

Book IX.  
Title XLIII.

Concerning a general dismissal (by the emperor).  
(De generali abolitione.)

Bas. 60.64.

Headnote.

(See also C. 1.4.3). The Roman emperors exercised the right, from time to time, to issue a general amnesty or pardon for crimes. Such pardons reached the crime itself, and no prosecution could thereafter be instituted. Aside from this general pardon, there appears to have been in vogue a custom to order a general dismissal of prosecutions in times of victory or on some happy occasion and particularly at the time of the paschal. Dig. 48.16.9 and 9.12. This general order of dismissal was called *abolitio publica*, while a general pardon was known by the name of *indulgentia*. This distinction between the two is pointed out by Geib 571, et seq. The dismissal was temporary, and lasted only during the period fixed, and an accuser had the right to recommence his accusation within thirty days after the limited period. But if the accusation was not so recommenced, it was ended. Paul., Sent. 5.17.2; Dig. 48.16.7 pr and 10.1 and 2; Dig. 48.16.12 and 15.6; Dig. 48.2.11.2. But excepted from such pardon, as well as dismissal, were the crimes of adultery, incest, violation of sepulchers, debauchery, poisoning, enchanting, counterfitting, homicide, and other grave crimes. C. 1.4.3. Hence Geib, supra, 574, remarks that a great name was used for a small matter.

9.43.1. Emperor Antoninus to Rutilianus, Consular of Lycia.

If a man has accused another of oppression, of violence or of any other crime, and a temporary dismissal (*abolitio*) of the accusation against the defendant is ordered (by the emperor) in the usual manner, the accuser wishing to prosecute the crime will no longer be heard if he neglects to again ask for such prosecution within the time fixed in the edict. Promulgated April 24 (215).

9.43.2. Emperors Diocletian and Maximian to Paulinus.

If an accusation had not been brought by you at the time when our grace (*indulgentia*) annulled the accusations, the defense that such amnesty was granted does not apply. Promulgated February 8 (286).

9.43.3. Emperors Valentinian, Valens and Gratian to the Senate.

A pardon (*indulgentia*), conscript fathers, which liberates criminals, nevertheless brands them with infamy, and does not take away the disgrace attached to the crime, but merely forgives the punishment. Given at Treves May 19 (371).