

Book I.
Title LIV.

Concerning the measure of fines imposed by the judge.
(De modo multarum quae ab iudicibus infligantur.)

Bas. 43.7.

1.54.1. Emperors Severus and Antoninus to Firmus.
Infamy is not incurred by a fine.
Given April 9 (205).

1.54.2. Emperor Alexander to Decimus.
It has often been written that my procurators, that is my comptrollers (rationales),
have no power to assess fines.
Given August 20 (228).

Note.

Comptrollers were officials connected with the financial administration. See
headnote C. 3.26; see also C. 10.8.1 and note.

1.54.3. Emperor Gordian to Celeres.
The curator of the city, who is, in Greek, called logista, has no right to assess
fines.
Given September 13 (239).

Note.

The curator of the city is considered more at length at headnote C. 1.55 and
C. 10.30 (4), and in note C. 10.32.30. Such officer was at first appointed as an imperial
agent, whose chief duty was the supervision of the financial administration of the
municipality for which he was appointed. He was later chosen by the municipal council
or senate and his appointment ratified by the emperor. In Greek cities he was known as
logistes or father of the city, chosen by the bishops, primates, and landowners. He had no
power as stated in the instant law, to impose any fines.

1.54.4. Emperors Gratian, Valentinian and Theodosius to Eutropius, Praetorian Prefect.
We permit the illustrious praetorian prefects to assess a fine to the amount of 50
pounds of gold whenever the offense is grave.
Given January 6 (380).

1.54.5. Emperors Valentinian, Theodisius and Arcadius, to Praetextatus, Praetorian
Prefect.
Nobody is unaware that the regrettable gain consisting of fines must immediately
be collected for our treasury, unless the money demanded as punishment for a crime is
specially assigned by a judge to public works, to the state post, or other necessary
purposes.
Given at Aquileia September 9 (384).

Note.

Judges could direct that fines should be expended on some definite public purpose. Some of them were distributed among the poor. C. 1.4.2.

1.54.6. Emperors Arcadius and Honorius to Messala, Praetorian Prefect.

We do not permit ordinary governors of provinces to impose upon those whom guilt renders liable a fine beyond two ounces of gold.

1. A proconsul, if necessity to impose a fine arises, is limited to 6 ounces of gold; this, too, shall be the limit of the Count of the Orient and of the Augustal Prefect.

2. The other worshipful administrators, however, and your vice-gerents are denied the right to assess fines beyond three ounces of gold, and, further, moderators (governors) shall not, for the correction of any one person—if a continuation of wronging requires it—impose more than three fines in the prescribed amount in any one year.

4. If anyone exceeds the aforesaid limit, the author shall restore double the amount to the person fined and shall also pay the amount of the fine into our treasury.

5. But this moderation of the law must not be thought to be applicable to those (officials) who are found to be engaged in peculations and plunder, that is in depredations, extortions, thefts, or other crimes which should be more severely punished, but, in such case, a (proper) judgment, in writing, must be rendered by the aforesaid (higher) judges, no matter to whose prejudice it may be.

6. Nor need they (the judges) think that it is a matter of small importance to rashly condemn an innocent party or to shamelessly and capriciously change a judgment which the law commands, unless induced¹ to do so by reason of the poverty of the person condemned.

Given August 21 (389).

Note.

The praetorian prefect was given the power to impose a very heavy fine, namely up to 50 pounds of gold, the equivalent of about \$10,800, as shown by law 4 of this title. The fines that could be imposed by the other judges were very small. The underlying reason was that these judges should not be able to use the system of fines as a cloak for extortion. Subdivision 5, commencing with “but this moderation, etc.” is here translated as referring to the judges, and the text justifies this translation. But it is not certain that it refers to them. In fact, it would seem that in the *Basilica* (43.7.5) the provision was intended to apply to all the lawbreakers mentioned therein.

Officers who ruled whole provinces had the power of life or death, and to send offenders to the mines. D. 1.18.6.8. They were limited, however, as stated, in imposing fines. They could not abrogate any of their decisions. C. 7.50.1. But remittance of fines was evidently not considered the same as abrogation of the sentence. The power to remit such fines is clear in certain cases, for D. 1.18.6.9 says: “Where the president, after imposing a fine, discovers that it cannot be discharged out of the present means of the persons whom he has ordered to pay it, he must check improper eagerness on the part of the official who has to demand the money, and relieve the party from pressure of payment. When a fine is remitted by the governor of a province on the ground of poverty, it ought not to be exacted.”

¹ Blume placed a question mark over “induced.”