

Book IX.
Title XLIV.

That a criminal trial shall be terminated within a certain time.
(Ut intra certum tempus criminalis quaestio terminetur.)

Bas. 60.65.

9.44.1. Emperors Valentinian, Theodosius and Arcadius to Desiderius, Vicar.

Whatever accuser brought a defendant into court by a written complain if he shall neglect to prosecute the action within the time fixed, or what is more contemptuous, shall fail to be present on the last day, will, punished by confiscation of a fourth part of his property, feel the stings of a well considered law, the infamy, forsooth, which the ancient sanctions had provided, also remaining.

Given at Triers July 12 (385).

C. Th. 9.36.1.

Note.

The punishment of a loss of a fourth of a man's property was visited upon the accuser under the circumstances mentioned, because he was considered to have abandoned the prosecution - was guilty of tergiversation, which is dealt with in the next title. The punishment mentioned in the next law is the punishment stated in this law, and it is further stated that in cases of plebeians the punishment shall be exile, in addition to infamy, which fell upon all guilty of this offense. In law two of the next title it is stated that the punishment shall be in the discretion of the judge. The penalty stated in the first two laws of this title was probably the usual penalty dealt out in such cases.

9.44.2. Emperors Honorius and Theodosius to Caecilianus, Praetorian Prefect.

All the presiding judges of every rank and dignity must know that while necessary postponements, if sought, should not be denied to either party, still, when written complaints have been filed, criminal causes must be terminated within the time limited. When that time has passed, the accuser will suffer the punishment provided by law, because he abandoned the case, and if he is a plebeian whom the loss of his good name will not injure, he shall suffer the punishment of exile, unless, perchance, a dismissal is asked by the consent of the parties within the limits of the time fixed. 1. The judges must, if no delay, for good cause, is demanded by the accused or the accuser, hasten the investigation of such causes without delay.

Given at Ravenna January 21 (409).

C. Th. 9.36.2.

9.44.3. Emperor Justinian to Mena, Praetorian Prefect.

We direct that criminal cases must be entirely finished within two years¹ after forming the issues, and shall for no reason be extended over a longer time; but after the lapse of two years, the litigation shall cease and the accused shall be absolved, and the

¹ [Blume] The time was formerly one year, as shown by the two preceding laws as originally enacted and shown in the Theodosian Code.

judges and their staffs must know that if the litigants themselves want to proceed, and they themselves delay the introduction and trial of the case, they shall be punished by a fine of twenty pounds of gold.

Given April 1 (529).