Title:
England’s Oldest Surviving Arbitral Award (AD 118) with an introduction by Derek Roebuck (‘Early English Arbitration’, 2008, p. 50 et seq.)

Content:

During excavations in 1986 in the City of London, at the corner of Throgmorton Avenue and Austin Friars, archaeologists from the Museum of London found a stilus tablet. It is one page of a document originally written in wax on a wooden base. The wax has long since gone but the writer's stilus scratched through it and unintentionally left signs on the wood beneath. The extraordinary skills of the editor have produced the drawing which appears with his permission on pxviii. If you can read the cursive script, with the help of the editor's reconstruction of the text and his translation, you will see that it says: 75

3.25 In the consulship of the emperor Trajan Hadrian Caesar Augustus for the second time and Gnaeus Fuscus Salinator, on the day before the Ides of March. Whereas, on arriving at the property in question, the wood Verlucionium, fifteen arepennia more or less,76 which is in the canton of the Cantiaci in Dibussu[ ]
parish, [ ] neighboured by the heirs [of...] and the heirs of Caesennius Vitalis and the vicinal road, Lucius Julius Bellicus said that he had bought it from Titus Valerius Silvinus for forty denarii, as is contained in the deed of purchase. Lucius Julius Bellicus attested that he [ ]

And there it ends. The date is 14 March AD114. [Other authors date it AD118. Trans-Lex Team] The parties are Lucius Julius Bellicus - Dickens could not have invented a better name for a claimant - and Titus Valerius Silvinus. The subject matter is a wood in Kent, called Verlucionium, whose boundaries are fixed in the technical way later described in the Digest. We are not given the name of the single arbitrator appointed, by the parties or the authorities, to go to the property and view it presumably to identify its limits and perhaps to hear evidence. Somehow T Valerius Silvinus had acquired the ownership of a substantial wood in Kent and sold it to L Julius Bellicus, who now claimed it.

Caesennius Vitalis, Iulius Bellicus, Valerius Silvinus. These three landowners of Roman Kent, the first ever recorded, are otherwise unknown. All three were Roman citizens. The name Caesennius suggests an Italian, perhaps Etruscan, origin... Iulius and Valerius suggest provincial origins, particularly Cisalpine or Transalpine Gaul, or Spain, the descendants of provincials enfranchised in the late Republic... The cognomen Bellicus is of Celtic etymology... None of these persons, to judge by bis name, was of British origin.

This is part of an award. It shows that arbitration in the Roman fashion was alive in Britannia early in the second century, at least for Roman citizens, and followed the Roman form. Moreover:

... this is a legal document which implies a judicial authority and a secretariat to record its deliberations and decisions.

The technical terms arepennium for a square measure of land and via vicinale for a minor road are some evidence that the profession of land surveyor was not unknown in Britannia then. We are fortunate to have a substantial body of professional writing by Roman surveyors. They start about AD100. They reveal not only that there was a profession of surveying but that its members, called in Latin mensores, measurers, or agrimensores, land-measurers, were active in the arbitration of disputes about land, especially boundaries. They acted, then as now, both as arbitrators and experts.


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75 I have broken my own rule here and adopted Dr Tomlin's translation [RSO Tomlin 'A Five-Acre Wood']; it would have been impertinent to do otherwise and he has generously agreed.

76 About 4.6 acres.

77 Digest 50.15.4 from Ulpian's work on the census, written early in the third century AD, at least a century after this award.

78 Tomlin 'A Five-Acre Wood' 214.

79 Tomlin 'A Five-Acre Wood' 215.

80 We are fortunate too to have the manuscripts newly edited and translated with a rich commentary by Brian Campbell The Roman Surveyors; I have followed his translation closely; Roman Arbitration pp83-6.