

Novel 20.

The members of the official staff who perform the services in connection with appeals.

(De officiis ministrantibus in sacris appellationibus.)

Justinian to Johannes, glorious Praetorian Prefect, the second time, ex-consul and patrician.

Preface. We heretofore enacted a law^a treating of appeals, laying down rules in regard to them, and from whom and to whom appeals should be taken. We addressed this law to you and to the glorious quaestor. A great doubt has arisen as to what clerks should perform the ministerial work in connection therewith. The clerks from the imperial bureau of correspondence (epistularum) claim the right to do so in appeals from judges of worshipful rank. The clerks of your department show that they would feel very much hurt if, under the changed condition, they would not alone, as was true formerly, do so in connection with appeals taken from the honorable presidents of the provinces only to your court, which you heard yourself, in place of the emperor, and at which your official staff performed the services mentioned. On account of the extension of the worshipful rank (to officers theretofore of honorable rank), appeals are heard as in the imperial court, the glorious quaestor hearing them along with Your Sublimity,^b each set of clerks claimed the sole right to attend to all such work, and so the members of the imperial bureaus engaged in such work, and those from your office, gathered frequently at your court as well as that of the quaestor. Some definite arrangement has finally been made which you communicated to us verbally, and which does not seem to be at all improper. Paphlagonia and Honorias, which were formerly under two presidents, have been consolidated and have been put under the government of one man who bears the name of praetor, and the court of this district seems, without at doubt, to be within your jurisdiction. That is true also with the two provinces that bear the name of Pontus, namely Helenopontus and Pontus Polemoniachus, which were formerly under two presidents, and have been placed under one moderator of

worshipful rank, and appeals from there should, within the time fixed by our constitution^c be carried only to your court.

a. C. 7.63.5.

b. C. 7.62.32.

c. C. 7.63.5.

c. 1. It is therefore agreed by the clerks of both departments and by you and the quaestor and it seems proper to us, that the official staff of Your Sublimity alone should attend to these duties, as previously, though the proceedings are the same as before the emperor, and though our glorious quaestor sets and participates in the hearing.

c. 2. The governor of the First Cappadocia has been solely under your jurisdiction and appeals from him were sent to your court. He has been raised to the rank of pro-consul. Still it is proper that when an appeal is taken from him and sent here to be heard, it should be heard in the manner in which appeals are heard before the emperor, in accordance with the imperial constitution, so that the glorious quaestor should hear the appeal with you, but your official staff only shall do the clerical duties in connection therewith, as has been the custom heretofore. For although the office of the worshipful Count of the Imperial Patrimony (comes domorum) is now jointed to his office, still very few cases had previously been tried before him (the count) and hardly any appeal had been taken from him to the imperial court. We have now transferred matters belonging to the treasury to others, but the authority of your office should not be diminished on that account, and your official staff alone shall perform the clerical duties in connection with cases appealed from there.

c. 3. The same is true as to the Pro-consul of Armenia. That official was formerly one of the ordinary officials (i.e. of the rank of honorable) and in making him a pro-consul, we have added nothing (to his power). Cases appealed from him, too, shall be looked after by the official staff of Your Sublimity; the appeal shall be heard in the manner in which appeals are heard before the emperor, by both of you;^a

nevertheless, your official staff shall look after it, as was formerly true, inasmuch as the magistracy (from which the appeal is taken) has been one of the ordinary magistracies and no greater power has been added to it.

a. The praetorian prefect and the quaestor.

c. 4. Lycaania, Pesidia and Isauria were formerly under presidents and appeals from there were taken to your court. They are now under one praetor. A military office seems to be added to that position inasmuch as each of said provinces formerly had a duke. It appears best, on account of the innovation, to provide that appeals from there shall be heard by you and the quaestor, and to extend to your official staff the favor of performing the clerical duties in connection therewith. And we ordain that the same rule shall obtain in cases now pending or which hereafter arise.

c. 5. The Count of the Orient and the President of the First Syria were two civil magistrates. Appeals from the latter were taken to your court, your official staff only attending to them. Appeals from the Count of the Orient, of worshipful rank, were heard, as these before the emperor, by you and the glorious quaestor, the clerks of the imperial bureaus alone attending to them.

c. 6. It appears best to us to provide (as to appeals) from this magistrate, that the clerks from the imperial bureau of correspondence (epistolorum) and those from your official staff, shall perform the clerical duties in connection therewith jointly. A change has been made in the offices of vicar of Pontus and of Asia and they have been consolidated into the magistracy of one province, that of Galatia and the Pacatian Phrygia, and appeals from there shall be heard by Your Sublimity and the glorious quaestor, but shall be attended to by your official staff.

c. 7. And we ordain that the same rule shall obtain as to the magistracies which are no first established by us making changes, whether the magistrates hear a case under their inherent jurisdiction or by special assignment made by us. Your official staff alone shall attend to appeals from them.

c. 8. Similarly, your official staff shall perform all ministerial duties in connection with appeals from judgments rendered by a judge pursuant to his inherent jurisdiction or by a delegated judge including judges to whom the case was assigned by the emperor.

c. 9. The rule as to the contemplated services being performed by your official staff and the members of the imperial bureau shall apply to cases tried pursuant to a (special delegation) or in the court of the ordinary judge. Where cases are not tried by judges of worshipful rank, but by advocates (as referees appointed by the emperor), and the appeals from whom came before your court and before the glorious quaestor,^a the ministerial services in connection with such appeals shall be performed by the clerks of the imperial bureau of petition (libellenses). Since no change is made in that connection, the former rule shall remain in force, and so the rule in all cases in which no innovation has been made, the performance of such duties shall remain the same as it was before, without change. For a change as to the performance of such services is required only in cases in which an innovation is made (in connection with the judges who try the cases).

a. As provided by C. 7.62.32.4.

Epilogue. Your Sublimity will carry this our will, declared in this imperial law, into force and effect.

Given March 18, 536.