

Book I.
Title XXXV.

Concerning the office of proconsul and legate.
(De officio proconsulis et legati.)

Headnote.

Proconsul. Hitherto in this book, officials of illustrious rank have been considered—not all, however, for no titles in this book deal with the Grand Chamberlain and the counts of the domestics. They are considered in Book 12. Illustrious officials having been considered, this book next deals with officials of worshipful rank, and first of proconsuls, though they were only provincial governors.

In the early part of the empire, some of the provinces were assigned by the emperor, some by the Senate. The proconsul was sent into a province by the latter. Later, however, the Senate lost all power of choosing governors. Still, a few officials with the title of proconsul remained namely: the proconsul of Africa, whose office, however, ceased when the Vandals conquered that country; the proconsul of Achaia, and the proconsul of Asia, who governed Hellespontus and the islands along the eastern coast of Asia Minor. A proconsul had a legate to whom he might delegate judicial powers, but he could delegate only the power of investigation in criminal cases, not the power to sentence, at least in any matters of importance. Law 1 of this title; D. 1.16.11. The proconsuls were not subject to the jurisdiction of the vicars or praetorian prefect, but were directly under the emperor.

Justinian created two proconsulships: of the first Pasastine and of Cappadocia. The former was created by Novel 103, the Novel reciting that that province had formerly had a proconsulship. The latter was created by Novel 30. The so-called kitchen or imperial household lands were located mainly in Cappadocia, and Novel 30 deals largely with the managements of these lands, and it is for that reason appended to C. 11.69.2. Many of the duties of the proconsuls may fairly be gathered from reading these two novels.

1.35.1. Emperor Constantine to Aelianus, Proconsul of Africa.

Legates may hear not only civil but also criminal causes, so that if they see that a decision should be given against the defendants, they shall not delay in sending them to the proconsuls.

Given October 1 (320).

C. Th. 1.12.3.

1.35.2. Emperors Arcadius and Honorius to Simplicius, Proconsul of Asia.

The officials of the consular of the Hellespont went before the father, of blessed memory, of Our Serenity, and laying bare their injuries which they sustained at the hands of the apparitors of the vicar, prayed to be placed under our jurisdiction. Their modest prayers moved the pious emperor favorably. And we also order this to be the arrangement.

Given at Constantinople March 25 (396).