accuser afterwards died.

Published on the *Kalends* of June, during the Consulate of Sabinus, Consul for the second time, and Venustus, 241.

13. The Same Emperor to Sylvanus.

It is an established rule of law that, if the adulteress, after the accusation has been brought against her, should leave the province, she can still be prosecuted while absent.

Published on the *Nones* of March, during the Consulate of Atticus and Prsetextatus, 243.

14. The Emperor Gordian to Aquila.

If your wife should be guilty of adultery during marriage, you ought to prosecute her in the ordinary manner, in the province in which the adultery was committed. If she committed adultery and married again after you repudiated her, you cannot accuse her, unless the notice of the accusation preceded her second marriage.

Published on the *Nones* of December, during the Consulate of Gordian and Aviola, 240.

15. The Same Emperor to the Soldier Hilarinus.

If your former wife, before having been accused of adultery, left the province, she cannot be accused while absent; nor can the complaint be legally made or filed in the province in which you were serving as a soldier. Although you will not be permitted to do this while you are in the military service, you can accuse her afterwards, by observing the usual formalities; for the time during which you were performing your duties as a soldier should not deprive you of the vengeance which you demand for the suffering inflicted upon you as a husband.

Published on the fourth of the *Ides* of March, during the Consulate of Atticus and Praitextatus, 243.

Extract from Novel 134, Chapter V. Latin Text.

If the person guilty of adultery should conceal himself, or should leave the province in which the crime was committed, We order that he shall be summoned by the judge as legally required; and if he does not appear, the proceedings prescribed by Our laws shall be instituted against him. When, however, it is ascertained that he is living in another province, We order the judge of the province in which the crime was committed to send a public letter to the judge of the one in which the delinquent resides. He who receives the said public letter shall arrest the culprit, and send him to the judge of the province in which he perpetrated the offence, to undergo the penalty provided by law, or run the risk of losing his office.

If, however, he who received the public letter aforesaid should neglect to do this, or his subordinate officer should fail to discharge the duties imposed upon him, We decree that the judge himself shall be fined three pounds of gold, and his subordinate an equal sum. But when the judge, or any of his subordinates, in consideration of money paid, do not arrest the offender, or if, having arrested him, do not bring him into the other province, he who is convicted of having done this shall be deprived of his office and sent into exile.

16. *The Emperors Valerian and Gallienus to Archesilaus.*

You should appear before the Governor in whose tribunal you have filed your accusation of adultery, if you desire it to be dismissed; but you are mistaken if you think that this can be done without making application to the court, and that, afterwards, you will not be liable to the penalty prescribed by the Decree of the Senate, for the Emperors have frequently decided the contrary.

And you are also notified that, hereafter, you will not have the power to make accusations of this kind; because, by a Decree of the Senate and the *Lex Petronia*, he who has filed an accusation for adultery and did not prosecute it shall never again be permitted to bring one for this offence.

Published on the fifth of the *Kalends* of June, during the Consulate of Maximus and Glabrio, 257.

17. *The Same Emperors to Victorinus.*

You can resume marital relations with your wife without fear of being liable to the penalty prescribed by the *Lex Julia*, for the suppression of adultery, as you did nothing more than file the written accusation, for the reason that you assert that you afterwards ascertained that you were impelled by groundless indignation to accuse her; for he alone will be liable to the penalty specifically mentioned by the law who is aware that his wife has been publicly convicted of adultery, or that she is an adulteress, as he cannot simulate ignorance of the fact, and retain her as his wife.

Published on the sixth of the *Kalends* of August, during the Consulate of the Emperor Valerian, Consul for the fourth time, and Gallienus, Consul for the third time, 258.

18. *The Same Emperors and the Csesar Valerian to Theodora.*

There is no doubt that he who has two wives at once is branded with infamy, for, in a case of this kind, not the operation of the law by which Our citizens are forbidden to contract more than one marriage at a time, but the intention, should be considered; and therefore he who pretended to be unmarried, but had another wife in the province, and asked you to marry him, can lawfully be accused of the crime of fornication, for which you are not liable, for the reason that you thought that you were his wife. You can obtain from the Governor of the province the return of all your property of which you deplore the loss on account of the fraudulent marriage, and which should be restored to you without delay. But how can you recover what he promised to give you as his betrothed?

Adopted at Antioch, on the *Ides* of May, during the Consulate of Tuscus and Bassus, 259.

19. *The Emperors Diocletian and Maximian to Pompeianus.*

Although it is an undoubted rule of law that, whenever an accusation of adultery is made, the presence of the accuser is required, still, as We have learned from your letters that Materia, the wife of Propositus, who was absent on a journey, was convicted of adultery with Julian after her slaves had been put to torture; and that, when sentence was about to be passed upon her, she demanded that her husband should be present, as the case was almost terminated, and the crime in question had been proved, We do not think that Propositus should be recalled from a distance.

Given on the *Nones* of December, during the Consulate of the above-mentioned Emperors.

20. *The Same Emperors and Cassars to Didymus.*

The laws punish the detestable wickedness of women who prostitute their chastity to the lusts of others, but does not hold those liable who are compelled to commit fornication through force, and against their will. And, moreover, it has very properly been decided that their reputations are not lost, and that their marriage with others should not be prohibited on this account.

Published on the third of the *Nones* of October, during the Consulate of Diocletian, Consul for the fourth time, and Maximian, Consul for the third time, 290.

21. The Same Emperors and Cassars to Silanus.

Although certain times have been prescribed by law with reference to the commission of adultery, and the accusing of wives, which times must be properly computed, still, if you were unable to file an accusation on account of your having a public employment, and the prescribed term expired before you relinquished your office, you have full power to bring the accusation after you have done so. You should, however, not delay after you have vacated the office; nor should you, for the purpose of terrifying your adversary, make a pretence of bringing an accusation with unrestrained impetuosity.

Published on the fourteenth of the *Kalends* of November, during the Consulate of Diocletian, Consul for the fourth time, and Maximian, Consul for the third time, 290.

22. The Same Emperors and Cassars to Oblimosus.

If a woman whom you have carnally known indiscriminately sold herself for money, and prostituted herself everywhere as a harlot, you did not commit the crime of adultery with her.

Published on the twelfth of the *Kalends* of November, during the Consulate of Diocletian, Consul for the fourth time, and Maximian, Consul for the third time, 290.

23. The Same Emperors and Csesars to Proculus.

Slaves cannot accuse their wives of adultery for violation of conjugal faith.

(1) Again, where a man has legally married a wife after she has been divorced, and, through fear of an accusation which had been filed, as well as of the influence of the former husband, gave gold and silver to the accuser; he can appear before the Governor, not only for the purpose of recovering the property, but also to punish the base desire for gain; and, after the allegations of the parties have been heard, and the truth of the matter inquired into, if he should ascertain that anything had been given by the innocent party on account of the fear of prosecution for crime, he must render his decision accordingly, and in compliance with what has been provided by law.

When, however, it is established that the money was paid as a consideration for dishonorable marriage, and for the purpose of obtaining immunity, he will order that the person who received the money in violation of the Decree of the Senate, in such a detestable transaction, shall be punished.

Published on the *Kalends* of November, during the Consulate of Diocletian, Consul for the fourth time, and Maximian, Consul for the third time, 290.

24. The Same Emperors and Csesars to Dionysii.

If you should be accused of adultery by her with whom you have lived in violation of law, you can defend yourself by an innumerable number of expedients.

25. The Same Emperors and Csesars to Sossianus.

Although it is established by the contents of certain documents that you are consumed with the lust of immoderate desire, still, as it has been ascertained that you confined yourself to female slaves, and did not have intercourse with free women, it is clear that by a sentence of this kind your reputation suffers, rather than that you become infamous.

Published on the fifth of the *Ides* of March, during the Consulship of Tiberianus and Dio, 291.

26. The Same Emperors and Csesars to Crispinus.

As Alexander, who was accused of the crime of adultery, pleaded an exception on the ground that the accuser, after the adultery was discovered, kept his wife with him, We think that his status should now be investigated, and the order of the proceeding be reversed, so that, in the

first place, inquiry should be made as to the civil condition of Alexander; and if, after having heard the case, you should ascertain that he is free, you can authorize him to plead the exception.

If, however, you should find that he is a slave, all the impediments caused by the exception having been removed, you must immediately punish the accusation of adultery, and if you find him guilty, impose the penalty which the laws have prescribed for the offence.

Given on the fifth of the *Kalends* of September, during the Consulate of the above-mentioned Emperors.

27. The Same Emperors and Csesars to Phoebus.

Adultery committed with a man whom a woman afterwards married is not extinguished by the fact of the marriage.

Published on the eighteenth of the *Kalends* of January, during the Consulate of the Caesars.

28. The Same Emperors and Csesars to Concordius, Proconsul offfumidia.

Our respect for chastity is such that We have determined to remove the ambiguities of former laws, and decide with reference to the trial for adultery; all exceptions having been abolished, except that based on prescription of five years; the one relative to pimping, which can be pleaded against the husband; and that of which the woman can avail herself after the former marriage has been dissolved, and before notice has been served upon her not to contract a second one, namely, that her accomplice in the crime be prosecuted; for it is unworthy that legal technicalities should prevent the punishment of violated chastity.

Published on the *Kalends* of June, during the Consulate of Tuscus and Anulinus, 295.

29. The Emperor Constantine to Africanus.

It should be ascertained whether the woman who committed adultery was the owner of the inn, or only a servant; and if, by employing herself in servile duties (which frequently happens), she gave occasion for intemperance, since if she were the mistress of the inn, she will not be exempt from liability under the law.

Where, however, she served liquor to the men who were drinking, she would not be liable to accusation as having committed the offence, on account of her inferior rank, and any freemen who have been accused shall be discharged, as the same degree of modesty is required of these women as of those who are legally married, and bear the name of mothers of families.

Those, also, are not subject to judicial severity who are guilty of fornication or adultery, and the vileness of whose lives does not render them worthy of the attention of the laws.

Signed and given at Heraclia, on the third of the *Nones* of February, during the Consulate of Constantine, Consul for the seventh time, and the Caesar Constantius, 326.

30. The Same Emperor to Evagrius.

Although the crime of adultery is included among public offences, the accusation of which is granted to all persons without distinction, still, in order that those who inconsiderately wish to cause discord in households may not be allowed to do so, it is hereby decreed that only the nearest relatives of the guilty party shall have the power to bring the accusation; that is to say, the father, the brother, and the paternal and maternal uncles, whom genuine grief may impel to prosecute. We, however, also give the said persons permission to revoke the accusation, by withdrawing it, if they should so desire.

The husband, above all others, should be considered the avenger of the marriage bed, for he is permitted to accuse his wife on suspicion, and he is not forbidden to retain her, if he only suspects her; nor will he be liable if he files a written accusation when he accuses her as her husband, a privilege which was established by former Emperors.

Moreover, We decree that strangers shall be prevented from bringing such charges, for

although every kind of accusation renders the person who makes it in writing liable in case it should not be proved, still, some persons boldly make them and disturb marriages with false denunciations.

Those who have violated the sanctity of marriage should be punished with death.

Published at Nicomedia, on the seventh of the *Kalends* of May, during the Consulate of Constantine, Consul for the seventh time, and the Caesar Constantius, Consul for the fourth time, 326.

Extract from Novel 134, Chapter X. Latin Text.

At present, however, a woman convicted of adultery is placed in a monastery, from which her husband is permitted to remove her within the term of two years. After the two years have expired, without her husband having taken her back, or, before that, if he should have died, the adulteress, having had her head shaved, and assumed a religious habit, shall remain there during lifetime, and her property, if she has any, shall be divided into three parts, two of which should be given to her children, and the third to the monastery. When she has no children, and her parents are living and did not consent to her crime, they shall receive a third part of her property, and the monastery two-thirds of the same. If her aforesaid relatives are not living, all of her property shall be acquired by her monastery, and, in every instance, all rights under dotal agreements are reserved for the benefit of the husband.

Extract from Novel 117, Chapter XV. Latin Text.

If anyone should notify a man, whom he suspects of being intimate with his wife, three times in writing, in the presence of three witnesses who are worthy of confidence, to discontinue his relations with her, and afterwards should surprise him with his wife, either in his own house, or in hers, or in that of the adulterer, or in a tavern, or in a garden, he can kill her without any risk to himself. If he should find him anywhere else, he must bring him with three witnesses before the judge who will have a right to punish him without any further proceedings.

If, however, after having been notified three times, as above stated, the parties should be found talking together in a church, the husband can deliver both to the defender of the church, or to any other members of the clergy, with the understanding that they must be individually responsible for their custody until the judge having jurisdiction shall order the bishop of the diocese to produce the said persons before him, so that they may be put to torture, and notice be given by him to the Governor of the province, who will impose the penalty prescribed by law.

31. *The Emperors Constantine and Constans to the People.* When a man marries, and his wife becomes pregnant, what can be desired of the woman when her sex is lost sight of; when what it is of no advantage to know becomes a crime; when the sexual act assumes another form; when love is sought, but does not appear? We order the laws to rise up, and justice to be armed with the avenging sword, that the severest penalty may be visited upon those who are now, or shall hereafter, be guilty of this infamous offence.

Given at Milan, on the day before the *Nones* of December, and published at Rome on the seventeenth of the *Kalends* of January, during the Consulate of Constantine, Consul for the ninth time, and Constans.

32. The Emperors Gratian, Valentinian, Theodosius, and Arcadius to Cynegius, Prætorian Prefect.

In an investigation of adultery, inquiry must be made without excepting any of all the slaves belonging, not only to the husband, but also to the wife, who are alleged to have been in the house at the time when the adultery was committed.

Given at Constantinople, on the third of the *Ides* of December, during the Consulate of Arcadius and Bauto, 385.

33. The Emperors Theodosius, Arcadius, and Honorius to Rufinus, Prsetorian Prefect.

When a charge of adultery has been made, We order that all civil exceptions by means of which a dowry may be claimed, or any other debt demanded, and which are ordinarily pleaded and examined, to be set aside, and that the progress of the case shall not be delayed through their interposition. But when the accusation has been formulated, that is to say, when it has been regularly instituted, whether it was filed under the right of a husband, or under that of a stranger, the crime shall be investigated, the evidence produced, the more important matters in dispute settled, and all civil actions be subordinated to the criminal prosecution. The woman will afterwards have the right to begin any civil proceedings to which he is entitled, provided they do not interfere with the conduct of the criminal case.

Given at Constantinople, on the seventh of the *Ides* of December, during the Consulate of Arcadius, Consul for the second time, and Rufinus, 392.

34. The Same Emperors to Rufinus, Prsetorian Prefect.

Where persons accused of adultery repel the accusation under the pretext of relationship, stating that, for this reason, allegations relating to commission of the crime ought not to be believed, or that it was impossible that it should have been committed, and they are afterwards married, the offence of which they were accused shall, merely by this fact, be considered to have been proved clearly and by legal evidence. Therefore, if any such persons should be met with, We order that they shall be severely punished, just as if they had been convicted of the crime, and had confessed it.

Given at Constantinople, on the day before the *Nones* of December, during the Consulate of Theodosius, Consul for the third time, and Abundantius, 393.

35. The Emperors Honorius and Theodosius to Palladius, Praetorian Prefect.

If a woman should repudiate her husband without any legal reason having been assigned by her for so doing, We grant the repudiated husband permission to accuse her, if she should stain her widowhood with acts of debauchery.

Given on the twelfth of the *Kalends* of March, during the Consulate of Eustachius and Agricola, 421.

36. The Emperor Justinian to John, Praztorian Prefect.

Former legislators have directed that the freedom of slaves, who belong either to the wife, the husband, or their parents, in case of the repudiation of either of the parties on account of suspicion of the crime of adultery, shall remain in suspense for the term of two months, which must be reckoned from the date of the repudiation, on account of the torture to be inflicted upon them in case it should be deemed necessary. But, as your wife died after your marriage was dissolved in the above-mentioned manner, nothing further is stated by the authorities concerning any additional time during which the slaves shall be required to remain in their present condition for the reason above mentioned.

It, however, seems to Us to be necessary to fix a certain period in a case of this kind, with a view to determining the question of dowry, and whether it should belong to the husband, or be transferred to the heirs of the wife. Hence We order that, after the death of the wife, another two months shall be added, so that the above-mentioned slaves may remain together, and the husband have the power to prove the adultery by them. When the above-mentioned time has elapsed, the heir of the woman will have permission to grant freedom to the slaves, unless he was to blame for the husband being prevented from bringing the accusation of adultery during the term prescribed by law.

Given at Constantinople, on the fifth of the *Kalends* of November, after the Consulate of Lampadius and Orestes, 532.

37. This Law is not Authentic.

TITLE X.

WHERE A GUARDIAN CORRUPTS HIS FEMALE WARD.

1. *The Emperor Constantine to Bassus, Vicegerent of Italy.*

When a guardian violates the chastity of his female ward, he shall be sentenced to deportation, and all his property shall be confiscated to the Treasury, although he must still suffer the penalty which the laws inflict upon ravishers.

Given at Aquileia, on the day before the *Nones* of April, during the Consulate of Constantine, Consul for the seventh time, and Constantius, 326.

TITLE XI.

CONCERNING WOMEN WHO COPULATE WITH THEIR OWN SLAVES.

1. *The Emperor Constantine to the People.*

When a woman is convicted of having secretly had sexual intercourse with her slave, she shall be sentenced to death, and the rascally slave shall perish by fire. Every facility for the proof of this crime shall be afforded all persons, any official can bring the charge, and even the slave-himself shall be permitted to testify concerning it, and if it should be established, he must be granted his freedom. Children born of such an union shall be deprived of all insignia of rank, and shall have nothing but their freedom, nor will they be entitled to receive anything from the estates of their mothers, as bequests under her will, either directly or through the intervention of others.

Moreover, the intestate succession of the woman will pass to her legitimate children, or to her nearest relatives, or to those who are designated by law. All the property which the slave who was convicted may have been entitled to, and anything which could, under any circumstances, have been obtained by the children of this union, as belonging to the woman, can be claimed by the heirs above mentioned.

Given on the fourth of the *Kalends* of June, during the Consulate of Constantine, Consul for the seventh time, and the Caesar Constantius, 326.

TITLE XII.

ON THE LEX JULIA RELATING TO PUBLIC OR PRIVATE VIOLENCE.

1. *The Emperors Severus and Antoninus to Pelitia.*

Those who seize the property of a wife on account of a debt of her husband, or because of some public civil liability which he has incurred, are considered to have been guilty of violence.

Given at Rome, on the *Kalends* of July, during the Second Consulate of Antoninus and Geta, 206.

2. *The Emperor Antoninus to Verus.*

If the third part of the property of your guardian, who was convicted under the *Lex Julia* relating to private violence, has been confiscated to the Treasury, bring an action of guardianship to recover the portion which your guardian obtained from the Treasury, provided no prescription can be pleaded against you, for each heir of the estate is liable for his proportionate share.

Published on the fifteenth of the *Kalends* of March, during the Consulate of Antoninus, Consul for the fourth time, and Balbinus, 214.

3. *The Emperors Diocletian and Maximian, and the Caesars, to Bianorus.*

If, as you allege, your son's betrothed has been taken away from him, or your son has been shut up, you will not be prevented from bringing an accusation of violence before the

Governor of the province under the provisions of the *Lex Julia*.

Published at Verona, on the eighth of the *Kalends* of May, during the Consulship of the above-mentioned Emperors.

4. *The Same Emperors and Csesars to Liberating.*

If you think that a criminal accusation should be brought on account of the property carried away by a slave, you should not bring it against the master of the slave, but against him who you allege committed the offence. But as you state that you have also been beaten by the said slave Fiscinulus, you can proceed against his master also (if you think that he should be prosecuted for private violence under the *Lex Julia*) before the Governor, who will not be ignorant in what way punishment should be inflicted, if the crime should be proved.

5. *The Same Emperors and Csesars to Opolo.*

Even if a creditor should take possession of land by force, he can be accused of private violence under the terms of the *Lex Julia*.

Ordered at Nicomedia, on the sixth of the *Ides* of December, during the Consulate of the Caesars.

6. *The Emperor Constantine to Catulinus, Proconsul of Africa.*

As many crimes are classed under the term "violence," and as force is often employed against those who resist, and blows are inflicted upon others who indignantly return them, and murder not infrequently results, it has been decided that if anyone, either on the side of the person in possession, or on that of him who rashly attempts to obtain it, should be killed, he must be punished who attempted to employ force, and was responsible for the injuries of either party, and he shall not merely be sentenced to relegation, or deportation to an island, but shall suffer death, and the judgment pronounced against him shall not be suspended by appeal.

Given on the fifteenth of the *Kalends* of May, during the Consulate of Gallicanus, and Bassus, 317.

7. *The Same Emperor to Bassus, Prefect of the City.*

When anyone asserts that a tract of land, or any other property, belongs to him, and thinks that he is entitled to restitution of possession of the same, or institutes civil proceedings to obtain it or brings an accusation of violence, after having complied with the legal formalities, he is hereby notified that if he cannot prove the commission of the crime, he shall suffer the same penalty which the defendant would have undergone, if guilty. But if, having failed to serve notice upon the party in possession, he should employ force against him, We order that the case involving violence shall be heard before any others, and whatever has happened to the party in possession should be ascertained, so that the right to possession of the property which he lost may be restored to him; and that, when this has been done, if a criminal accusation should be brought, the penalty for violence shall not be inflicted, but the decision of the entire case shall be postponed, so that the principal matter may be disposed of; and if judgment should be rendered against him, he shall be deported to an island, after the confiscation of all his property.

Published at Rome, on the day before the *Nones* of October, during the Consulate of Constantine, Consul for the fifth time, and the Caesar Licinius, 319.

8. *The Emperors Valentinian, Theodosius, and Arcadius to Albinus, Prefect of the City.*

We decree that slaves who have been guilty of violence, whether this is proved by the evidence of witnesses or by their own confessions, and if they have committed the violence without the knowledge of their masters, shall suffer the extreme penalty for the offence which they have perpetrated. If, however, they committed it through fear, or by order of their masters, it is clear that, according to the *Lex Julia*, the latter should be declared infamous, and be deprived of any privileges they enjoy, either on account of their country, or their birth; and

the slaves who are proved to have obeyed such wicked commands shall, after conviction, be sent to the mines. Vile and degraded persons, as well as those who have frequently been convicted of having perpetrated acts of violence, are liable to the same penalty under the Imperial constitutions.

The judge must remember that he will be branded with infamy if he should delay to pass sentence for the crime of violence, after it has been established before him; or should refuse to hear the accusation, or should grant immunity to the offender; or should impose a milder penalty than We have prescribed.

Given at Milan, on the day before the *Nones* of March, during the Consulate of Valentinian, Consul for the fourth time, and Neoterius, 290.

9. *The Emperors Honorius and Theodosius to Aurelius, Prsetorian Prefect.*

The crime of one who robs, and of one who knowingly retains the stolen property, are not dissimilar.

Given on the third of the *Nones* of March, during the Consulate of Honorius, Consul for the tenth time, and Theodosius, Consul for the fifth time, 415.

10. *The Emperors Leo and Anthemius to Nicostratis, Prsetorian Prefect.*

We desire that all persons, both in the towns and in the country, shall be deprived of permission to harbor thieves, vagabonds, and death, and their principal retainers, as well as the attendants attached to their persons, shall also be condemned to death, in addition to the confiscation of their property.

Given on the fifth of the *Kalends* of September, during the Consulate of Anthemius, Consul for the second time, 468.

TITLE XIII.

CONCERNING THE RAPE OF VIRGINS, WIDOWS, AND NUNS.

1. *The Emperor Justinian to Hermogenes, Master of the Offices.*

We decree that ravishers of virgins, who are of honorable rank or freeborn, whether they have been betrothed or not, or of widows of any description, whether they are freedwomen or the slaves of others, shall be punished with death, as being guilty of the worst of crimes; especially when they are widows or virgins consecrated to God, for not only in this case is an injury committed against humanity, but against the reverence due to Almighty God himself; since the virginity or chastity which has been destroyed cannot be restored. It is with reason that person of this kind are condemned to death as ravishers, as they are frequently also guilty of homicide.

Therefore, in order that a crime of such atrocity may not go unpunished, We decree by this general constitution that those who perpetrate it, as well as those who aid them at the time, where they are caught in the act and surprised when committing it, can immediately be killed by the fathers or the blood-relatives, guardians, curators, patrons or masters of the said virgins, widows, or women of any description whatsoever, whether they are freeborn or not.

We order that these provisions shall, above all, be applicable to those who have dared to ravish married women, for the reason that they are liable to punishment for a double crime, that is to say, for adultery as well as rape; and it is necessary for the crime of adultery to be punished with greater severity on account of the other offence being added to it. We class with these criminals one who has ventured to ravish the girl who was betrothed to him.

If, however, after the commission of such a detestable crime, the ravisher should be able to defend himself on account of his powerful influence, or to escape by flight, the illustrious Praetorian Prefects, as well as the distinguished Prefect of the City in this Imperial Capital, as well as the eminent Praetorian Prefects in Illyria and Africa, the Generals of the Army, throughout the different portions of Our Empire, the Eminent Prefect of Egypt, the Count of

the East, the Vicegerents, Proconsuls, Dukes, and Governors of Provinces, and Judges of every rank, who may be in those places, shall display the greatest zeal and exert every effort to apprehend the culprit, and shall punish with exemplary severity those who have been arrested for the commission of such a crime, and sentence them to death after evidence which is competent and recognized by law has been given, without permitting any exception to be pleaded. If the defendants should wish to appeal, We, in accordance with the provisions of the ancient law of Constantine, refuse to grant them permission to do so.

(1) When the females who have been violated are either slaves or freedwomen, their ravishers shall only be subjected to the penalty aforesaid, and shall not be deprived of any portion of their property. If, however, such an atrocious crime should be perpetrated against a woman who is freeborn, all the property movable, immovable, or capable of moving itself, which belongs to the ravishers themselves, or to their accomplices, associates, or followers who have given them assistance, shall be transferred to the ownership of the said ravished freeborn woman by a decree of court, and the efforts of her parents, husband, guardians or curators.

When the woman above mentioned is not married, she can lawfully be united in matrimony with any man whomsoever, except her ravisher, and the property of the latter, or as much of it as she may desire, shall be given as the dowry of the woman aforesaid. If she should not be willing to accept a husband, but prefers to remain single, We order that the said property shall belong to her absolutely, and that no judge, or any other person whosoever, shall dare to violate this provision.

No virgin, widow, or any other woman shall be permitted to accept her ravisher as her husband, but any person whom her parents may agree to (her ravishers excepted) can legally marry her, as, under no circumstances, and at no time, shall she be given permission by Us to consent to marry one who, in Our Empire, may attempt to contract marriage in a hostile manner; for, where anyone desires to take a wife, whether she be freeborn or a freedwoman, it is necessary to demand her of her parents, or in accordance with Our laws and ancient customs, of others who have charge of her, so that a lawful union may be effected with their consent.

(2) The penalties which We have previously prescribed, that is to say, those of death and the loss of property, We decree shall not only be inflicted upon the ravishers themselves, but also upon those who accompanied them, and were present when the crime took place. We subject to the punishment of death all those who were aware of and accomplices in a crime of this kind, and have been convicted; as well as those who harbored the culprits, or gave them any assistance, whether they be men or women, no matter of what position, rank, or dignity they may be; and We render them liable to this penalty, whether the offence was perpetrated with or without the consent of the said virgins or women.

If, however, the ravishers themselves refrained from the commission of this crime, being deterred either by fear, or by the severity of the punishment, no reproach can be brought against the woman, whether she gave her consent or not, because this law has been enacted to protect women from the treachery of wicked men, who intend to employ violence. For unless a man solicited her, and deceived her by his detestable arts, he did not induce her to submit to such dishonor; and if her parents, upon whom, above all, devolves the duty of revenge, should tolerate the crime, and stifle their grief, they shall be punished with deportation.

(3) When anyone of a servile condition is convicted of complicity in a crime of this description, We order him or her to be put to death by fire, without distinction of sex, as this was also very properly provided for by the Law of Constantine.

All the provisions of the *Lex Julia*, which have reference to the rape of virgins, widows, or nuns, or which are contained in the ancient books of the law, or in the Imperial Constitutions, are hereby abolished for the future, and this law alone shall take the place of all others, so far as what We have decreed concerning the rape of nuns, virgins, and widows is concerned.

Given at Constantinople, on the fifteenth of the *Kalends* of December, during the Second

Consulate of Our Lord the Emperor Justinian, 528.

TITLE XIV.

CONCERNING THE CORRECTION OF SLAVES.

1. *The Emperor Constantine to Bassus.*

If a master should punish his slave by striking him with rods or straps, or, in order to keep him in custody, should place him in chains, no objection can be raised with reference to the time he was confined, and the master need have no fear of criminal prosecution, in case the slave should die. For, indeed, he does not use his rights without moderation in a case of this kind, but he will become guilty of homicide if he should intentionally inflict a fatal wound upon the slave by means of rods, stones, or weapons; or order him to be hung; or direct him to be hurled from a precipice; or give him poison; or lacerate his body publicly by the application of iron hooks to his sides; or burn his limbs with fire; or cause his joints to waste away by depriving them of their humors and blood; or deprive him of life by means of torture worthy of the cruelty of the most savage barbarians.

Given at Rome, on the fifth of the *Ides* of May, during the Consulate of Constantine, Consul for the fifth time, and Licinius, 312.

TITLE XV.

CONCERNING THE CORRECTION OF RELATIVES.

1. *The Emperors Valentinian and Valens to the Senate.*

We grant the power of punishing minors to their elder relatives, according to the nature of the offence which they have committed, in order that the remedy of such discipline may exert its influence over those whom a praiseworthy example at home has not induced to lead an honorable life.

We, however, are not willing that the right to inflict extremely severe castigation for the faults of minors should be conferred, but that the exercise of paternal authority may correct the errors of youth, and repress them by private chastisement. If, however, the enormity of the deed should exceed the limits of domestic correction, We decree that those guilty of atrocious crime shall be brought before the courts of justice.

Given on the day before the *Kalends* of December, during the Consulate of Valentinian and Valens, 365.

TITLE XVI.

ON THE LEX CORNELIA RELATING TO ASSASSINS.

1. *The Emperor Antoninus to Herculanus and Other Soldiers.*

Your brother would have done better if he had surrendered himself to the Governor of the province, for if he had proved that the man was not struck by him with the intention of killing him, the Governor would have rendered a decision in accordance with military discipline by remitting the penalty of homicide; for a crime is committed when the purpose to cause damage is present. Those acts, however, which take place rather through unforeseen accident than from design are, for the most part, attributed to misfortune, and not to an intent to commit injury.

Published on the second of the *Kalends* of February, during the Consulate of Lsetus, Consul for the second time, and Cerealis, 216.

2. *The Emperor Gordian to Quintianus.*

He who, when in danger of his life, kills his aggressor or anyone else, should have no fear of prosecution on this account.

Published on the third of the *Nones* of April, during the Consulate of Arian and Pappus, 244.

3. The Same Emperor to Quintianus.

When anyone kills another who attacks him with a sword, he should not be considered a homicide, for the reason that the defender of his own life is not held to have committed an offence.

4. The Emperor Gallienus to Monatius.

If (as you state) you have killed a robber, there is no doubt that it will be decided that you have lawfully killed him who had the intention of depriving you of life.

Published on the thirteenth of the *Kalends* of February, during the Consulate of Valerius and Lucillus, 266.

5. Copy of the Imperial Epistle of the Emperors Diocletian and Maximian to Agathus.

If it is true that he who asserts he did not intentionally commit the homicide, but that it took place accidentally, where death appears to have resulted from a kick, no doubt can arise upon this point, and We desire that he shall be freed from any fear and suspicion to which he may have been liable from the facts, as admitted, in conformity with what is set forth by Our annotation.

Given at Sirmium, on the seventh of the *Kalends* of December, during the Consulate of Diocletian, Consul for the fourth time, and Maximian, Consul for the third time, 290.

6. The Same Emperors and Csesars to Agotius.

If anyone should accuse you under the *Lex Cornelia* relating to assassins, you must prove your innocence of the crime, and not defend yourself by alleging that you were not of age.

Ordered at Rome, on the sixth of the *Kalends* of November, under the Consulate of the Caesars.

7. The Same Emperors and Csesars to Philiscus.

He who goes about armed with the intention of killing a man, just as he who does kill one, or through whose evil design such an act is committed, shall be punished with the penalty prescribed by the *Lex Cornelia*, relating to assassins.

Ordered at Nicomedia, on the seventh of the *Kalends* of January, during the Consulate of the Csesars.

8. The Emperors Valentinian, Valens, and Gratian to Probus, Praetorian Prefect.

If any person of either sex should kill an infant, he or she is hereby notified that they will be punished with death.

Published at Rome, on the seventh of the *Ides* of February, during the Consulate of Gratian, Consul for the third time, and Equitius, 374.

9. The Emperors Gratian, Valentinian, Theodosius, and Arcadius to Cynegius, Pr&torian Prefect.

Where a woman is found to have plotted the death of her husband, or to have had the intention of killing him in any other way, or where a husband has entertained a similar design against the life of his wife, all the slaves of both husband and wife who were in the house at the time, without excepting any of them, shall be put to torture.

Given at Constantinople, on the third of the *Ides* of December, during the Consulate of Arcadius and Bauto, 385.

TITLE XVII.

CONCERNING THOSE WHO KILL THEIR PARENTS OR CHILDREN.

1. The Emperor Constantine to Varinus, Vicegerent of Africa.

If anyone should hasten the end of either of his parents, his son, his daughter, or any of those relatives whose murder is designated by the term parricide, whether he committed the act secretly or openly, he shall suffer the penalty of parricide, and shall neither be put to death by the sword, nor by fire, nor by any other ordinary method, but shall be sewed up in a sack with a dog, a cock, a viper, and a monkey, and, enclosed with these wild animals and associated with serpents, he shall be either thrown into the sea, or into a river, according to the nature of the locality; so that, while living, he may be deprived of all use of the elements, and during the remainder of his existence, he may be deprived of air, and, at his death, of the earth.

Given on the eleventh of the *Kalends* of December, during the Consulate of Licinius, Consul for the fifth time, and Crispus, 319.

TITLE XVIII.

CONCERNING POISONERS, DIVINERS, AND OTHER CRIMINALS OF THE SAME DESCRIPTION.

1. *The Emperor Antoninus to Titius.*

It is a more serious crime to kill a man by poison, than to cause his death by means of a weapon.

Published without date or designation of consulate.

2. *The Emperors Diocletian and Maximian, and the Cxsars, to Tiberius.*

It is a matter of public interest to learn and practice the science of geometry, but the art of divination is damnable, and is strictly prohibited.

Ordered at Sirmium, on the thirteenth of the *Kalends* of September, during the Consulate of the Caesars.

3. *The Emperor Constantine to Maximus.*

No haruspex, no priest, and none of those who are accustomed to practice this art, shall approach the threshhold of another, either for this or for any other purpose; but the friendship of men of this kind (even though it may be of long standing) shall be rejected, and any haruspex who approaches another's house shall be put to death by fire; and anyone who has, either by solicitation or with the hope of reward, induced him to come, shall be deported to an island, after his property has been confiscated.

We consider that an accuser of a crime of this kind should not be classed as an informer, but should rather be worthy of reward.

Published at Rome, on the *Kalends* of February, during the Consulate of Constantine, Consul for the fifth time, and Licinius, 312.

4. *The Same Emperor and Csssar to Bassus, Praetorian Prefect.*

The knowledge of those who, by means of magic arts, plot against the health or lives of men, or turn chaste minds to licentiousness, should be punished, and repressed by the severest laws. Those, however, who seek remedies for the ailments of humanity, or, while in the country, innocently exert themselves to preserve grapes from showers, or from the effects of rain or hail, ought not to be liable to criminal accusations, as their efforts are directed not to the injury of the health or reputation of mankind, but to prevent the gifts of God and the labors of humanity from being destroyed.

Given at Aquileia, on the tenth of the *Kalends* of June, during the Consulate of Crispus and Constantius, 321.

5. *The Emperor Constantius and the Ctesar Julian to the People.*

No one shall consult an haruspex, a diviner, or a soothsayer, and wicked confessions made to augurs and prophets must cease. Chaldeans, magicians, and others who are commonly called

malefactors on account of the enormity of their crimes, shall no longer practice their infamous arts. Let all curiosity relating to divination be at an end, for anyone who hereafter refuses obedience to Our orders shall be put to death, and laid low with the avenging sword.

Given at Milan, on the eighth of the *Kalends* of February, during the Consulate of Constantius, Consul for the eighth time, and the Caesar Julian, 357.

6. *The Same Emperor to the People.*

Many persons do not hesitate to disturb the elements by the use of magic, plot against the lives of innocent people, and, by the invocation of household gods, dare to provide means by which anyone can destroy his enemies by evil arts. Such person shall be thrown to wild beasts, as they are of a nature different from that of ordinary mortals.

Given at Milan, on the day before the *Nones* of December, during the Consulate of Constantius, Consul for the ninth time, and Julian, Consul for the second time, 357.

7. *The Same Emperor to Taurus, Prsetorian Prefect.*

As the bodies of those who are in the enjoyment of high rank are exempt from torture, except for certain crimes specified by the laws, and as magicians in every portion of the world should be considered the enemies of the human race, and also as those who belong to Our retinue directly offend Our Majesty when they practice these arts, therefore, if a magician, or anyone accustomed to the use of magic verses, and who is usually styled by the people a sorcerer, an haruspex, a soothsayer, an augur, or a diviner, or anyone who employs himself in the interpretation of dreams, or practices anything similar to the arts above mentioned, should be found in My retinue, or in that of the Caesar, he shall be deprived of his rank and punished, and shall not be exempt from torture. And if, after having been convicted, he should continue to deny the offence before those who have detected it, he shall be placed upon the rack, and his sides torn by iron hooks, as these penalties are suitable for a crime of such enormity.

Given on the third of the *Nones* of July, during the Consulate of Titian and Cerealis, 358.

8. *The Emperors Valentinian and Valens to Modestus, Prsetorian Prefect.*

The guilt of a person who studies things that are prohibited is equal to that of him who teaches them.

Given at Constantinople, on the day before the *Ides* of December, during the Consulate of Valentinian and Valens, 365.

9. *The Emperors Valentinian, Theodosius, and Arcadius to Albinus, Prsetorian Prefect.*

Anyone who learns of, and surprises and seizes another polluted by the practice of magic arts, must immediately expose him, and bring the enemy of the public welfare into court.

If a driver, that is, a charioteer, or any other person, should attempt to violate this law, or should oppress the victim of their pernicious arts with secret punishments, he shall not escape the death penalty, as he is subject to suspicion for two reasons; first, because he either prevented him from being publicly dealt with, lest he might reveal his accomplices in the crime, and escape the severity of the laws and the torture to which he was liable; or, because he may have formed an atrocious design to kill his own enemy under the pretext of vengeance.

Given on the seventeenth of the *Kalends* of September, during the Consulate of Timasius and Promotus, 389.

TITLE XIX.

CONCERNING THE VIOLATION OF SEPULCHRES.

1. *The Emperor Gordian to Zeno.*

Those who knowingly do not hesitate to purchase and sell property destined for religious

uses, especially when it has already been employed for that purpose, are warned that although the sale is not valid in law, still, they are guilty of the crime of injury to religion.

Published on the third of the *Kalends* of March, during the Consulate of Sabinus, Consul for the second time, and Venustus, 241.

2. *The Emperor Constantine to Tatian, Prefect of the City.*

When a slave who is caught demolishing a tomb did so without the knowledge of his master, he shall be sentenced to the mines. If, on the other hand, he was induced to do so by the authority or order of his master, he shall be punished with relegation. When anything taken from the tomb is found to have been carried either to the city or country home of his master, the house or building, no matter what it may be, shall be confiscated to the Treasury.

Given on the seventh of the *Ides* of July, during the Consulate of Acindynus and Proculus, 340.

3. *The Same Emperor to Limenius, Praetorian Prefect.*

Where anyone either violates a tomb, or attempts to do so, and the judges of the district neglect to punish the crime, they shall be fined not less than twenty pounds of gold, which has been fixed as the penalty for violators of tombs, and they shall be compelled to pay it into the Treasury of Our Largesses.

Given on the fifth of the *Kalends* of April, during the Consulate of Limenius and Catulinus, 349.

4. *The Same Emperor to the People.*

Those who violate tombs, or, I should say, the houses of the dead, are considered to have perpetrated a double crime; for, by destroying them they robbed those who are buried, and by erecting new structures with the materials, they contaminate the living. Therefore, if anyone should remove from a tomb either stones, marble, columns, or any other materials to be used for building purposes, or should do so with the intention of selling them, he shall be compelled to pay ten pounds of gold to the Treasury; or if anyone, defending his own tomb, should file such a complaint in court, or some other person should bring the accusation, or notify any official of the act, this penalty ought to be added to the one formerly prescribed; for none of the punishments imposed upon those who violate tombs are considered to have been repealed.

These penalties shall be inflicted upon him who handles the bodies of persons who have been buried, or the remains of the same.

Given at Milan, on the *Ides* of June, during the Consulate of Constantine, Consul for the ninth time, and the Caesar Julian, 357.

5. *The Emperor Julian to the People.*

The audacity of the violators of tombs extends even to injuring the busts of the deceased and the consecrated mounds upon which they are raised; and our ancestors always considered it a crime resembling sacrilege to take away stones from them to disturb the soil, and to tear up the turf of the same. It is also deemed an offence to remove the ornaments of tombs for the purpose of decorating banqueting halls or porticoes.

We, therefore, having this in view, in the first place, forbid such acts to be committed under the penalty of sacrilege, lest the respect to which deceased persons are entitled may be violated.

Given at Antioch, on the day before the *Ides* of February, during the Consulate of Julian, Consul for the fourth time, and Sallust, 363.

6. *The Emperor Justin to Theodore.*

As it is unjust, and unworthy of Our reign for injury to be done to the remains of deceased

persons by those who allege that the latter were indebted to them, and who, for the purpose of exacting the debt, interfere with their burial, We, in order to prevent this injury from being committed hereafter, and those whose duty it is to conduct the funeral of the deceased from losing their rights, do hereby decree that any instruments which may have been executed by the heirs before the corpse was buried, for the purpose of collecting what was alleged to be due, or any admissions which have been made by them, or any security which has been furnished, or any pledges which have been taken, shall be absolutely void. All pledges which have been given, or money which has been paid, shall be returned, and any sureties who have been furnished shall be released from liability; and, generally speaking, everything shall be restored to its former condition unaltered, and the principal matter, as it was in the beginning, shall be disposed of in court.

Moreover, anyone who has been found guilty of a crime of this kind shall pay fifty pounds of gold, or, if he has not the means to do so, he shall suffer such corporeal punishment as may be inflicted by a competent judge.

Given at Constantinople, on the *Kalends* of December, during the fifth Consulate of Olybrius, 526.

Extract from Novel 60, Chapter I. Latin Text.

Likewise, anyone who enters the house of a dying person, and annoys either him or others who are members of his family, or attaches seals to his property without having employed the services of an officer legally authorized to do this, shall lose his right of action after the death of the person aforesaid, and whatever he has taken can be recovered from him by the heirs of the injured party, the third part of his property shall be confiscated, and he himself shall be branded with infamy.

He, also, is liable to the same penalties who interferes with the funeral ceremonies of a deceased person, or forbids them to be celebrated.

Extract from Novel 115, Chapter V. Latin Text.

No one shall hereafter be annoyed on account of any claim owed by a deceased person until nine days have elapsed from the time of his death; and if any bond or similar security should be executed, it will be void. The rights of creditors shall not, however, be prejudiced by this provision.

TITLE XX.

ON THE LEX FABIA CONCERNING KIDNAPPING.

1. *The Emperor Antoninus to Placidus.*

Let your father proceed civilly by an action *in rem* before a competent magistrate against him by whom he alleges his female slave has been seduced, and that kidnapping has been perpetrated by carrying her away. If he should gain his case, he can also prosecute him criminally under the Fabian Law. If the slave was kidnapped, he will not be forbidden to bring an accusation against him for this offence.

Published on the twelfth of the *Kalends* of April, during the Consulate of Antoninus, Consul for the fourth time, and Balbinus, 214.

2. *The Same Emperor to Aurelius.*

If you can prove that your slave was harbored by Julianus, and concealed by him for some time, and that he afterwards persuaded him to take to flight, you can either yourself, or by your attorney, prosecute him for the crime, or you can bring the proper action against him, that is to say, one for having corrupted the slave.

Published on the seventh of the *Kalends* of August, during the Consulate of Antoninus, Consul for the fourth time, and Balbinus, 214.

3. The Emperor Alexander to Cornelius.

In order for the penalty of the Fabian Law to be incurred, the charge must be signed, the accusation made, and the sentence passed.

Published on the eighth of the *Kalends* of July, during the Consulate of Julian, Consul for the second time, and Crispinus, 225.

4. The Emperor Gordian to Paulina.

The sentence pronounced by the Attorney for the Crown, if he did not at the time occupy the place of the Governor, who has power to act under the Fabian Law, is void; as the administration of this law comes solely within the jurisdiction of the Governor of the province.

Published on the third of the *Nones* of December, during the Consulate of Gordian and Aviola, 240.

5. The Emperors Valerian and Gallienus and the Caesars to Juliana.

If your adversary took your brother away, you should file a criminal accusation against him under the Fabian Law, before the Governor of the province.

Published on the *Nones* of May, during the Consulate of ^Emilianus and Bassus, 260.

6. The Emperors Diocletian and Maximian to Martiana.

It is not lawful either to sell or give away a fugitive slave. Hence you will understand that you are liable under the law which imposes a certain penalty to be paid to the Treasury on account of crimes of this description, except in the case of co-heirs and partners who, in the division of the common property, are permitted to bid against one another for a fugitive slave. Therefore, in this instance, it is lawful to sell a fugitive slave, and the sale will be valid when he is found and seized by the purchaser.

Published on the third of the *Ides* of March, during the Consulate of the Caesars.

7. The Same Emperor to Maximus, Prefect of the City.

As you state that certain slaves have been removed from the city by kidnapping, and that freeborn men are sometimes carried away in the commission of the same crime, We decree that you shall have permission to punish such an offence with extreme severity, and, therefore, if you find anyone guilty of it, do not hesitate to sentence him to death, in order that others may be deterred by the penalty, and not venture, by an audacious act of this kind, to kidnap either slaves or freemen from the city, and sell them.

Given on the sixth of the *Ides* of December, during the Consulate of Diocletian, Consul for the third time, and Maximian, 287.

8. The Same Emperors and Cossars to Confidius.

The Governor of the province, after having first decided the right of ownership, will determine whether the accusation of kidnapping should be heard or not; for if the slave should be found to be your property, the proof of ownership having been established, the intention of the crime will be lacking. If, however, after the question of ownership has been decided, it should be proved that the slave belongs to another, the Governor will hear the criminal accusation.

Published on the eighth of the *Kalends* of September, during the Consulate of Diocletian, Consul for the fourth time, and Maximian, Consul for the third time.

9. The Same Emperors and Cossars to Eugenius.

It is a positive rule of law that he who conceals another's slave is liable under the Fabian Law.

Ordered at Heraclia, on the third of the *Ides* of May, during the Consulate of the above-

mentioned Emperors, 290.

10. *The Same Emperors and Csesars to Diza.*

It is settled that he who purchases from another a slave that has been kidnapped, and he is not proved to have been an accomplice in the perpetration of the offence, is not criminally liable.

Ordered during the *Nones* of November, during the Consulate of the above-mentioned Emperors.

11. *The Same Emperors and Csesars to Marpiata.*

The sale of a kidnapped slave does not change the status, nor, where the crime is committed by the kidnapping of a free person, is the status of the latter affected.

Ordered during the *Ides* of November, during the Consulate of the above-mentioned Emperors.

12. *The Same Emperors and Csesars to Mutianus.*

Anyone who knowingly harbors a fugitive slave and receives stolen property is liable on this ground to an action of theft; and the Governor of the province must cause the property to be restored to you, together with the ordinary penalty. If, however, you should bring an accusation for the crime of kidnapping, he will not hesitate to afford you a hearing.

Ordered on the *Kalends* of April, during the Consulate of the Caesars.

13. *The Same Emperors and Csesars to Severinus.*

The accusation of the crime of kidnapping shall be included among those of public offences.

Ordered on the fifth of the *Kalends* of December, during the Consulate of the Caesars.

14. *The Same Emperors and Csesars to Callisthenes.*

An accusation for the crime of kidnapping cannot be legally brought when those who are alleged to be guilty assert that they thought that the slaves or free persons in question belonged to them, and that they had good grounds for this belief, and did not adopt it as a pretext for committing the act.

Ordered at Nicomedia, on the day before the *Nones* of December, during the Consulate of the Caesars.

15. *The Same Emperors and Csesars to Pomponius.*

Anyone, by selling a freeman without his consent, becomes liable to the penalty for kidnapping if he is aware of his condition.

Given at Nicomedia, on the thirteenth of the *Kalends* of January, during the Consulate of the Caesars.

16. *The Emperor Constantine to Domitius Celsus, Vicegerent of Africa.*

Those who inflict wretchedness upon parents by kidnapping their living children are liable to be sentenced to the mines, in addition to the other penalties already prescribed by the laws. Where, however, anyone is accused and convicted of a crime of this kind, if he is a slave or a freedman, he shall be thrown to wild beasts; if he is freeborn, he shall perish by the sword.

Given on the *Kalends* of August, during the Consulate of Constantine, Consul for the fourth time, and Licinius, 315.

TITLE XXI.

ON THE VISCELLIAN LAW.

1. *The Emperors Diocletian and Maximian and the Csesars to Bacchus.*

The Viscellian Law prohibits persons of the condition of freedmen from daring to assume

such honors and dignities as belong to those who are freeborn, or to usurp the office of decurion, unless they have been authorized to do so by having obtained the right from the Emperor to wear gold rings, for then they are entitled to the appearance, but not to the actual status of free birth during their lives; and, without any risk to themselves, can perform the public duties of those offices to which freeborn persons are eligible.

Moreover, any freedman, who declares that he is freeborn, will not only be civilly liable for his acts, but can also be prosecuted criminally under the Viscellian Law. He, also, who usurps the decurionate, shall be branded with infamy.

There is no doubt that individual freedmen, while in the country of their patrons are, in proportion to their means, required to discharge the personal duties to which men of this kind are usually liable.

Published at Antioch, on the second of the *Ides* of February, during the Consulate of the Caesars.

TITLE XXII.

ON THE CORNELIAN LAW WITH REFERENCE TO FORGERY.

1. *The Emperor Antoninus to Severinus.*

If you accuse the other party of the crime of the substitution of a child, the trial of the case, which is a capital one, should not be deferred until the boy reaches the age of puberty, which has already been decided by Myself and My Divine Father, Severus; for it is probable that the woman who is accused will defend herself in every way possible, to avoid suffering the penalty of death.

Published on the *Nones* of March, during the Consulate of the two Aspers, 213.

2. *The Emperor Alexander to Valerius.*

It has been clearly stated in the Rescripts of My ancestors that, when the crime of forgery has been committed by a debtor for the purpose of postponing payment, he should, nevertheless, be compelled to discharge the debt, irrespective of the criminal prosecution.

Published on the third of the *Nones* of May, during the Consulate of Maximus, Consul for the second time, and Elianus, 224.

3. *The Same Emperor to Cassius.*

Although you have accepted the legacy left you under the will which you allege is forged, and which you accuse your father's wife, that is to say, your step-mother, of having substituted for the genuine will, which she abstracted at a time when you did not know that a crime had been committed, you will, nevertheless, not be prevented from bringing a criminal accusation against her, after the legal formalities have been complied with.

Published on the eleventh of the *Kalends* of January, during the Consulate of Albinus and Maximus, 228.

4. *The Same Emperor to Maximus.*

Those who make use of forged rescripts should be punished by a penalty worthy of the offence, and of exemplary severity. Anyone, however, who has been deceived by another, and who can prove his innocence, and produce the person from whom he received the forged document, shall be released.

Published on the fourth of the *Kalends* of January, during the Consulate of Albinus and Maximus, 228.

5. *The Same Emperor to Petronius.*

My principles forbid an accusation of forgery, or of any other capital crime, to be brought against your mother, but this matter does not deprive her of any pecuniary rights; since if any

doubt exists with reference to the will in question under which your mother claims a trust, an inquiry can be instituted as to its genuineness, without fear of a criminal proceeding.

Published on the third of the *Kalends* of September, during the Consulate of Agricola and Clement, 231.

6. *The Emperor Philip and the Csesar Philip to Culpus.*

Anyone who has asserted that a will is false, and has lost his case, will have no right to a bequest left by the deceased under the terms of said will.

Published on the fifteenth of the *Kalends* of April, during the Consulate of Philip and Titian, 246.

7. *The Emperors Valerian and Gattienus and the Csesar Valerian to Heliodorus.*

You yourself state that when your adversaries first produced the instruments in question, you suspected their genuineness; therefore, having made a compromise, it will be difficult for the Governor of the province to permit you to denounce as forged the documents which you have once accepted.

Published on the third of the *Kalends* of July, during the Consulate of Fuscus and Bassus, 240.

8. *The Same Emperors and Csesars to Marinus.*

If you state that certain codicils were forged by the persons against whom you filed your petition, they cannot escape the accusation denying that they availed themselves of the same; for those alone can be benefited by abstaining from the use of an instrument of this kind who are not themselves alleged to have been the forgers of it, and whom the employment alone of the said instrument would render liable.

Those, however, who after criminally forging the codicils, have incurred the severity of the Cornelian Law, cannot avoid punishment for the crime, by setting up the defence that they have refused to make use of them.

Published on the third of the *Kalends* of July, during the Consulate of ^{Emilianus} and Bassus, 260.

9. *The Emperors Carinus and Numerianus to Mesius.* If you should prove before the Governor of the province that you are the heir at law of the person who wrote the codicil, the ordinary rule is that, after you have been placed in possession of the estate, you must execute the trusts which have been lawfully bequeathed, unless it is your intention to prove that the codicil is forged. But if you have instituted criminal proceedings, and they have been dismissed through Our indulgence, you will still be entitled to an investigation, and can bring a civil action in order to determine the genuineness of the codicil. Published on the third of the *Kalends* of April, during the Consulate of Carinus, Consul for the second time, and Numerianus, 284.

10. *The Emperors Diocletian and Maximian to Legitim,us.*

If you intend to accuse your uncle's wife of the crime of the substitution of a child, you must bring and prove your accusation before the Governor of the province.

Published on the eleventh of the *Kalends* of October, during the Consulate of Diocletian, Consul for the second time, and Aristobulus, 285.

11. *The Same Emperors and Csesars to Isidore.*

Where a pecuniary case can be referred to ordinary judges, they can, in conformity with the opinion of that most learned jurist, Paulus, also decide civilly with reference to the genuineness of written instruments.

Published on the tenth of the *Kalends* of July, during the Consulate of Diocletian, Consul for

the third time, and Maximian, 287.

12. *The Same Emperors and Ctesars to Primus.*

Prosecution for the crime of forgery, like almost all others, is not barred by prescription, unless twenty years have elapsed.

Ordered on the sixth of the *Ides* of January, during the Consulate of the Cassars.

13. *The Same Emperors and Csesars to Marcus.*

Anyone who states in writing that a certain person was present and received his property, when in fact he was absent, does not prejudice the rights of the said person who was not aware of the facts, but renders himself liable to criminal prosecution.

Published on the sixth of the *Kalends* of January, during the Consulate of the above-mentioned Emperors.

14. *The Same Emperors and Csesars to Gentianus.*

It is well known that anyone who conceals or abstracts a will is guilty of the crime of deceit.

Ordered at Sirmium, on the third of the *Kalends* of January, under the Consulate of the above-mentioned Emperors.

15. *The Same Emperors and Csesars to Rufus.*

If a creditor, acting in collusion with his debtor, sold you the tract of land, he has committed the crime of deceit, and has done you no injury, but, on the other hand, has rendered himself liable to prosecution for the offence.

Ordered on the thirteenth of the *Kalends* of February, during the Consulate of the Csesars.

16. *The Same Emperors and Csesars to Fortunatus.*

There are two ways open to a person desiring to contest the genuineness of a will. Therefore, although you cannot institute criminal proceedings by an attorney, still you will not be prevented from bringing a civil action impeaching the genuineness of the will, as the accused cannot only legally be sued by another, but can also be criminally prosecuted by him who brings the civil action.

Ordered at Sirmium, on the eighth of the *Ides* of February, during the Consulate of the Caesars.

17. *The Same Emperors and Ctesars to Menelaus.*

As a forged will or codicil cannot be rendered valid by the lapse of any period of time, so one which is genuine and legal cannot be annulled. Therefore if you wish to punish the crime, either by a public accusation or a civil suit, the Governor of the province, provided he has previously been convinced of the truth of your assertion by other evidence, will only direct those slaves to be produced who can be interrogated.

Ordered at Sirmium, on the third of the *Ides* of February, during the Consulate of the Caesars.

18. *The Same Emperors and Csesars to Maximus.*

Legal possession does not render a title valid which was fraudulent in the beginning, therefore you can institute a criminal prosecution against those whom you allege are contesting the ownership of the land with you.

Ordered on the third of the *Nones* of March, during the Consulate of the Caesars.

19. *The Same Emperors and Csesars to Cosmia.*

Even if you are interested in the matter, still you should deliberate carefully in your own mind as to your course, in order that you may not bring an unlawful accusation by alleging that the instrument which you have signed is forged. But as it is not permissible to accuse women of

forgery in matters in which they are not directly interested, and you acknowledge that you formerly gave this same land to another, you ask that the power of bringing the accusation be granted you contrary to the rule of law.

Ordered on the eighth of the *Ides* of March, during the Consulate of the Csesars.

20. The Same Emperors and Csesars to Rufinus.

The fact that the copy of the rescript was incorrectly made should not delay its investigation by the judge to whom the case was assigned, as the parties will not be liable to a criminal prosecution unless they have intentionally committed forgery.

Signed on the eleventh of the *Kalends* of November, during the Consulate of the Csesars.

21. The Emperor Constantine to Mechilius Hilariamis.

If a decurion should write a will, a codicil, or any other instrument for the disposition of the property of a person who is dying, or should officially draw up any public or private documents, and then be prosecuted for forgery, he shall be deprived of his office, and subjected to torture if the case requires it.

He, however, who is accused of an act of this kind, does not immediately cease to be a decurion, for he will remain such so far as his municipal functions are concerned; but he cannot avail himself of the privileges of the decurionate with reference to the matter in controversy, the truth of which is to be ascertained. Nor can he who was formerly a notary, and afterwards became a decurion, plead the privileges of this office for the purpose of escaping torture on account of documents which he formerly drew up, as their genuineness must be proved by the author himself if circumstances demand it.

Given on the third of the *Kalends* of February, during the Consulate of Sabinus and Rufinus, 316.

22. The Same Emperor to Maximus, Prefect of the City.

When the investigation of a case of forgery takes place, every attempt must be made to obtain proofs, witnesses, comparison of documents, and all other methods of ascertaining the truth, nor shall the accuser be the only person interrogated, or be required to furnish all the evidence, but the judge must occupy an intermediate position between the two parties, and not divulge what he thinks by means of any interlocutory decree, unless he gives some indication, which is solely required by his duty as a magistrate, for the purpose of furthering the proceedings; and he must finally state his opinion in the decision which he renders.

We limit the prosecution of a criminal case of this kind to the term of two years, which it shall not be lawful for either party to exceed. And the beginning of the same shall arise at the time when the accusation is contested before a competent judge; and, after the crime has been proved, the person who committed the forgery shall be put to death, if the enormity of the offence demands it; or he shall be sentenced to deportation.

Published on the eighth of the *Kalends* of April, in the Forum of Trajan, during the Consulate of Constantine, Consul for the seventh time, and the Caesar Constantius.

23. The Emperors Valens, Gratian, and Valentinian to Maxima, Prsetorian Prefect.

We grant permission to litigants, after a disputed instrument has been presented to the court, for him who questions its genuineness, to be compelled to publicly state whether he intends to proceed criminally or civilly with reference to the alleged forgery. If he intends to proceed criminally, he must bring an accusation for forgery, and as soon as the civil suit has been terminated by a decision, the criminal prosecution can take place, so that if anyone should attempt to introduce wills, receipts, attestations, public or private accounts, agreements, letters, final dispositions, written proofs of donations, bills of sale, or any other documents, the contestant shall have the power to bring the accusation.

With reference to the civil investigation, however, a less rigid examination of the parties

litigant should be made, as the judge who presides over the criminal trial can punish the false statements of the plaintiff and the criminal acts of the defendants with legal penalties.

Published at Rome, on the sixteenth of the *Kalends* of May, during the Consulate of Valens, Consul for the fifth time, and Valentinian, 376.

24. The Emperors Valentinian, Theodosius, and Arcadius to Proculus, 'Prefect of the City.'

Whether a civil or a criminal proceeding (as may be selected by the plaintiff) has been instituted with reference to codicils, or other written instruments which have been produced in court, We grant permission for the proof of the genuineness of said instruments first to be required of him who offered them in evidence, and then he who , is ready to prove that they are forged shall be allowed to establish his allegations.

Given on the tenth of the *Kalends* of February, during the Consulate of Timasius and Promotus, 389.

TITLE XXIII.

CONCERNING THOSE WHO DRAW UP WILLS UNDER WHICH THEY ARE
BENEFICIARIES.

1. The Emperor Antoninus to Valatius.

Although jurists hold that it is contrary to the Cornelian Law for an emancipated son, at the dictation of his father to write in a will, that he is his heir, still, if before the will was drawn up he would have been his lawful successor, and had acquired possession of the property, he would be considered his heir; just as if your father had appointed you his heir with his own hand, and you had only discharged your duty as his son.

Published on the *Nones* of September, during the Consulate of the two Aspers, 213.

2. The Same Emperor to Atticius.

If the testator, who wrote the codicil with his own hand, stated therein that either a legacy or a trust was left to you, you will not be considered to have incurred the penalty imposed by the Decree of the Senate. But if he mentioned in the codicil that he had dictated the will, you should not claim the legacy or the trust, and you will be released from liability for the penalty on account of Our Imperial indulgence.

Published on the *Ides* of December, during the Consulate of Antoninus, Consul for the fourth time, and Balbinus, 214.

3. The Emperor Alexander to Martial.

It was forbidden by the Decree of the Senate and the Edict of the Divine Claudius that those who write the wills of others—even though at the dictation of the testators—should include in them any bequest to themselves, and the penalty of the Cornelian Law is imposed upon anyone who does so. The Senate and the Emperors very rarely pardon anyone who requests it, when he attempts to excuse himself on the ground of ignorance, and offers to reject whatever has been left to him by the will.

Published on the seventeenth of the *Kalends* of April, during the Consulate of Maximus, Consul for the second time, and ^Elianu, 224.

4. The Same Emperor to Crescens.

Any legacies which a husband wrote with his own hand in the will of his wife are held not to have been written, and the penalty of the Cornelian Law will apply if pardon is not obtained.

Published on the third of the *Nones* of February, during the Consulate of Fuscus, Consul for the second time, and Dexter, 226.

5. The Same Emperor to the Soldier Gallienius.

The slave whom you mentioned in the will of your fellow-soldier, by his order, as having been left to you, is considered as not bequeathed, and therefore you cannot claim the legacy. The penalty of the Cornelian Law, however, so far as you are concerned, is remitted through My indulgence, for I think that you were rather mistaken than guilty of malice.

Published on the seventeenth of the *Kalends* of July, during the Consulate of Fuscus, Consul for the second time, and Dexter, 226.

6. *The Emperors Diocletian and Maximian, and the Csesars, to Aufidiis.*

If you, under the direction of your master, wrote with your own hand in his will that you were to obtain your freedom, and as you state that your master did not sign the will, and did not expressly admit, by any written instrument, that you were entitled to your freedom, the terms of the Decree of the Senate oppose your receiving it. You are, however, released from the penalty of forgery, as you could not antagonize your master.

Published on the sixth of the *Ides* of December, during the Consulate of Diocletian, Consul for the fourth time, and Maximian, Consul for the third time, 290.

TITLE XXIV.

CONCERNING COUNTERFEIT MONEY.

1. *The Emperor Constantine to Jamiarius.*

As certain makers of counterfeit money are perpetrating their crime in secret, all persons are notified that they are required to detect men of this kind, so that their guilt having been ascertained, they may be delivered up to the judge, and immediately be put to torture to compel them to reveal their accomplices, and then be punished as they deserve. We grant immunity to their accusers, and as their civil conditions vary, rules are hereby established by Us with reference to each of these.

If any soldier should permit a criminal of this description, who has been arrested, to escape, he shall be punished with death; and anyone not a soldier, who is guilty of such an offence, shall be denied the right of appeal. If a soldier, or an officer, should himself commit this crime, he shall be brought before competent judges with due regard to his rank.

Any house or field where counterfeiting has taken place shall be confiscated to the Treasury, and if the owner was in the neighborhood, he shall be punished for carelessness or neglect, even if he was not aware of the commission of that offence, unless being ignorant in the beginning, he divulged the crime as soon as he found it out; for, in this instance, his land or his house will not be liable to confiscation.

When, however, he was at a great distance from his house or his land at the time, he will sustain no injury, but the agent in charge of the property, the slaves, the tenants, or the serfs, whose services are employed in its management, together with the individual who actually perpetrated the offence, shall be capitally punished.

We, however, consider widows and minors worthy of special indulgence, and direct that widows, who may have been in the vicinity, should not be deprived of their houses or lands, if they themselves were in no way implicated in so serious a crime. Moreover, children under the age of puberty, even if they are accomplices, shall not suffer any loss, because their age, which renders them deficient in judgment, release them from liability. But if their guardians are in the neighborhood, they will incur the penalty, for they should not be ignorant of what their wards are doing; and if they are solvent, as much of their property shall be forfeited to the Treasury as their wards would have been compelled to pay had they been convicted.

Given on the twelfth of the *Kalends* of December, during the second Consulate of the Cassars, Crispus and Constantine, 521.

2. *The Same Emperor to TertuUs, Prefect of the City.*

When anyone makes counterfeit money, We order that his entire property shall be confiscated

to Our Treasury, for We wish that money shall be coined only in Our mints. Those who are guilty of counterfeiting have committed high treason, and a reward is promised to their accusers. Whenever a counterfeiter of *solidi*, or anyone who has placed them in circulation, is convicted, he shall instantly, and without delay, be put to death by fire.

Given at Milan, on the day before the *Nones* of July, during the Consulate of Constantine, Consul for the seventh time, and Constantius, 326.

3. *The Emperors Valentinian, Theodosius, and Arcadius to Rufinus, Praetorian Prefect.*

If anyone should extort the privilege of coining money, either by virtue of a rescript or a permit issued by Us, he shall not only lose the benefit of the permission which he has obtained, but will also suffer the penalty which he deserves.

Given at Constantinople, on the *Ides* of July, during the Consulate of Theodosius, Consul for the third time, and Abundantius, 393.

TITLE XXV.

CONCERNING THE CHANGE OF NAME.

1. *The Emperors Diocletian and Maximian, and the Csesars, to Julian.*

As in the beginning, private individuals have the right, for the purpose of recognition, to give their children such names and surnames as they may desire, so a change of name does not prejudice innocent persons. Therefore, if you are a freeman, you can legally change your name or surname without committing a fraud; and you are not forbidden to do so in accordance with the laws which have been frequently enacted on this subject, and your rights will not, on this account, be prejudiced in the future.

Given on the fifteenth of the *Kalends* of January, during the Consulate of the above-mentioned Emperors.

TITLE XXVI.

ON THE JULIAN LAW RELATING TO POLITICAL CORRUPTION.

1. *The Emperors Arcadius and Honorius to Pompeianus, Prefect of the City.*

Let no one presume to again apply for the office of commander, enumerator, jailer, or any other employment, as one term of these is sufficient for the public welfare. If anyone of such persons should, by means of an Imperial Rescript, fraudulently acquire an office a second time, what he obtained in this way shall be considered as void, and he shall be held to a strict accountability for the acts which he performed during his previous administration.

Those who violate this law shall be sentenced to the penalty of deportation, in accordance with the terms of the *Lex Julia*, relating to political corruption.

Given at Milan, on the day before the *Kalends* of June, during the Consulate of Stilicho and Aurelian, 400.

TITLE XXVII.

ON THE JULIAN LAW RELATING TO EXTORTION.

1. *The Emperors Gratian, Valentinian, and Theodosius to Matronianus, Duke and Governor of Sardinia.*

In order that the penalty inflicted upon one person may strike many others with fear, We order that a duke who has been guilty of extortion shall be sent, under a sufficient guard, into the province which he plundered, and be compelled against his will to pay not only fourfold the value of what he himself extorted or took from the inhabitants of Our province, but also of anything which the members of his household and his soldiers and attendants may have obtained in this manner.

Given at Constantinople, on the day before the *Ides* of June, during the Consulate of Antoninus and Syagrius, 382.

2. *The Same Emperors to Florus, Praetorian Prefect.*

All judges are notified that, so far as their own extortions are concerned, the pecuniary penalties imposed cannot only be collected from them, but also from their heirs.

Given on the *Kalends* of September, during the Consulate of Antoninus and Syagrius, 382.

3. *The Same Emperors to Marcellinus.*

All magistrates and judges are hereby notified that they must keep their hands off of the money and estates belonging to litigants, and not think that the controversies of others may be a source of plunder for themselves, for judges and traders in private litigation are liable to the penalties prescribed by the laws.

Given at Milan, on the day before the *Nones* of April, during the Consulate of Merobaudus, Consul for the second time, and Saturninus, 383.

4. *The Same Emperors and Arcadius, Edict Addressed to the Inhabitants of the Provinces.*

We order, and We urge that if any public official, decurion, landlord, and finally any vassal or person of any rank whatever, should have been, in any way, harassed by a judge, or if anyone should know that a judicial decree was obtained by the use of money, or that a penalty was remitted through a reward, or with the hope of gain, or where anyone can afterwards establish the dishonesty of a judge in any case, he must denounce him, and furnish evidence in support of his accusation, either during his administration, or after he has relinquished his office; and, if he should prove the crime, he shall be honored and glorified for having done so.

Given at Constantinople, on the tenth of the *Kalends* of July, during the Consulate of the Noble Prince Honorius, and Evodius, 386.

5. *The Emperors Valentinian, Theodosius, and Arcadius to Severinus, Count of Private Affairs.*

Let every Attorney of the Crown, Steward of the Royal Household, secretary, collector, or tenant of anyone, who remembers that the Count of Our Private Affairs has extorted money from him, and he to whom he paid it has retired from office, demand what he paid before Your Excellency, within the term of one year, and whatever he refunds shall be credited on his account.

When, however, the prescribed time has elapsed from the date of his laying aside his office, no accusation of this kind shall be heard, but We decree that the Attorneys themselves, the Stewards, the tenants, the secretaries, and the collectors aforesaid shall be held liable for payment.

Given at Milan, on the day before the *Nones* of June, during the Consulate of Valentinian, Consul for the fourth time, and Neoterius, 290.

6. *The Emperors Theodosius and Valentinian to Florentinus, Prætorian Prefect.*

We order that men shall be selected for the government of provinces whose lives are honorable, and who are not attracted to the office by ambition or the desire for gain, but who are deemed worthy of promotion by Your Excellency, so that those who are chosen for the place by yourself or by Us, having been sworn, may state that they have not given anything in order to obtain the office to which they have been appointed, and that they will never in the future give anything, either themselves, or by other persons for that purpose, in violation of the law, and of their oath, nor enter into an agreement of this kind, by way of a sale or donation, or under any other pretext.

They should also swear that, with the exception of their salaries, they will not accept anything whatever during their administration, or after they have relinquished their office, in

consideration of any favor which they may bestow during their term, and which they should grant without reward.

And although We believe that no one, by violating his oath, will forget the fear of God, and prefer some present advantage to his own salvation, still, in order that the danger of punishment may be added to the fear of Divine retribution, We grant to all persons the right of accusation, as of a public crime, where any official dares to disregard the oath which he has taken, and this applies not only to him who received the presents but also to him who gave them; and anyone convicted of this crime shall be fined quadruple the value of what was given or received.

Given at Constantinople, on the sixth of the *Kalends* of December during the Consulate of Theodosius, Consul for the seventeenth time and Festus, 439.

TITLE XXVIII.

CONCERNING THE CRIME OF EMBEZZLEMENT.

1. *The Emperors Honorius and, Theodosius to Rufinus, Prsetorian Prefect.*

Judges who misappropriate public money during their administration incur the penalty imposed by the *Lex Julia* relating to embezzlement, and We order that they shall suffer capital punishment, and that those shall be subjected to the same penalty who are guilty of complicity with them, or who knowingly received the property misappropriated by them.

Given at Constantinople, on the fifth of the *Nones* of March, during the Consulate of Honorius, Consul for the tenth time, and Theodosius, Consul for the sixth time, 415.

TITLE XXIX.

CONCERNING THE CRIME OF SACRILEGE.

1. *The Emperors Gratian, Valentinian, and Theodosius to Eutro-pius, Prsetorian Prefect.*

Those who fail to observe, or violate the sanctity of the Divine Law and offend either through ignorance or neglect, commit sacrilege.

Given at Thessalonica, on the third of the *Kalends* of March, during the Consulate of Gratian, Consul for the fifth time, and Theodosius, 380.

2. *This Law is not Authentic.*

3. *The Same Emperors to Symmachus, Prefect of the City.*

The conduct of the Emperor should not be discussed, for it is the same as sacrilege to doubt whether he whom the sovereign selects for an office is worthy or not.

Given at Milan, on the fifth of the *Kalends* of January, during the Consulate of Richomer and Clearchus, 384.

4. *The Same Emperors and Arcadius to Eutropius, Praetorian Prefect.*

Let no one think that he who desires to receive and administer an office, in the same province in which he is both an inhabitant and a citizen, is not guilty of sacrilege, unless the Emperor himself has voluntarily granted someone this privilege by a rescript.

Given on the sixteenth of the *Kalends* of August, during the Consulate of Arcadius and Bauto, 385.

TITLE XXX.

CONCERNING SEDITIOUS PERSONS, AND THOSE WHO DARE TO ASSEMBLE THE PEOPLE AGAINST THE GOVERNMENT.

1. *The Emperors Gratian, Valentinian, and Theodosius to Floren-tius, Augystal Prsetorian Prefect.*

If anyone should attempt to stir up the populace contrary to the plain provisions of the law enacted on this subject, and resist the public authorities, he shall be subjected to the severest punishment.

Given at Constantinople, on the thirteenth of the *Kalends* of January, during the Consulate of Richomer and Clearchus, 384.

2. *The Emperor Leo to Erythrius, Prsetorian Prefect.*

No seditious speeches shall be made with tumultuous clamor in any city or elsewhere, nor shall any offensive words be uttered against any official of the government; and those who make such speeches and incite such tumults are hereby notified that they will, under no circumstances, obtain anything which they demand, but that, on the other hand, they will be liable to the penalties which the ancient laws provide against the authors of seditions and tumults.

Given at Constantinople, on the second of the *Nones* of March, during the Consulate of Leo, Consul for the sixth time, 474.

TITLE XXXI.

WHEN A CIVIL ACTION CANNOT BE BROUGHT AT THE SAME TIME ALONG WITH A CRIMINAL PROSECUTION, AND WHETHER BOTH PROCEEDINGS CAN BE INSTITUTED BY THE SAME PERSON.

1. *The Emperors Valens, Gratian, and Valentinian to Antony, Prsetorian Prefect.*

It has been generally laid down by a majority of jurists that whenever both a criminal and a civil action will lie in a private matter, both of them can be brought, no matter which may first be instituted; and when the civil action has not been filed, the criminal one can be, and *vice versa*. Hence, if anyone has been forcibly dispossessed of property, and for the purpose of recovering it has made use of the interdict *Unde vi*, it is still not forbidden to bring a criminal accusation under the Julian Law relating to public violence. And where a will has been suppressed, and proceedings have been begun under the edict providing for its production, a criminal prosecution is authorized by the Cornelian Law having reference to wills.

When a freedman alleges that he is freeborn, he can be prosecuted civilly on account of the services due to his patron, as well as criminally under the Viscellian Law. Under this head also is classed the action of theft, as well as that created by the Fabian Law.

There are many other instances which cannot be enumerated here : where when one action is brought first, it is lawful to try the case again by having recourse to another. According to this statement of the law, there is no doubt that the crime of forgery, which has already been made the subject of a civil action, can also be prosecuted criminally.

Given on the day before the *Kalends* of January, during the Consulate of Valens, Consul for the sixth time, and Valentinian, Consul for the second time, 378.

TITLE XXXII.

CONCERNING THE CRIME OF PLUNDERING AN ESTATE.

1. *The Emperors S&verus and Antoninus to Euphrata.*

You cannot prosecute your co-heir for the crime of plundering the estate when you acknowledged that, after having examined the property in the common chest, the keys of the same were delivered to him. When a demand is made to produce the property in court, he cannot be compelled to adjust his accounts, for after the property for which the demand was made has been produced, the decision of the controversy should be left to the proper judges.

Published on the twelfth of the *Kalends* of May, during the second Consulate of Antoninus and Geta, 206.

2. *The Emperor Antoninus to Primus.*

You are not prevented from prosecuting your step-father for the crime of plundering the estate, before the Governor of the province.

Published on the seventh of the *Kalends* of March, during the Consulate of Lsetus, Consul for the second time, and Cerealis, 216.

3. *The Same Emperor to Helena.*

If you have entered on the estate of your grandfather, you will not be prevented from prosecuting your step-mother for the crime of plundering the estate.

Published on the third of the *Nones* of January, during the Consulate of Sabinus, and Anulinus, 217.

4. *The Emperor Gordian to Bassus.*

The heirs of a deceased husband cannot prosecute his widow for the crime of plundering his estate (as she is, both humanly and divinely speaking, the partner of her husband). Therefore you can sue for the property, which you allege she has abstracted, by bringing the proper action *in rem*; or, if she has been guilty of fraud in order to avoid having possession of the chattels, you can compel her to produce them, and she cannot acquire the ownership of the income of any property which she retained in bad faith, for although she is not liable to prosecution for the crime of plundering the estate, there is no doubt whatever that the income from the same can be recovered by a suit if it is in existence, and if it has been consumed, a personal action may be brought for its value.

Published on the sixth of the *Kalends* of March, during the Consulate of Atticus and Praetextatus, 243.

5. *The Emperor Philip and the Csesar Philip to Simplicius.*

Legatees, even when they were the freedmen of the deceased, cannot be deprived of the benefit of their legacies, under the pretext that the estate has been plundered, especially when the case has not been heard.

Published on the fifteenth of the *Kalends* of February, during the Consulate of Philip and Titian, 246.

6. *The Same Emperor and Csesar to Basilia.*

It is a well-settled rule of law that the crime of plundering an estate can be prosecuted, even where a civil action for the same cause has failed.

Published on the tenth of the *Kalends* of March, during the Consulate of ^milianus and Aquilinus, 250.

TITLE XXXIII.

CONCERNING PROPERTY CARRIED OFF BY VIOLENCE.

1. *The Emperor Gordian to Valerius.*

It is an established principle of law that an action brought for the recovery of property carried away by violence, and which includes a penalty, has reference rather to property which is movable and can move itself than to land illegally occupied.

Published on the *Kalends* of March, during the Consulate of Atticus and Praetextatus, 243.

2. *The Emperors Valerian and Gallienus to Longinus.*

If the heir of the donor forcibly deprived you of the movable property, whose ownership you acquired by a legal donation, you have the right to bring suit for quadruple damages on the ground of property taken by violence, within a year; and, after that time, you will not be prevented from bringing an action for simple damages.

Published on the seventh of ... May, during the Consulate of Secularus and Donatus, 261.

3. The Emperors Diocletian and Maximian, and the Csesars, to Evelyptus.

It is settled that a creditor who forcibly removes property which has been pledged to him does not perform a lawful act, but commits a crime, and there is no doubt that he can be sued for quadruple damages on the ground of having carried away the property by violence within the available year, or for simple damages after the year has expired.

Ordered at Sirmium, on the seventh of the *Kalends* of January, during the Consulate of the above-mentioned Emperors.

4. The Same Emperors and Csesars to Attains.

With reference to property which a slave belonging to another is said to have, removed by violence, without the knowledge of his master, the latter can be sued for quadruple damages in a noxal action on this ground before a competent court within a year, and, after that time, an action for simple damages can be brought against him.

Ordered at Heraclia, on the second of the *Kalends* of May, under the Consulate of the above-mentioned Emperors.

5. The Same Emperors and Csesars to Domna.

Whether you think that you should proceed against your stepmother in an action based on voluntary agency, or in one for the forcible removal of property, by means of which quadruple damages can be recovered within the available year, and similar damages afterwards; you can bring your suit before the Governor.

Ordered at Philippopolis, on the sixth of the *Nones* of July, during the Consulate of the above-mentioned Emperors.

TITLE XXXIV.

CONCERNING THE CRIME OF SWINDLING.

1. The Emperor Alexander to Alexander.

You acknowledge that you have committed a dishonorable and criminal act by having pledged the same property to several persons, and that, when contracting the last obligation, you concealed the fact that the said property was already encumbered to others. You will provide for your security, and avoid prosecution for crime, if you pay your debts to all your creditors.

Published on the fifth of the *Ides* of February, during the Consulate of Pompeianus and Pelignus, 232.

2. The Emperor Gordian to Valens.

If your father gave you a donation, and, at the time when you were emancipated, transferred to you by delivery the ownership of the said property, and afterwards hypothecated it to his creditor as his own, without your consent, he does not prejudice your rights, nor can he be prosecuted for the crime of swindling, because of knowingly encumbering to his creditor as his own, and without your consent, property which he knew belonged to another.

Published on the second of the *Kalends* of January, during the Consulate of Gordian and Aviola, 240.

3. The Same Emperor to Hadrian.

Swindling should not be included among public crimes. Published on the *Ides* of April, during the Consulate of Atticus and Prsetextatus, 243.

4. The Emperor Philip to Eutropius.

Advantage cannot be taken of the ignorance of a creditor without incurring the risk of punishment, where property encumbered to him has already been legally pledged or

hypothecated to another; for fraudulent acts of this description should be regarded as unusual offences, and it has been repeatedly stated in rescripts that swindling must be severely punished. Hence your debtor either attempted to take advantage of your ignorance, or, if the obligation was legally contracted, he fraudulently tried to deprive you of your right by conniving with a person for this purpose, whom he pretended to have a prior lien on the property pledged; and you can appear before the court having jurisdiction which will render a decision in conformity with law and equity.

Published on the sixth of the *Ides* of May, during the Consulate of Peregrinus and Emilianus, 245.

TITLE XXXV.

CONCERNING INJURIES.

1. *The Emperor Alexander to Syrus.*

It is not lawful to injure the slaves of others.

Published on the eleventh of the *Kalends* of December, during the Consulate of Alexander.

2. *The Same Emperor to Clavus.*

The action for injury will lie in your favor for two reasons: first, because a husband is understood to have some regard for his wife's reputation for chastity; and second, because a father is considered to sustain damage when the character of his daughter is assailed.

Published on the day before the *Ides* of May, during the Consulate of Agricola and Clement, 231.

3. *The Emperor Gordian to Donatus.*

If you did not denounce anyone, you should have no fear that your reputation has been damaged, because certain persons, with the intention of injuring you, have called you an informer; and, furthermore, you can bring an action for injury in the usual way against those who are ascertained to have done anything -for the purpose of reflecting upon your character.

Published on the second of the *Ides* of July, during the Consulate of Gordian and Aviola, 240.

4. *The Emperors Valerian, Gallienus, and the Csesar Valerian to Vindius.*

It is perfectly clear that an atrocious injury has been committed, if at the time when this was done you were in the exercise of your duty as priest, and wore the habit and the ornaments of your profession; and therefore you can bring a criminal prosecution in order to obtain redress.

Published on the second of . . . , during the Consulate of Mmili-anus and Bassus, 260.

5. *The Emperors Diocletian and Maximian, and the Cazsars, to Victorinus.*

If you can prove that you did not intentionally make use of any abusive expression, the truth of this fact will protect you from an accusation of slander. If, however, during a quarrel, and while inflamed with anger, you accused someone of homicide, and twelve months have elapsed since that time, as an action for injury committed is barred by prescription after the expiration of a year, you cannot be sued on that ground.

Published on the sixth of the *Ides* of July, during the Consulate of Diocletian, Consul for the fourth time, and Maximian, Consul for the third time, 290.

6. *The Same Emperors and Csesars to Flavianus.*

As the justice of the law does not permit patrons to commit injuries against their freedmen, and you state that the heirs of your patron have injured one who received his freedom from the defunct, the Governor of the province will see that the insults of the heirs cease.

Published on the *Ides* of July, during the Consulate of Diocletian, Consul for the fourth time, and Maximian, Consul for the third time, 290.

7. The Same Emperors and Caesars to Potentianus.

The commission of injury gives rise to a private action, and not to a criminal prosecution.

Ordered at Sirmium, on the *Ides* of February, during the Consulate of the above-mentioned Emperors.

8. The Same Emperors and Csesars to Martian.

It is established that a master can bring suit for an atrocious injury suffered by his slave, in accordance with the terms of the Perpetual Edict, by which it is plainly stated that an action for damages will lie.

Ordered on the fifteenth of the *Kalends* of November, during the Consulate of the above-mentioned Emperors.

9. The Same Emperors and Csesars to Nonna.

There is no doubt that persons who, for the purpose of rendering them infamous, have stated that the children of a certain individual were slaves, can be sued in an action of injury.

Ordered at Nicomedia, on the sixth of the *Kalends* of December, during the Consulate of the above-mentioned Emperors.

10. The Same Emperors and Csesars to Paulus.

If Zenodorus (for the purpose of defaming her) said that your grandmother was a female slave, belonging to the City of the Coman-.ensians, and did nothing more, an action for injury committed can immediately be brought against him. If, however, he persists in his assertion, you have the right to defend yourself in court, and then, if your grandmother should not be decided to be a slave, it is settled that you can bring your suit.

Ordered at Nicomedia, on the fifteenth of the *Kalends* of January, during the Consulate of the Csesars.

11. The Emperor Zeno to Alexander, a Man of Illustrious Rank.

When the criminal action for the commission of injury which the ancient legal authorities included among private offences is brought by persons of illustrious rank, whether they hold any office or not, or by their wives, their sons, or their daughters (of course, during .the lifetime of their fathers or husbands), or if it should be brought against any person of this description, We decree that the said persons shall file their complaints in writing, and solemnly observe all the other legal formalities which are usually complied with in such cases. The illustrious accuser or defendant, or his wife, or children of either sex shall, during the lifetime of their parents, have the right to defend themselves, or file the accusation in a criminal case for injury in any court having jurisdiction, by an attorney; and the judge shall render his decision according to law against the party who appointed the attorney, even if he himself was not present in court, but tried the case by his attorney, provided, however, that no one else shall be so bold as to claim this privilege for himself, or to ask Us to grant it; but with respect to others, the practice of the courts which has been observed up to the present time shall prevail hereafter.

Given at Constantinople, on the fifth of the *Nones* of November, during the Consulate of Illus, 478.

TITLE XXXVI.

CONCERNING DEFAMATORY LIBELS.

1. Edict of the Emperors Valentinian and Valens. If anyone should find a defamatory libel in a house, in a public place, or anywhere else, without knowing who placed it there, he must either tear it up before anyone else finds it, or not mention to anyone that he has done so. If, however, he should not immediately tear up, or burn the paper, but should show it to others, he is notified that he will be liable to the punishment of death as the author.

Where anyone having a view to his own duty or to the preservation of the public safety mentions the name of the culprit, and states with his own mouth what he thought reprehensible in the libel aforesaid, let him be under no apprehensions, for if the truth should be established by his assertions, he will be entitled to the greatest praise, as well as to a reward from Us. If, however, he should not be able to prove the truth of his statements, he shall be punished with death.

A libel of this kind does not injure the reputation of another.

Given at Constantinople, on the fourteenth of the *Kalends* of March, during the Consulate of Valentinian and Valens, 363.

TITLE XXXVII.

CONCERNING CATTLE THIEVES.

1. *The Emperors Honorius and Arcadius to Pasiphilus.*

The accusation of a cattle thief not only can be made in writing, but can also be instituted without that formality.

Given on the sixth of the *Kalends* of January, during the Consulate of Olybrius and Promotus, 395.

TITLE XXXVIII.

CONCERNING THE PROHIBITION OF DAMAGING THE LEVEES OF THE NILE.

1. *The Emperors Honorius and Theodosius to Anthemius, Praetorian Prefect.*

If anyone should hereafter, contrary to the ancient practice observed throughout Egypt, seize land left by the overflow of the Nile, within twelve cubits from the bank of the said river, in violation of the peculiar and ancient customs of that country, he shall be burned to death in the place in which he displayed his want of reverence for antiquity, and, to a certain extent, attacked the security of the Empire itself. His accomplices and companions shall be sentenced to deportation, and without ever being granted permission to obtain pardon, or recover either their citizenship, their rank or their property.

Given at Constantinople, on the tenth of the *Kalends* of October, during the Consulate of Honorius, Consul for the eighth time, and Theodosius, Consul for the third time, 409.

TITLE XXXIX.

CONCERNING THOSE WHO CONCEAL ROBBERS OR OTHER CRIMINALS.

1. *The Emperors Valentinian, Valens, and Gratian to the Vicegerent Simplicius.*

Those who conceal persons guilty of crime must expect the same penalty, to which they have rendered themselves liable by having associated with them, and anyone who knowingly harbors robbers, and neglects to give them up to justice, shall, in the discretion of the judge, be punished corporeally, or by a pecuniary fine, according to his rank.

Published at Rome, on the tenth of the *Kalends* of April, during the Consulate of Gratian, Consul for the third time, and Equitius, 374.

2. *The Emperors Honorius and Theodosius to Palladius, Pras-torian Prefect.*

When any robbers or other malefactors reside or conceal themselves on the land of another, the owner of the property (if he is present) or his agents (if he is absent), or the persons having the control of the same, are obliged to voluntarily deliver up the said criminals; and if they knowingly should not do so of their own accord, they shall be notified by the civil authorities to surrender those who are sought, in order that they may be tried and punished according to the nature of their offences.

Where, however, the owners of the land or their agents, or those having charge of the same,

do not promptly give them up, then the Governor of the province, having been applied to, must take all legal measures to arrest them. When a sufficient force cannot be obtained to do this, on account of their number, and the above-mentioned malefactors resist the officers of the law, or otherwise manage to avoid arrest, then the judge of the province, mindful of his responsibility, shall ask assistance from the tribune or commanders of the soldiers who are in the neighborhood, in order that the accused persons, having been seized by the soldiers, may be placed in the hands of the law, without damage or injury to anyone, and, after conviction, may undergo suitable penalties.

The judge, however, should not forget that if he requests the aid of soldiers against one who is innocent, or for any motive than the trial of robbers or other dangerous persons, or subjects the people of the province to unnecessary expense, he will be liable to the severest punishment which Your Highness may determine to be appropriate. If the tribunes, commanders, or other officers, who are in the neighborhood, after having been notified by the judge, should refuse to afford assistance, or if any injuries should be inflicted by the soldiers themselves upon the inhabitants of the provinces, they must make good all losses and damages, and be punished with the greatest severity besides, in accordance with the judgment of the illustrious commander-in-chief.

The owners of the land aforesaid, or their agents, or whoever has charge of the same, shall not go unpunished, if, being present, and aware of the facts, they do not voluntarily surrender the guilty parties; or, if having been notified, they delay to produce them; but the proprietor of the land shall be deprived of his ownership of it, and the agent or superintendent shall be sentenced to perpetual exile.

When the agents themselves, the owner, or the superintendents of the land, acknowledge that they are unable to control the multitude of peasants and criminals aforesaid, and make this statement openly in the tribunal of the province, the Governor shall cause military aid to be furnished by the tribune or the other officers, if he should ascertain that the power of the civil authorities is not sufficient; but when, after the production of the alleged culprits, it becomes evident that they are innocent, and have committed no crime, their accuser will be compelled to suffer the punishment inflicted upon calumniators, for it establishes a bad precedent to seek for robbers, and by doing so place innocent persons in jeopardy.

Given at Constantinople, on the twelfth of the *Kalends* of January, during the Consulate of Marinianus, and Asclepiodotus, 423.

TITLE XL.

CONCERNING THE NOTIFICATION OF ACCUSED PERSONS.

1. *The Emperors Valerian and Gallienus to Rusticus.*

When anyone, who is absent, is charged with serious crimes, sentence is not usually pronounced against him at once, but he is notified to appear, not for the purpose of being punished, but that an opportunity may be afforded him to clear himself, provided he can do so.

If, after having been notified, he should return within a year and clear himself of the crime, he shall receive his property which has been sealed by order of court. When, however, he returns within the prescribed time after having been notified, and dies before establishing his innocence, he will transmit his property to his heirs.

Given at . . . , during the Consulate of Tuscus and Bassus, 212.

2. *The Emperor Constantine to Jamiarius.*

Anyone who refuses to appear in court within a year from the time that he was charged with a crime shall have his property confiscated to the Treasury, and if he should afterwards be found and convicted, he must be given a more severe sentence, and even if he should prove his innocence by clear and satisfactory evidence, his property will, nevertheless, remain in

possession of the Treasury.

Given on the *Ides* of January, and adopted at Corinth, on the fifth of the *Kalends* of August, during the Consulate of Constantine, Consul for the fifth time, and the Caesar Licinius, 319.

3. *The Emperors Honorius and Theodosius to Palladius, Prsetorian Prefect.*

In cases involving the payment of money, the Edict promulgated against a person who remains concealed does not affect his reputation, but a criminal proceeding brings such censure under the law that he who is accused not only cannot transfer his estate, but his good name is also injured.

Given at Ravenna, on the seventh of the *Kalends* of July, during the Consulate of Eustachius and Agricola, 421.

TITLE XLI.

CONCERNING TORTURE.

1. *The Emperors Severus and Antoninus to Antiana.*

Slaves should not be subjected to torture against their masters except in cases of adultery, accusations of fraud having reference to taxation, and the crime of high treason, which involves the safety of the Emperor. So far as other offences are concerned, although judges should not formulate hurriedly a decision based on testimony given by a slave against his master, still, if the truth is established by other testimony, an exception cannot be pleaded. It is, however, clear that, in pecuniary cases, slaves should be interrogated against their masters, where other evidence is lacking.

Published on the *Kalends* of January, during the Consulate of Fuscus, Consul for the second time, and Dexter, 197.

2. *The Same Emperors and Csesars to Catullus.*

It is unusual, and furnishes a bad precedent, for slaves to be heard against their guardians, or the mother of their master, unless the administration of the guardianship is involved.

Published on the third of the *Ides* of September, during the Consulate of Chilo and Libo, 205.

3. *The Emperor Antoninus When Deciding a Case, Said:* Slaves belonging to another should first be interrogated under torture, when there is sufficient evidence that a crime of such atrocity has been perpetrated; and the woman herself may afterwards be put to the question, for it is not inhuman for her to be tortured who destroyed her husband by poison.

Published on the seventh of the *Kalends* of April, during the Consulate of Sabinus and Anulinus, 217.

4. *Extract from a Rescript of the Emperor Antoninus.*

As too much reliance should not be placed on the statements of criminals who, having been convicted, allege that those by whom they were arrested and kept in custody are their accomplices, so, if it is clearly proved that they only divulged the crime committed in common for the purpose of avoiding the penalty, they shall not escape public punishment.

Published on the fifth of the *Kalends* of April, during the Consulate of Sabinus and Anulinus, 217.

5. *The Emperor Alexander to Respectus.*

Slaves who have obtained their freedom by the last will of a testator should not be indiscriminately subjected to torture, even where his death should be avenged.

Published on the sixth of the *Ides* of March, during the Consulate of Sabinus and Venustus, 241.

6. *The Emperor Gordian to Herodian.*

It was long since decided that slaves or freedmen ought not to be tortured in cases having reference to the domestic affairs of their owners, or patrons, as what might be obtained by their confessions would not have the force of truth either for or against them, in capital or pecuniary cases.

Published on the seventh of the *Ides* of May, during the Consulate of Sabinus and Venustus, 241.

7. *The Emperors Diocletian and Maximian to Urbana.*

If the slaves have been proved without doubt to belong to you, We do not permit them to be put to torture, even though you suggest that this be done; and, so far from doing so, We are unwilling that they should be compelled to violate their fidelity to their mistress, even against your consent.

Published on the *Kalends* of November, during the Consulate of Maximus, Consul for the second time, and Aquilinus, 286.

8. *The Same Emperors and Csesars to Sallust, Governor.* We do not permit soldiers to be subjected to torture, or to the penalties imposed upon plebeians in criminal cases, even when it appears that they have been dismissed from the service without the privileges of veterans, with the exception of those who have been dishonorably discharged. This rule shall also be observed with reference to the sons of soldiers and veterans.

In the prosecution of public crimes, judges should not begin the investigation by resorting to torture, but should first avail themselves of all accessible and probable evidence. If, after having obtained information relative to the crime, they think that torture should be applied for the purpose of ascertaining the truth, they only ought to resort to it where the rank of the persons involved justifies such a course; for, by the terms of this law, all the inhabitants of the provinces have a right to the benefit of the natural benevolence which We entertain for them.

Without date or designation of Consulate.

9. *The Same Emperors and Csesars to Our Beloved Governor of Syria.*

In the investigation of the question of free birth, every form of interrogation and torture should be resorted to in order that persons of low and debased origin may not venture to claim for themselves a position among those who are distinguished and freeborn, and that the succession to which the latter are entitled may not through a fraudulent assumption be denied to them.

Given on the sixth of the *Ides* of May, during the Consulate of Diocletian, Consul for the fourth time, and Maximian, Consul for the third time, 290.

10. *The Same Emperors and Csesars to Ptolmseus.*

As you allege that the will is forged, the slaves forming part of the estate may, under the Constitutions of the Emperors, be put to torture, even though they were granted freedom by the person who asserts that he is the heir.

Published on the sixth of the *Kalends* of September, during the Consulate of Diocletian, Consul for the fourth time, and Maximian, Consul for the third time, 290.

11. *The Same Emperors and Csesars to Boethus.*

It was decided by the Divine Marcus that the descendants of men who are designated "Most Eminent and most Perfect," to the degree of great-grandchildren, shall not be subject either to the penalties or the tortures inflicted upon plebeians, if no stigma of violated honor attached to those of a nearer degree, through whom this privilege was transmitted to their descendants.

The learned jurist Domitius Ulpianus, in his works treating of public law, states for the knowledge and information of future ages that this rule shall also be observed with reference to decurions and their children.

Published on the fifth of the *Kalends* of December, during the Consulate of Diocletian, Consul for the fourth time, and Maximian, Consul for the third time, 291.

12. *The Same Emperors and Csesars to Asper.*

Whenever the ownership of slaves is involved, and the truth cannot be ascertained by other evidence, eminent legal authorities hold that the slaves themselves can be interrogated under torture.

Published at Sirmium, on the third of the *Ides* of May, during the Consulate of Tiberianus and Dio.

13. *The Same Emperors and Csesars to Philippa.*

It can be of no advantage to you for the slaves forming part of the estate to be tortured in the case in question, as the ownership of the same is not in dispute; for where it is uncertain who is entitled to it, it is but reasonable that, in order to ascertain the truth, the slaves belonging to the estate should be subjected to torture; but, as you assert that the slave is common property, you should entertain no doubt that half of him belongs to the person against whom you desire the said slave to be interrogated. This fact presents an obstacle to the application of torture, as slaves of two joint-owners cannot be put to the question and interrogated against either of them, except where one is said to have killed the other.

Ordered at Heraclia, on the third of the *Kalends* of May, during the Consulate of the above-mentioned Emperors.

14. *The Same Emperors and Caesars to Constantine.*

It is settled that slaves cannot be tortured any more in favor of their masters, to whom they now belong, than in favor of those who formerly owned them.

Ordered on the eighth of the *Ides* of April, during the Consulate of the Caesars.

15. *The Same Emperors and Csesars to Maximus.*

There is no doubt that slaves can be put to torture on account of acts committed by them, not only in criminal cases, but also in those involving the payment of money, where property is entrusted to them for deposit or loan, or for other purposes authorized by law.

Ordered on the fifth of the *Ides* of April, during the Consulate of the Caesars.

16. *The Emperors Valentinian, Valens, and Gratian to Antonius, Praetorian Prefect of the Gauls.*

We desire decurions to be absolutely exempt from the suffering inflicted by instruments of torture, not only with reference to the debts of others, but also on account of their own. If any magistrate should attempt to insult the Order of Decurions in this manner, he shall be put to death. This severe proceeding shall only be permitted in the case of persons belonging to this municipal order, who are accused of high treason, and who are either accomplices or principals in this infamous crime.

Given on the fifteenth of the *Kalends* of October, during the Con-pulate of Valens, Consul for the fifth time, and Valentinian, 376.

17. *The Emperors Arcadiis and Honorius to Messala, Praetorian Prefect.*

Let every magistrate understand that he cannot, when inflamed with resentment, deviate from the course of justice; nor, if influenced by bribery, inflict corporeal injury by torturing persons who are innocent, or of exalted rank; as the devotion manifested by such persons through long service and arduous labors entitles them to this privilege.

The same rule applies where anyone has retired from the office of decurion, for, on account of his former, position, he must not be subjected to torture.

Given on the twelfth of the *Kalends* of September, during the Consulate of Theodore, 299.

18. *The Emperor Justinian to Demosthenes, Praetorian Prefect.*

So far as the torture of slaves belonging to an estate is concerned, We order that, in accordance with former laws and constitutions, no distinction shall be made, whether a question has arisen among the heirs as to the title to the entire estate, or only to a portion of the same, or to both; for the slaves can only be interrogated concerning certain property of the estate, and those alone shall be liable to torture who had charge of its administration, whether they were left in servitude, or were directed to obtain their freedom by the last will of the testator, so that any property belonging to the estate which may have been concealed can be discovered. Before this is done, however, he who demands the torture of the slaves must take the oath prescribed by Us in such cases.

Given on the fifteenth of the *Kalends* of October, at Chalcedon, during the Consulate of Decius, 529.

TITLE XLII.

CONCERNING ABOLITION

1. *The Emperors Diocletian and Maximian to Paterna.*

If the Governor of the province should ascertain that the abolition obtained by the accused includes all the crimes with which he was charged, his authority will be interposed to prevent what has once been terminated from being renewed. Although prosecution of the crime may have ceased on account of the above-mentioned abolition, still the latter can be revoked by the same person at whose request it was obtained.

Published on the fifteenth of the *Kalends* of December, during the Consulate of Diocletian, Consul for the third time, and Maximian, 287.

2. *The Emperor Constantine to Januarius, Praetorian Prefect.*

Abolition ought to be requested in the presence of both parties in a case where a competent judge, and not the Emperor, has jurisdiction; that is to say, when anyone admits that he brought the charge either through mistake, rashly, or in the heat of anger, for an accuser who makes an explanation of this kind affords good ground for abolition.

Where, however, the accuser, either through fraud, or having been corrupted by the money of the defendant, requests the dismissal of the case, the voice of purchased commiseration shall not be heard, but trial of the guilty party shall proceed, and the proper penalty be imposed. Persons who protect themselves and their families from injury, by accusing their own relatives, are by no means prohibited from asking that the prosecutions which they have instituted be abandoned.

Given on the sixteenth of the *Kalends* of December, during the Consulate of Constantine, Consul for the fifth time, and Licinius, 319.

3. *The Emperors Gratian, Valentinian, and Theodosius to Florus, Praetorian Prefect.*

Permission to dismiss a criminal charge, which has been wrongfully brought by the accusers, shall not be granted. If, however, anyone should inaugurate a prosecution in good faith, and the defendant sustain some injury on account of the written accusation, that is to say, if he should be imprisoned, or subjected to torture or scourging, or placed in chains, abolition shall not be granted, unless he who suffered the wrong consents for this to be done.

But when the defendant did not suffer anything of this kind, and was afterwards delivered up to the officers of justice for safe custody, the accuser will be permitted to apply for a dismissal of the case within thirty days, even against the wishes of the defendant; but We decree that such permission shall not be granted after this time, unless the defendant gives his consent. If any freeborn persons, although of plebeian origin, who were not accomplices and participants in the crime, should, for the purpose of obtaining evidence, have been subjected to scourging and torture, We order that the judge shall refuse to dismiss the case, even at the request of

both parties, and that the trial, in which torture was applied, shall proceed.

Even though it may not have been inflicted upon the witnesses, absolution shall not be granted for certain crimes (such as in high treason, rebellion, treachery, embezzlement, violation of oaths, and all the other offences included in the ancient law) in which a judge should require the accuser not only to prove what he alleges, but the defendant, who denies the charge, to clear himself, if he can do so.

Given on the day before the *Ides* of October, during the Consulate of our Prince Valentinian, and Victor, 369.

TITLE XLIII.

CONCERNING GENERAL ABOLITION.

1. *The Emperor Antoninus to Rutilianus, Consular of Cilicia.*

Anyone who, having the power to bring a criminal accusation, after a general amnesty of all criminals has been proclaimed in the usual manner, neglects to prosecute within the time specified by the Edict, shall not be heard.

Published on the eighth of the *Kalends* of May, during the Consulate of Lsetus, Consul for the second time, and Cerealis, 216.

2. *The Emperors Diocletian and Maximian to Paulinus.*

As the accusation was not brought by you at the time when Our indulgence pardoned all crimes, the prescription based upon public amnesty does not apply.

Published on the sixth of the *Ides* of February, during the Consulate of Maximus, Consul for the second time, and Aquilinus, 286.

3. *The Emperors Valentinian, Valens, and Gratian to the Senate.*

Conscript Fathers, pardon brands with infamy those whom it liberates, for it does not remove the disgrace of the crime, but merely dispenses with the punishment.

Given on the fourteenth of the *Kalends* of June, during the Consulate of Gratian, Consul for the second time, and Probus, 371.

TITLE XLIV.

CRIMINAL PROCEEDINGS SHOULD BE TERMINATED WITHIN A CERTAIN TIME.

1. *The Emperors Valentinian, Theodosius, and Arcadius to Desiderius, Vicegerent of Asia.*

If any accuser should, in writing, denounce a defendant in court, and fail to proceed with the accusation, which he began, within the time prescribed by law, or should not appear upon the last day, which is an act of contumacy, he shall be fined the fourth part of all his property, and shall undergo the legal penalties, in addition to the infamy ordered by the ancient laws.

Given on the fourth of the *Ides* of July, during the Consulate of Arcadius and Bauto, 385.

2. *The Emperors Honorius and Theodosius to Cecilianus, Praetorian Prefect.*

All judges, no matter what offices they hold, or over what tribunals they preside, are notified that necessary delays must not be refused to either of the parties in criminal cases (if they are requested), that is to say, after a written information has been filed; but the trial should take place within a certain time, and if this has elapsed, the accuser who failed to prosecute the case shall suffer the punishment prescribed by the laws. If he is a person of such inferior rank that he will sustain no damage by the loss of his reputation, he shall be subjected to the penalty of exile, unless the case is dismissed by the consent of both parties within the time established by law.

Moreover, the diligence of judges should be such that no good reason can arise for either the defendant or the prosecutor to ask for delay, and they should press the hearing of cases of this

kind without expecting a continuance.

Given at Ravenna, on the twelfth of the *Kalends* of February, during the Consulate of Honorius, Consul for the eighth time, and Theodosius, Consul for the third time, 409.

3. *The Emperor Justinian to Menna, Praetorian Prefect.*

We decree that criminal cases shall, by all means, be terminated within two years from the time when issue was joined, nor shall this period be extended under any pretext; but, after the two years have elapsed, the case shall not proceed further but the accused shall be discharged. Judges and their subordinate officials are hereby notified that if, at the request of litigants, they should delay the examination or trial of a case beyond the time aforesaid, they must pay a fine of twenty pounds of gold.

Given on the *Kalends* of April

TITLE XLV.

ON THE TURPILLIAN DECREE OF THE SENATE.

1. *The Emperor Antoninus to Amatus.*

He is held to be liable to the penalty imposed by the Decree of the Senate who, after having denounced a public crime, and begun the prosecution of the same, that is to say, filed a written accusation, furnished a surety, and, caused the arrest of the accused and his delivery into custody, abandons the case without having previously caused it to be dismissed.

2. *The Emperor Gordian to Apius.*

If you became surety for someone who had brought a criminal accusation in writing, and afterwards desisted from the prosecution, and you bound yourself by a stipulation, you will not be liable for any sum above that specified in the contract. He, however, who failed to prosecute shall be branded with infamy, and severely punished by the judicial authorities.

3. *The Emperors Valerian and Gattienus to Syllanus.* Although the written instrument in question contained the provision that abolition of the crime should first be demanded, and that afterwards the accused would comply with everything mentioned therein, and your adversary failed to keep the promises which he made to you, you cannot renew the accusation from which you yourself desisted.

Published on the day before the *Nones* of July, during the Consulate of Tuscus and Bassus, 259.

4. *The Same Emperors to Patrophilus.*

If the person against whom you petition has renewed an accusation against your parents, which you allege he had abandoned, an exception on this ground can be pleaded against him in the tribunal of the governor.

Published on the day before the *Nones* of May, during the Consulate of Secularus and Donatus, 261.

5. *The Emperors Diocletian and Maximian to Matrona.*

When a woman prosecutes anyone for an injury committed against her or her relatives, and afterwards acknowledges that she desisted under an agreement contrary to the ancient laws, it is a positive rule of law that she has incurred the penalty imposed by the Turpilian Decree of the Senate.

Given on the seventh of the *Nones* of April, during the Consulate of the Caesars.

6. *The Same Emperors to Lucilius.*

In criminal prosecutions, those are considered to have desisted who have abandoned the case without the intention of renewing the accusation. Therefore, as your petition states that your

ignorance was one of the reasons why you did not prosecute the case to the end, you can, without any apprehension of hindrance on account of the short interruption which took place, proceed with the accusation according to law and bring it to a termination, after having proved what is required of you.

Published on the third of the *Kalends* of July, during the Consulate of Diocletian, Consul for the sixth time, and Maximian, 296.

TITLE XLVI.

CONCERNING CALUMNIATORS.

1. *The Emperor Alexander to Sabinus.*

An accusation of calumny should be prosecuted from the time the charge was heard in the presence of the accuser, and therefore, the case having been decided, it is contrary to the ordinary practice for you to demand that your accuser be punished for calumny.

2. *The Same Emperor to Apollonia.*

A mother is included among those persons who, without the fear of calumny, can avenge the death of her son, and the benefit of the Decree of the Senate is also granted her in other prosecutions.

A foreign heir, who prosecutes anyone on account of suspicions entertained by the deceased with reference to his death, is released from liability for calumny on this account, as a great difference exists between a voluntary accusation and that required of the heir on account of his position.

Published on the sixth of the *Kalends* of July, during the Consulate of Julian and Crispus, 226.

3. *The Same Emperor to Emilius.*

When anyone who is unable to prove the accusation of crime which he brought is not convicted of calumny, he will sustain no loss of reputation ; for if the defendant should be acquitted, the accuser ought not to be considered a calumniator merely on that account, if he had good reason for bringing the charge.

4. *The Emperors Cams, Carinus, and Numerianus to Arcadius.*

The penalty of calumny cannot be inflicted on account of an accusation brought to avenge the death of a father.

Published on the eleventh of the *Kalends* of December, during the Consulate of Carus and Carinus, 283.

5. *The Emperors Diocletian and Maximian to Cassius.*

Persons can only be convicted of calumny who prosecute criminal cases, and not those who institute legal proceedings involving freedom, and which also include private matters that are the subject of controversy.

6. *The Same Emperors to Domitius.*

The penalty of double damages is provided by the Julian Law in favor of the owners of slaves, where the latter have been subjected to torture by the false denunciation of an accuser.

Ordered on the fifteenth

7. *The Emperors Valentinian and Valens to Valerius.*

Your Excellency should not order anyone to be brought before your tribunal for examination unless the accuser has previously complied with all the legal formalities required; as, according to the provisions of the ancient laws, when an accusation is brought, the defendant shall be punished if it is proved; and where the accuser fails to establish the charge, he himself must suffer the penalty.

Given on the sixth of the *Kalends* of December, during the Consulate of Gratian and Gadalaifus.

8. *The Emperors Gratian, Valentinian, and Theodosius to Menan-drius, Vicegerent of Asia.*

It is stated both in Our Constitutions and in those of Our predecessors that persons who bring accusations in the names of others shall be classed as informers. Hence if the accusation is known to be false, the penalty of infamy will be imposed upon him whose charge was not proved in court; wherefore, all persons are notified that they will not be permitted to bring to the attention of judges criminal accusations which cannot be established.

Given at Constantinople, on the eighth of the *Ides* of May, during the Consulate of Arcadius and Bauto, 385.

9. *The Same Emperors to Florus, Prsetorian Prefect.*

No legal pretext advanced by way of excuse will be of any advantage to a man who brings a false accusation, especially after the defendant has been produced in court, nor will any public or private abolition profit, or be of any advantage to such a person, nor will any special indulgence or general privilege release him from liability.

Given at Constantinople, on the fifteenth of the *Kalends* of June, during the Consulate of Antonius and Syagrius, 382.

10. *The Emperors Honorius and Theodosius to the Praetors, the Tribunes of the People, and the Senate, Greeting:*

Anyone who brings a criminal accusation is informed that if it should prove to be false he will not go unpunished, as those who are guilty of calumny will be liable to the same penalty as the accused persons, had they been convicted.

Given on the eighth of the *Ides* of August, during the Consulate of the above-mentioned Emperors.

TITLE XLVII.

CONCERNING PUNISHMENTS.

1. *The Emperor Titus JElius Antoninus to Lucius.*

The condition of persons condemned to hard labor for life is not different from that of those who have been sentenced to deportation to an island.

Without date or designation of Consulate.

2. *The Emperor Antoninus to Valerius.*

My Attorney, who was not acting as Governor, could not inflict upon you the penalty of exile, and therefore you need have no apprehension of his sentence, as it was not in conformity to law.

3. *The Same Emperor to the Senate.*

It is clear that a decurion cannot be sentenced to labor on the public works.

4. *The Same Emperor to Marina.*

If the child mentioned by you in your application was conceived before his mother was sentenced to the mines, his condition after his birth will be that of his mother before her conviction.

5. *The Same Emperor to the Senate.*

It is one of the privileges of veterans that their children, as far as the first degree, cannot be sentenced to the mines or the public works, but must be relegated to an island.

6. The Same Emperor to Alphius.

Your statement that a freeman has been condemned to imprisonment in chains for life is incredible, for this penalty can scarcely be imposed upon a person of servile condition.

Published on the third of the *Ides* of February, during the Consulate of Messala and Sabinus, 215.

7. The Emperor Alexander to Isidore.

Immunity for the commission of crime is not conceded on account of age, when anyone is capable of perpetrating the crime of which he is accused.

8. The Same Emperor to Victor.

The property of persons who have been deported to an island by a judge having proper jurisdiction shall be confiscated to the Treasury, but that of those who have been relegated shall not be confiscated, unless this is expressly included in the sentence.

9. The Same Emperor to Demetrius.

If it should be proved that your mother was the daughter of a decurion, it is apparent that she cannot be condemned to work for persons employed in the mines, or to the mines themselves.

10. The Same Emperor to Catullus.

Where a slave has been sentenced by the Governor of a province to the penalty of confinement in chains, without prescribing any time when he shall be returned to his master, he should be kept in chains for life.

11. The Emperor Gordian to Titian.

The punishment of performing menial services for persons employed in the mines can be inflicted upon free men and women, as well as upon those in a servile condition.

12. The Emperors Diocletian and Maximian Stated in the Consistory.

"The sons of decurions should not be thrown to wild beasts." When, on hearing this, the people cried out, the Emperors added: "No attention should be paid to the vain remonstrances of the populace; for they should not be believed, either when they desire a criminal to be pardoned, or an innocent person to be condemned."

13. The Same Emperor to Ursinus.

After a slave has been convicted, if his master has not been deprived of his ownership by the sentence, he has a right to demand his services.

14. The Same Emperors and Ctesars to Vicarius.

If the time designated in a sentence of labor on the public works has not yet expired, it is proper to wait until it has elapsed; as it is to the public interest for a penalty not to be hastily remitted, lest someone may, for this reason, rashly commit crime.

15. The Same Emperors and Csesars to Agathus.

It is not lawful to revoke the penalty imposed by a sentence of the Governor of a province.

16. The Emperor Constantine to Catulinus, Proconsul of Africa.

Let the judge about to pass sentence exercise moderation, so that before imposing a capital penalty upon anyone, as in the case of adultery, homicide, or witchcraft, the accused may be convicted either by his own confession, or by the positive statements of persons subjected to torture, or interrogated; so that there may be a general agreement of the testimony with reference to his guilt, and he may be implicated to such an extent that it will scarcely be necessary for him who committed the crime to deny it.

Given on the third of the *Nones* of November, during the Consulate of Volusianus and

Annianus, 314.

17. The Same Emperor to Eumelius.

Where anyone has been condemned to the mines for a criminal offence, he shall not be branded upon the face, as this part of his sentence can be impressed upon his hand, or the calf of his leg by a single mark; and his face, which has been formed in the image of celestial beauty, shall not suffer disfigurement.

Given on the twelfth of the *Kalends* of April, during the fourth Consulate of Constantine and Licinius, 315.

18. The Emperor Constantius to Theodore, Governor of Arabia.

As a certain time was granted the defendants, who were convicted by clear evidence, before sentence was passed, the right of petitioning the Emperor as well as the opportunity of evading the penalties incurred by their criminal acts was afforded them; and, as in the crime of homicide and other serious offences punishment should not be deferred, the laws having reference to crime must hereafter be observed, and convicted criminals and malefactors be sentenced without delay.

Given on the *Ides* of October, during the Consulate of Constantius. Consul for the fourth time, and Constans, 343.

19. The Emperors Valentinian and Valens to Olybrius, Prefect of the City.

Let no one, by way of punishment for crime, be transferred from one guild to another, if he is a member of any, but every culprit shall experience the severity of the law prescribed for the crime of which he was convicted.

Given on the third of the *Ides* of April, during the Consulate of Valentinian, 365.

20. The Emperors Gratian, Valentinian, and Theodosius to Flavian, Prsetorian Prefect of Illyria and Italy.

If, having in view the circumstances of the case, We, contrary to Our custom, should order any persons to be punished with exemplary severity, We are not willing for the guilty parties to suffer the penalty immediately, or the sentence to be executed without delay; but desire that their fate and fortune shall remain in suspense for the term of thirty days.

The defendants, however, must be placed in safe custody, and vigilantly guarded during the time aforesaid.

Given at Verona, on the fifth of the *Kalends* of September, during the Consulate of Antonius and Syagrius, 382.

21. The Emperors Valentinian, Theodosius, and Arcadius to Prin-cipius, Prsetorian Prefect.

In order that the depraved and venal perfidy of court attendants may not hereafter be exercised with impunity contrary to the public welfare,'We decree that legal penalties can be pronounced against them even during their absence.

Given on the *Kalends* of June, during the Consulate of Arcadius and Bauto, 385.

22. The Emperors Arcadius and Honorius to Eutychianus, Prsetorian Prefect.

We order that punishment shall be inflicted only upon those who are liable to it, and We exclude all relatives, acquaintances, and companions from the imputation of calumny, as association with criminals does not necessarily render them guilty, and neither affinity nor friendship presumes implication in crime. Therefore, let each one be responsible for the offences which he himself commits, and let the fear of punishment go no further than the detection of guilt.

This law shall be communicated to all judges.

Given at Constantinople, on the eighth of the *Kalends* of August, during the Consulate of Eutropius and Theodore, 399.

23. *The Emperors Honorius and Theodosius to Anthemius, Pr&-torian Prefect.*

We decree that all those whom the terms of their sentences have condemned to exile, and who have served the designated time in prison, shall at once be liberated from custody, and released from their chains, as they have paid the penalty, and need not apprehend the wretchedness of exile. It will be sufficient for them to have undergone such severe punishment, nor shall those who have been long deprived of the common blessings of air and light, and for an extended period have been oppressed with heavy chains, be compelled to suffer the penalty of exile in addition.

Given on the fourteenth of the *Kalends* of May, during the Consulate of Constantius and Constans, 414.

24. *The Same Emperors to Monachius, Praetorian Prefect.*

We order all Governors of provinces to see that persons who have been condemned to undergo the penalty of exile for a certain time, shall, as soon as that time has expired, be no longer confined in prison, or kept under restraint in the places to which they were exiled.

Given at Eudoxiopolis, on the third of the *Kalends* of September, during the Consulate of Our Lord the Emperor Theodosius, Consul for the seventh time, and Balladius, 416.

25. *The Same Emperors to Monaxius, Praetorian Prefect.*

We decree that those who instruct barbarians how to build ships, when the latter were previously ignorant of the art, shall be put to death.

Given at Constantinople, on the eighth of the *Kalends* of October, during the Consulate of Monaxius and Pinta, 419.

TITLE XLVIII.

CERTAIN JUDGES SHALL NOT BE PERMITTED TO CONFISCATE PROPERTY
WITHOUT THE ORDER OF THE EMPEROR.

1. *The Emperor Theodosius and the Csesar Valentinian to Hierius, Prsetorian Prefect.*

No judge (with the exception of those of the highest rank) shall be permitted, during times of prescription, to confiscate the entire property of anyone, unless he has first made application to Us to do so.

Given at Constantinople, on the tenth of the *Kalends* of February, during the Consulate of Theodosius, Consul for the eleventh time, and the Caesar Valentinian, 425.

TITLE XLIX.

CONCERNING THE PROPERTY OF THOSE WHO HAVE BEEN PROSCRIBED OR
CONDEMNED.

1. *The Emperor Antoninus to Marcus.*

It is well known that masters are not deprived of the *peculium* of any of their slaves who have been convicted of a capital crime, but a master shall receive whatever he can prove belonged to his slave, and the price of the property, if any has been sold by him; and power is also granted to suspend sentence until the accounts of his administration have been rendered by the slave, and the disposition of the property explained. The master should, however, remember that this must be done quickly in order that the slave may be delivered up to punishment.

2. *The Emperor Alexander to Pronto.*

Persons sentenced to deportation do not transmit to their heirs any property which they may have acquired after their conviction; but this, as well as what they previously possessed, shall

be confiscated.

3. *The Same Emperor to Julianus.*

If your son, while under your control, was sentenced to deportation to an island, you will not be deprived of his *peculium*, which he obtained in military service, or which you gave him while in the army.

Published on the sixth of the *Ides* of September, during the Consulate of Alexander, Consul for the second time, and Marcellus, 227.

4. *The Emperor Gordian to Callimorphus.*

Anyone who is condemned to the mines becomes a penal slave, hence the property of him upon whom a sentence of this kind has been imposed is confiscated to the Treasury. Therefore, if you allege that he who was afterwards pardoned by Us had any property, it will belong to the Treasury rather than to him who was sentenced.

5. *The Emperor Philip to Arrian.*

If (as you allege) the property of him who administered your guardianship and was sentenced has been confiscated to the Treasury, apply to Our Attorney who, if he ascertains that you are legally entitled to anything, will not refuse it.

6. *The Emperors Diocletian and Maximian to Gaudentius.* It is a positive rule of law that children are entitled to none of the property of their mother, who has been condemned to deportation.

7. *The Emperors Valentinian, Valens, and Gratian to Probus, Praetorian Prefect.*

If anyone in a province should incur the penalty of proscription, on account of the nature of his crime, a complete inventory of his property must be carefully made by the proper authority, to prevent anything from being abstracted through favor of collusion; and a full description must be given of the extent and character of the land, and what proportion of it is tilled, or unimproved, how much of it is susceptible of cultivation, and how much in vineyards, olive orchards, pasture, and timber.

There should also be included a statement of the advantages and beauty of the property, as well as the decorations of the buildings, and how many slaves are used in the cultivation of the land, whether they are from the city or the country, and in what occupations they are engaged. It should also be stated how many collectors there are, as well as the number of tenants and oxen employed in the tillage of the soil; the number of cattle and sheep, and the kinds of each; the quantity of gold, silver, clothing, jewels; and whether the metal is coined, or in bulk; and the designation of the various coins, as well as the amount of property deposited in storehouses. After everything that you perceive that We desire has been entered in the inventory, it should be delivered to the Steward of Our Private Affairs, or to the officials of the palace appointed for this purpose, in order that it may become part of the property of the Crown.

Moreover, an account of everything specified and separately enumerated should be sent to Us, under seal of the judge, and there is no doubt that if he should be guilty of negligence in this respect he must be fined. If, after the examination made by the aforesaid official and reported to the Steward of Our Private Affairs, to whom the inventory should be sent, it should be found that something had been fraudulently omitted from the list, the said official shall be punished by being compelled to pay the amount which has been fraudulently suppressed, out of his own property.

Given on the third of the *Nones* of May, during the Consulate of the Noble Prince Valentinian and Victor, 369.

8. *The Emperors Gratian, Valentinian, and Theodosius to Eutro-pius, Praetorian Prefect.*

When a person sentenced to deportation has sons, some of whom are emancipated and some

are not, the portion of his estate to which his children are entitled shall be transferred only to those under his control, if those who have been emancipated think that, by relinquishing what they obtained at the time when this occurred, they will sustain loss. If, however, they should prefer that a merger of property and donations should take place, everything which the Treasury grants to the children of a condemned criminal shall be equally divided among them.

This rule shall also be observed with reference to the dowry of a daughter, or a granddaughter by the son of a person condemned to deportation.

Given at Thessalonica, on the fifteenth of the *Kalends* of July, during the Consulate of Gratian, Consul for the fifth time, and Theodosius, 380.

9. The Emperors Arcadius and Honorius to Csesarius, Prastorian Prefect.

When anyone is sentenced to deportation, his wife can claim her own property, no matter how she may have acquired it, and even if it has already been seized, or taken possession of in any way, she will be entitled to receive it at once. Her dowry, also, if it can be proved that she actually gave it to her husband (but not what is sometimes inserted without effect in dotal instruments) shall be delivered to her.

Again, anything which she received by way of donation from her husband before marriage, or which came into her hands during marriage, through the generosity of her husband, before his conviction, will undoubtedly belong to her.

(1) Moreover, if it should appear clearly that any property had been given by a father to his emancipated children, before the commission of the crime and his conviction, it shall be reserved for them unimpaired, and without controversy. Anything, however, which neither the wife nor the emancipated children can legally claim, I decree shall be seized by the public authorities, and confiscated, and a report made to Me stating whether the condemned person has any children; and it should also be added whether they claimed anything for themselves on the ground of a donation.

(2) With regard to those who are indebted to the Treasury, and have been proscribed and condemned on this account, it has been decided that where the wife has any property of her own, or any which was given to her by her husband before he committed the act on account of which the prosecution for fraud was instituted, and if anything was afterwards donated to his emancipated sons, before the perpetration of the crime, it shall remain intact in the hands of those who received it; and no one shall, under any circumstances, be held liable to the Treasury, except for what the convicted criminal himself owned when he contracted the obligation to the Treasury, or what he purchased in his own name, or in that of his wife, his children, or anyone else.

Those, however, are only excepted who have performed the duties of Caesarians or Catholici, who are excluded from every privilege until their accounts have been approved and accepted by Me, and they shall then have the right to transmit any of their property which is clear of encumbrance.

Given at Constantinople, on the third of the *Nones* of August, during the Consulate of Arcadius, Consul for the fourth time, and Honorius, Consul for the third time, 396.

10. The Emperors Theodosius and Valentinian to Hierius, Prse-torian Prefect.

When anyone is convicted of a crime and sentenced to death or deportation, his property shall be confiscated to the Treasury, if he dies without issue. When, however, he is survived by sons or daughters, or grandchildren by his sons, after half of his estate has been confiscated to the Treasury, the remainder shall be reserved for them.

The same rule applies if he should leave posthumous children. If he who incurred this penalty was a decurion, and had no children, his *curia* shall succeed to him, and will be entitled to his entire estate, and can itself either hold it or transfer it to another, who shall discharge the official duties of the deceased at his own risk.

If, however, the decurion had sons, even though they were not yet born, they will be entitled to the entire estate of their father. If there are any daughters, they will have a right to half of the estate, and the *curia* to the other half. When there are both sons and daughters, half of the estate shall be given to the sons, in the name of the *curia*, and the other half, which the indulgence of the Emperor has assigned to all in common, shall be divided equally among the children, except in cases of high treason, for, under such circumstances, anyone who was guilty of such an atrocious crime shall justly transmit his penalty to his posterity.

Given at Constantinople, on the tenth of the *Kalends* of February, during the Consulate of Our Lord Theodosius, Consul for the twelfth time, and Valentinian, Consul for the second time, 426.

Extract from Novel 134, Last Chapter. Latin Text.

The property of those who have been condemned or proscribed is not confiscated for the benefit of the judges or their officers, nor, in accordance with the ancient laws, for the benefit of the Treasury; but should be given to the ascendants and descendants of the person convicted, or to his collateral heirs, as far as the third degree, if there are any.

Moreover, their wives are entitled to their dowries and antenuptial donations. Where, however, they were married without any dowry, they will receive from the estates of their husbands the portion designated by law, whether they have any children or not. When the condemned persons leave none of the heirs above mentioned, their property shall be confiscated to the Treasury. We order that the ancient laws shall be observed with reference to persons convicted of the crime of treason.

TITLE L.

CONCERNING THE PROPERTY OF THOSE WHO COMMIT SUICIDE.

1. *The Emperor Antoninus to Aquilia.*

The property of those who, having ascertained that their crime has been discovered, through fear of a future sentence, lay violent hands upon themselves, shall be confiscated to the Treasury. Therefore, if it should be proved that your brother or your father, having committed no offence, but on account of corporeal suffering, weariness of life, a sudden attack of rage or insanity, or for any other reason, put an end to his life, his property shall belong to his heirs, whether he left a will, or died intestate.

2. *The Emperor Alexander to Rusticus.*

The estates of those who, after having been accused of crime, commit suicide—if the accusation is not for treason, and they did not kill themselves through fear of its results—are transmitted to their heirs.

TITLE LI.

CONCERNING THOSE WHO HAVE SERVED THEIR SENTENCES AND BEEN PARDONED.

1. *The Emperor Antoninus.*

When the Emperor, having bidden farewell to the illustrious Praetorian Prefects Gentian, Adventus, and Opilius-Macrinus, and to his friends and principal officers both civil and military, was about to depart, Julianus Licinianus, who had been sentenced to deportation to an island, was presented to him by Opilius-Ulpianus, at that time Lieutenant of the Emperor, and Antoninus Augustus said to him: "I restore you to your province with all your rights," and added, "Moreover, that you may know what it means to be restored to all your rights, I hereby reinstate you in your offices, your rank, and all your other privileges."

2. *The Same Emperor to Quietus.*

If, as you allege, your father has been sentenced to the mines, it is only right that his property

should be confiscated to the Treasury; and if, through My clemency he has been released only from the penalty, he did not, for this reason, obtain the restitution of his property, unless this favor was especially granted him.

3. The Emperor Alexander to Stratonicus.

If the debtor underwent the penalty to which he was sentenced, and his property was taken from him, even though he afterwards recovered his Roman citizenship, he did not obtain his entire property, but only a portion of the same through the favor of the Emperor; and he is released from the obligation of the payment of the entire indebtedness contracted before his conviction, but will only be liable in proportion to the amount which he recovered. If, however, his property was confiscated to the Treasury, on account of the money which he owed it, he and his sureties will remain liable to his creditors for his debts.

4. The Same Emperor to Valentina.

The guardian of your children, prætorian possession of whose estates you say that you have received, having been condemned to the mines, and afterwards having returned under a general amnesty, although he has become more wealthy, will not be liable to you in an action for the administration of guardianship; unless by the terms of his pardon he was expressly restored to his former condition, and the possession of all his property.

5. The Same Emperor to Julianus.

Although, after having been deported to an island and your property confiscated, you may have returned under the general amnesty, still, any rights of action to which you are entitled belong to the Treasury; and hence your demand that actions may be granted in your favor against the heirs of your guardian is contrary to law.

6. The Emperor Gordian to Fabianus, Prætorian Prefect.

As your son has been deported to an island, he was, for this reason, released from paternal control; and if (as you allege) he afterwards returned to his country and was restored to his former rank through the clemency of the Divine Alexander, paternal authority is not considered to have been re-established over him.

7. The Emperor Philip to Cassius.

Our general amnesty permitted all exiled or deported persons to return, but did not restore to them the offices of which they were deprived, nor did they recover their reputations intact and unimpaired.

8. The Emperors Valerian and Gallienus to Seleucus.

You are mistaken if you think that you still have any rights over your slave, who was condemned to the mines, and afterwards pardoned, for it has not been decided that by an act of indulgence of this kind the former ownership of a master is restored. The Governor of the province, however, will see that you do not suffer any injury from the slave; and if he has any of your property in his possession, the Attorney of the Crown will decide the dispute between you, for the slave belongs to the Treasury.

9. The Emperors Diocletian and Maximian to Restitutus.

If your father, after having been deported to an island, was restored to his country by a general amnesty, and did not expressly obtain the privilege of having his children again placed under his control, there is no doubt that the estate obtained by you is not acquired for his benefit, as the sentence passed upon him rendered you the head of the family.

10. The Same Emperors and Csesars to Demetrius.

As you return to your home by virtue of Our clemency, you need not apprehend that you will be subjected to prosecution by the Governor of the province, whose annotation has already been annulled.

11. The Same Emperors and Csesars to Philip.

The fact that he who brought an action with reference to a tract of land was through Our benevolence restored to his country and the possession of his property, after having been sentenced to deportation, does not alter the former condition of the case.

12. The Same Emperors and Csesars to Trypho, Prsetorian Prefect.

Where a person condemned to deportation was pardoned by Us, and recovered his property, he cannot protect himself against his creditors, and avoid paying his legal debts under the pretext of having paid the penalty of his crime.

13. The Emperor Constantine to Maximus, Prefect of the City.

With reference to the will which the son of a man who was deported made during the lifetime of his father, We, rejecting the opinions of Ulpianus and Paulus, have adopted that of Papinianus, namely, that the son is again placed under the control of his father, to whom his rank and property have been restored.

(1) Nevertheless, any transactions entered into by the son shall be considered valid, if he had reached lawful age; and, after he has been restored to paternal authority, they should not be rescinded, as it would be absurd for anyone at the same time to be neither under the control of his father, nor his own master.

(2) Minors are forbidden by law to transact any business. If, after the condemnation of their father, a guardian should be appointed for them, he must relinquish his office as soon as the former returns, as he should not only nominally return, but must also discharge his paternal duty, and see that his children are not corrupted, and that their property is cared for and increased. For if he abuses his authority to the extent of destroying or wasting the property of his children, the latter should be treated in the same manner as insane or demented persons, or spendthrifts, or those given to all lusts and vices, to whom money ought not to be entrusted; and such a father should be removed from the administration, and not only cease to be guardian, but must, out of his own property, indemnify the minor for any useless expense or loss which he has sustained. Moreover, the sentence of deportation cannot be advanced to the prejudice of the father.

(3) If, after his return, the integrity of the father should be found to be unimpaired, so that he ought to be restored to his natural

position, and the discharge of his duty to his offspring, the management of their property should be transferred to him whose care resembles that established by the public law. And unless this is done where fathers are good, their return will be more doleful than their departure, so far as the children are concerned.

(4) Therefore a pardon is beneficial for the purpose of restitution only to the extent that the sentence was beneficial for correction, so that, if the loss of all his property resulted from deportation, by means of pardon his possessions, his rank, and everything of which he was deprived, including his good name, will be regained. Hence sons request emancipation from their fathers in order that they may obtain freedom, not because of a judicial sentence, but as an evidence of paternal affection.

Given at Sirmium, on the eighteenth of the *Kalends* of October, during the second Consulate of the Caesars, Crispus and Constantine, 321.