

Novel 35.

Concerning assistants of the quaestor.

Emperor Justinian to Tribonian, Quaestor.

We know that in the time of Thomas, of glorious memory, when he, in the capacity of quaestor, was at the head of the bureaus of memorials and correspondence, many disputes arose among the clerks of the imperial bureaus of memorials, as among the clerks of the bureaus of correspondence and appeal-cases and the assistants of the officiating quaestor, the assistants claiming that anciently there were twelve assistants from the bureau of memorials and seven assistants from each of the bureaus of correspondence and appeal-cases, but that later, during the time of Johannes, the magnificent quaestor, who filled that office for an extended time, the bars were let down to such an extent that there were almost innumerable assistants. **1.** That Proculus of exalted memory had suggested the confusion as to the assistants to the emperor, and that by the latter's order an imperial constitution was promulgated wherein it was provided that the number of assistants should not exceed the ancient figure, that is to say twenty-six, and that no one should be put in place of any of the occupants, until the number of assistants should be again established at the figure aforesaid, the excess being gradually reduced—except, however, that the primates of the assistants were permitted to select someone else in their place, that is to say, in the bureau of memorials the man who occupies the third place, called the register (*laterculensis*); in the bureaus of correspondence and petitions, the man who occupies the second place, called the *melloproximate*, and these only were permitted to select their successor; **2.** That subsequently the same prudent man recognized that there were many who, on account of various troubles, that befall human kind, would be unable to perform their duties in the imperial service, and made another suggestion to the emperor and obtained a pragmatic sanction, by which it was permitted that such men, too, might select a substitute who would be able to perform such service, worthy of and who received, the approval of the officiating quaestor; **3.** That this took place in the time of Proculus,

of magnificent memory, but that this arrangement came to naught, and as a result of the quarrel of some of the clerks in the bureaus (memoriales), this permission was withdrawn, so that no one, except the three persons mentioned in the above constitution, were permitted to choose a substitute, so that no venality and sordid bargaining might appear among the men known to be the servants of the emperor's orders. **4.** As, however, we have now learned that the men engaged in drawing up our laws, bettered by us and put in order by Your Excellency, are worthy to function as assistants, we have deemed it unjust that such men should be defrauded of such hope,^a even though we are anxious to keep the number of assistants stable. **5.** We accordingly renew the pragmatic sanction, formerly justly drawn up by Proculus, of exalted memory, laid before the emperor and promulgated, but afterwards rescinded by reason of the insistent contentions of some men, and we permit each of the twenty-six assistants to put substitutes in their respective places, who must, however, be competent, and chosen in the presence of the holy gospels, by the officiating quaestor who will give them their instructions in writing. These substitutes, upon paying one-hundred solidi and no more, and upon being judged worthy of the work above mentioned, may take the place of those that die or leave in some other manner, and perform the duties of an assistant. Those who have reached the third rank, that is to say the registrar (later—culensis) of the bureau of memorials, and in the other two bureaus, those who have reached the second rank, the melloproximi, although not reckoned as part of the twenty-six, shall (also hereafter) have the right to sell their respective positions for as much as they can get, since it is unjust, while we have given them nothing extra, to take anything from them. For they had the right to transfer their positions to others before the enactment of this law. So they shall have the right of sale for as much as they can get, but the others to whom we have granted such right of sale must not make such sale for an amount in excess of 100 solidi. **7.** But whether the registrars (laterculenses) or melloproximi or others to whom this is permitted pursuant to this law, transfer their position to someone else, the substitute must be chosen by the quaestor, so that the exercise of such right may not result in causing the administration of the officiating, glorious quaestor to fall into incompetent hands.

And if the men, already enumerated, receive remuneration worthy of their industry, no confusion as to the number of assistants will result. **8.** But because we want any positions that become vacant in any manner to be filled, before others, by those who have been engaged by Your Sublimity in drafting laws, that is to say by Theodosius, Epicletus, Quirillus, Sabbatius and Perigenis, whom we grant them the preference right to take the place, upon payment of one hundred solidi, of those assistants who voluntarily relinquish their position, so that each of these five may fill the position of assistant in his respective bureau. **9.** And it must also be observed that although one of the twenty-six assistants is taken from the light of day, he may transmit the benefit of this kind to his heirs, or to his children though not heirs, so that an assistant will be substituted for him upon payment of 100 solidi, the appointment of such substitute to be made by the sublime quaestor as mentioned above. **10.** The special preference given to the five above-mentioned men is subject to the condition that the assistant passing out of office has no son competent to fill the office of assistant and considered competent by the officiating glorious quaestor according to what has been said. For it would be harsh and cruel to reject such a son and give the position to a stranger. All other provisions, if any, contained in the above-mentioned constitutions shall remain in force. **11.** Your Sublimity will hasten to make these provisions known to the respective bureaus concerned, so that they may know the dispositions we made, and how much they have benefited by your suggestions.

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