

AUDENTIA EPISCOPALIS

The adjudication by a bishop of civil matters in dispute (see Codex Justinianus 1.4), as well as of disciplinary matters among the clergy. On the basis of 1 Corinthians 6:1 the Christians—like the Jews—were not to conduct lawsuits before the judges of the pagan state. Disputes were, rather, to be settled within the community. The jurisdiction of such cases therefore passed into the hands of the bishop. After the [recognition](#) of Christianity as *religio licita*, [Constantine](#) the Great conferred the civil *audentia episcopalis* on the bishop. Thereby the bishop judged not only in virtue of his spiritual authority but also on the strength of imperial authority.

If proceedings were to be taken before the bishop, the agreement of both sides was requisite (see Codex Justinianus 1.4.7 from the year 398 and Codex Theodosianus 1.27.2 from the year 408). By *Novellae* 79 and 83, Emperor Justinian placed the clergy and monks under episcopal jurisdiction in civil affairs. According to *Novella* 86.2, the bishop, upon rejection of the state judge, was to decide the case in conjunction with the rejected judge.

This administrative activity of the bishop in civil law as a justice of the peace can be distinguished only with difficulty from his purely ecclesiastical disciplinary function. This is shown by the Coptic legal documents, particularly the writings preserved in the correspondence of bishop ABRAHAM of Hermonthis from the period around 600. They often portray the entire proceedings of the *audentia episcopalis*. In all of the documented cases, people turned to the bishop to redress the injustice done to them by other persons. Among the disputes known from the ostraca are a case concerning forceful appropriation of a share in a paternal estate (Crum, 1902, 184) and a case of indictment before a secular court because of a pledge (British Museum no. 24,948).

In most cases, the bishop commissioned clergy to investigate the facts

and wrote as *defensor civitatis* to the persons who had committed the injustice, commanding them to rectify the wrong immediately. In addition, he often imposed an ecclesiastical punishment (PENALIZATION, EXCOMMUNICATION, UNFROCKING FROM PRIESTHOOD, INTERDICT). In one case

(Crum, 1939, no. 37), the bishop sent two men (one of them a priest) to arrest a man and hand him over to the lictors (*lashane*), so they could inflict corporal punishment upon him.

Other writings dealt with disputes over questions of private law, which were decided by the bishop—for instance, a nephew sued his uncle because of a dining room. Both parties (Crum, 1902, nos. 42 and 155) pledged that they would accept the verdict, no matter in whose favor. If they did not accept the verdict, they would be required to pay the penalty and acknowledge the judgment before the bishop.

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