

Book IX.  
Title XVIII.

Concerning enchanters, magicians and other similar persons.  
(De maleficis et mathematicis et ceteris similibus.)

Bas. 60.39.22, et seq.

9.18.1. Emperor Antoninus.

To kill a man with poison is worse than to murder him with the sword.  
Promulgated without day or consul.

9.18.2. Emperors Diocletian and Maximian and the Caesars to Tiberius.

To learn and apply the science of geometry is to the public interest. But the damnable magician's art is forbidden.  
Subscribed at Sirmium August 20 (294).

9.18.3. Emperor Constantine to Maximus.

No haruspex<sup>1</sup>, priest<sup>2</sup> or anyone who customarily performs rites of that nature, shall pass another's threshold, not even for some other reason (than soothsaying), but the friendship of this class of men, though of long standing, must be rejected. The soothsayer, who has gone into another's house, shall be burned to death, and he who has caused him to come, either by persuasion, or for reward, shall, after confiscation of his goods, be banished to an island. 1. And we do not consider an accuser of this crime in the light of an informer, but rather as a man entitled to reward.<sup>3</sup>  
Promulgated at Rome February 1 (319).

C. Th. 9.16.1.

Note.

The superstition among the ancients and the use of various arts of enchantment is well known. The aim of this title is the suppression of this art, attempts at which had been made for many years. Thus Tiberius forbade anyone to consult soothsayers secretly and without witness, and attempted to suppress the oracles near Rome. Suet., Tiber. 63. He feared that this art might be used in order to encompass his ruin, and this fear underlies many of the laws of the present title; for the efficacy of that art was not at all doubted in those days, except on the part of a few. Ulpian refers to this and says, as shown in Coll. Mos. 15.2: "If the emperor's health was the subject of consultation, death or other severe punishment was inflicted; the penalty was lighter where the inquiry related to the consulter's own health or that of his relatives. This last class also includes soothsayers, though they, too, must be punished, because they sometimes exercise their reprehensible arts to the prejudice of the public peace and the empire."

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<sup>1</sup> [Blume] Who inspects the entrails of sacrificed victims in connection with soothsaying.

<sup>2</sup> [Blume] Working in connection with the haruspex. Gothofredus.

<sup>3</sup> [Blume] See also C. 1.11.1; C. 1.11.3 and 7.

C. 1.11.2 also prohibits the examination of entrails and every sort of divination to penetrate the future. The title in which that law is contained was, however, mainly aimed at the suppression of heathenism.

9.18.4. The same Emperor and Caesar to Bassus, City Prefect.

The science of man, who by magic arts, are discovered to have worked against the welfare of others, or to have bent modest minds in the direction of sensuality, should be punished and avenged by severe laws. But no accusations should be brought in cases where remedies (by incantation) are sought for the human bodies, or incantations are innocently applied in rural places with the hope that rains need not be feared on mature crops or that they may not be destroyed by ruinous hail, for by such (supposed) remedies no one's safety or reputation is injured, but they are resorted to in order that the gift of God and the labors of men may not be ruined.

Given May 23 (321) at Aquileia.

C. Th. 9. 16. 3.

9.18.5. Emperor Constantius to the people.

No one shall consult a haruspex, or an astrologer (mathematicus) or a soothsayer (hariolus). The depraved trade of augurs and prophets (vates) shall cease. Chaldeans and enchanter (magi) and others, whom the populace calls sorcerers (malefici - givers of poison) on account of the magnitude of their crimes, shall cease to do anything along that line. The curiosity to read the future shall stop. For whoever shall deny obedience to these commands shall be visited with capital punishment by the sword as an avenger.

Given at Milan January 25 (357).

Note.

A haruspex is one who prognosticates from sacrificed animals and their internal organs; a mathematicus, one who reads the course of the stars; a hariolus, a soothsayer, inhaling vapors, as at Delphi; augurs, who read the future by the flight and sound of birds; a vates, an inspired person - prophet; chaldeans and magus are general names for magicians; maleficus means an enchanter or poisoner.

9.18.6. The same Emperor and Caesars to the people.

Many, using magic arts, do not hesitate to disturb the elements, endanger the lives of innocent persons, and dare to disquiet them by conjuring up demons so as to enable every one to destroy his enemies with evil arts.<sup>4</sup> The wild beasts shall destroy such men, since they are strangers to nature.

Given at Milan December 4 (357).

9.18.7. The same Emperor and Caesar to Taurus, Praetorian Prefect.

Although persons invested with honors are exempted from torture - except in connection with crimes specified by law - still, as magicians, in whatever part of the earth they live, must be considered as enemies of human kind - and as those at our court almost attack the imperial majesty itself - (therefore) if a conjurer, or one accustomed to magical

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<sup>4</sup> [Blume] Note, Sentennis etc. following Gothofredus translates "feralis pestes" as "wild beasts." This law shows that the enchanter's art was still thought to be powerful.

pollutions, commonly called a magician, or haruspex, or seer, or augur, or astrologer, or one who conceals any art of divination in interpreting dreams, or a man who practices any art similar to these, is found at our court or that of the Caesar, he will not escape the instrument of torture and torments by reason of his rank. 1. If he is convicted after he has denied the statements of those who have exposed his crime, he shall be put on a wooden horse (eculeus), and furrowing claws<sup>5</sup> shall tear his sides, and he shall suffer the punishment worthy of his crime.

Given July 5 (358) at Ariminium.

C. Th. 9. 16. 8.

Note.

The law was the result of fear of the enchanter's art on the part of the emperor, as is shown by Amm. Marcellinus. He put to death Barbatio and his wife, because the latter asked interpreters as to the meaning of the peculiar movements of a swarm of bees, and had received the answer that it was a sign of danger, which she interpreted as meaning the death of the emperor. Amm. Marc. 19. 1-4. The emperor suspected many people of using the enchanter's art with the view of the destruction of himself. Amm. Marc. 20.14 and 15.

9.18.8. Emperors Valentinian and Valens to Modestus, Praetorian Prefect.

To learn prohibited things is an offense similar to that of teaching such things.

Given at Constantinople December 12 (365).

C. Th. 9. 16. 8.

9.18.9. Emperors Valentinian, Theodosius and Arcadius to Albinus, City Prefect.

Whoever has heard or caught or seized a sorcerer in the act of sorcery, shall immediately drag him forth to light and bring such enemy of the public safely into court. But if a charioteer<sup>6</sup> or any other person attempts to violate this interdict, or destroy a sorcerer, even though plainly guilty of practicing the sorcerer's art, by secret methods, he shall not escape the penalty of death, for he is subject to the two-fold suspicion, that he kept the public enemy from the due severity of the law, and from torture in order that the latter might not divulge his associates in the crime or that he willfully destroyed a personal enemy under the pretense of avenging (the crime of sorcery).

Given at Rome August 16 (389).

C. Th. 9.16.11.

Note.

The first portion of this law, which is in the Theodosian Code is aimed at astrologers, also was probably produced by fear of the enchanter's art on the part of the Emperor Valens. For he, too, put men to death, who were said to have used divination against the safety of the emperor. Amm. Marc. 29.21-38. He provides, however, further that no murder must be committed under the pretext that this law has been violated.

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<sup>5</sup> Blume's typed original reads "white" claws; he then underlined white put a question mark in the margin and penciled "furrowing" in above white.

<sup>6</sup> [Blume] Who, on account of the intense rivalry among charioteers, might be tempted to slay their rival.