

IUDICIA PERIERUNT

(Cicero – *de haruspicum responsis* 28.60)

(Summary of a talk delivered at the annual meeting of The American Society of Papyrologists, December 29, 1965, at Providence, Rhode Island; the full presentation of the topic will be published in the *Studi in onore di Edoardo Volterra*.)

It is generally recognized that recourse to the courts to settle controversies between private individuals was entirely abandoned by the native population of Egypt after the Arab conquest of the country, in 641 A.D. In lieu thereof mediation and arbitration were employed to aid in the settlement of private disputes. It might be fairly assumed that the rejection of courts was due to the substitution of new tribunals upon the occupation of the country. But the Arab rulers made no such move. The speaker, instead, advanced the thesis that no courts had been functioning in the whole of Egypt for the trial of civil disputes between Egyptians for at least a century and a half before the Arab conquest. It is of course true that the law on the books – the legislative enactments of the Byzantine emperors reported in the Theodosian Code and in the Codex and Novellae of Justinian – explicitly provided for the organization of the courts and for the course of trial proceedings by libellary process and rescript procedure in the provinces as well as in the capital. It can be shown, however, that this legislation was not put into practice in Egypt subsequent to the beginning of the sixth century.

The evidence which demonstrates the absence of courts, of civil judges and legal counsel for the litigation of private disputes is largely negative in character. It may be subsumed under five entries:

1. There exists no report of a trial (*procès-verbal*) nor any judicial decision for this period; the one alleged “Zivilurteil” (*P. Monac.* I 6) is actually the suggestion of a mediator for ending a dispute if the proposed settlement by the parties did not come to pass.