



Seventh International Roman Law Moot Court Competition

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LIBELLUS MMXIV

Alfredus v Bartolus; Ferox v Galvanus

1. It is AD 540. The west of Europe has been overrun by barbarian tribes, who have set up their own independent kingdoms but, in the middle of southern Britannia (as it used to be known), in what the locals call The Great Weald, close to the Celtic hamlet of Siúlóid damh trí uisce (later, after the West Saxon expansion, called Oxanforda), a small group of Romans resist. Descended from soldiers of an imperial army outpost and their families, they live hidden deep in the forest and have kept Roman civilisation alive in Britannia for more than two centuries. Their intelligence network keeps their oppidulum Romanorum informed of what is happening in Londinium and elsewhere. With disgust they hear that the bishop in Durovernum Cantiacorum is in favour of allowing women as priests, and the attitudes of the Franks in Gaul on homosexuality do not impress them either. In short, their isolation has made them conservative.
2. The news that reaches The Great Weald from the continent – that Justinian just has regained Italy in the war that has raged since AD 535, and that this emperor wants to restore the Roman Empire to all its former glory – is therefore received with great joy. A meeting is assembled at which the following propositions are agreed. The community decides to withdraw itself from any administration in Britannia to which they might otherwise be subject and to join the Empire by placing themselves voluntarily under the jurisdiction of the revived Prefecture of Italy, hoping this will shield them from the expanding kingdom of Wessex. This includes submitting to all the new legislation introduced by Justinian, which they consider immediately applicable in The Great Weald. Further, they secede from the Church in Britannia and place themselves under the jurisdiction of the Bishop of Rome and call their little local church the Roman Vicariate. In short, they reconstitute themselves as a discontinuous (indeed, extra-territorial) pocket of Italy and, to mark this renewed integration into the Empire, rename their settlement Italina. Formal letters are sent to Rome and Constantinople.

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3. A prominent citizen, Alfredus, privately takes steps to make these changes more substantial. He has a contact in Rome, Bartolus, to whom he sends a letter, asking him to purchase a good copy of Justinian's codification, together with four casks of good Opimian wine for the festivities in Italina. Alfredus sends a silver drinking cup, with exquisite decoration and an inscription (M. Titinii VC – thought by Alfredus to be the undoubtedly extinct Titinii family, mentioned in his copy of Livy), which he 'found' a year ago during a 'visit with the troops' to the barbarian Celtic hamlet of Siúlóid damh trí uisce, so that Bartolus can sell the cup to pay for these acquisitions. The letter, which gives Bartolus authority to sell the cup, arrives three weeks later, and Bartolus sets about doing as Alfredus requested. He sells the cup, and buys the four casks of wine, which was a bit more difficult, due to the recent war, when much was lost to looting soldiers. He then sails to Carthage and finds there a brand new copy of the Institutes, Code and Digest, on parchment, which he buys.
4. On his way back to Rome, Bartolus lands in Amalfi, where he meets a man, Crassus. Crassus sees the books and at once wants to buy the copy of the Digest. Bartolus refuses at first, saying that it is for a friend in Italina, in Britannia. Crassus says he has never heard of this town and so what? He has a copy of the Digest on papyrus which is just as good: is it not the same text? Is it not the text that matters? Is it not well written? Surely the inhabitants of this remote town do not know how things are in Italy, only just emerging from the war and with the Goths still fighting – they will never know the difference. Crassus offers to exchange the papyrus copy for the parchment copy and, to sweeten the deal, he offers Bartolus 5 solidi. Bartolus agrees; the deal is made; and the parchment copy remains in Amalfi.
5. Back in Rome, Bartolus receives the message that a certain Gaius Titinius Ferox, living in Rome has seen the cup in the shop in Rome where Bartolus sold it to the shopkeeper Galvanus, and recognised it as belonging to his uncle, Marcus Titinius, a senator who had been an officer in the Roman army in Italy. When the Goths recaptured Milan either Marcus Titinius was captured with his personal possessions and died shortly afterwards, still in captivity, or else he died on the battlefield, after which somebody plundered his tent. It is not clear what precisely happened, but it is certain he died. How the cup came later to be found in a Celtic hamlet across the Oceanus Britannicus is also unclear. At any rate, Ferox now reclaims the cup from the shopkeeper Galvanus as heir to his uncle's estate and Galvanus, who bought it at a high price, seeks Bartolus's assistance in the legal dispute.
6. Bartolus sends the books and the four casks of wine to Britannia, with a letter in which he says that he sends the Digest on papyrus because he could find parchment copies of only the Institutes and Code, that the four casks contain Opimian wine of good quality, and that the

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ownership of the cup has been disputed. He further renders an account of his expenses, explaining that there was no surplus of funds remaining after the sale of the cup.

7. Delivery of the books and wine is entrusted to two of Bartolus's Gallic slaves, Dubonae and Evianus. Half way to Britannia, Dubonae thinks that it is a shame that he does so much dangerous work for his master for so little reward: at least a sniff of Opimian wine would be no more than a just reward. He opens one cask and the smell is indeed heavenly; a cup of it tastes heavenly, too. Evianus, who is nearby, occupies himself with clearing up the dishes and pretends not to notice Dubonae's activities. The cask closed again, Dubonae and Evianus continue their journey, arrive at last in Italina and deliver the consignment to Alfredus.
8. Alfredus is at first disappointed at the papyrus copy of the Digest, which of course looks very shabby compared to the parchment books, but he assumes that the explanation conveyed in Bartolus's letter is true. Opening the casks, he finds that in one the wine has gone sour, and that a second is rather less than full. As to the ownership of the cup, he is a little exasperated. Was that not booty? That night, he hears from Evianus the true story of the copy of the Digest and of the sniff and cup (perhaps more than one cup) taken by Dubonae. Alfredus takes at once his newly acquired law books and updates his knowledge of the law (previously based on a copy of Alaric's Breviary).
9. One week later, Alfredus sends Dubonae and Evianus back to Bartolus, the former after a good flogging, together with a letter in which he claims compensation for the bad cask of wine, for the missing wine and for the difference in value between the parchment and papyrus copies of the Digest. He offers Bartolus the choice of Rome or Italina for the hearing. He further confirms his authorisation for Bartolus to act on his behalf in the dispute over the cup, but adds that he considers it to be booty, describing for Bartolus's assistance the circumstances in which he found it. Bartolus replies by letter, indicating that he prefers the case to be heard in Rome.
10. The proceedings are heard together (and the court's jurisdiction is not disputed):
 - (i) Alfredus claims damages from Bartolus (leading counsel); and
 - (ii) Ferox claims the cup from Galvanus (junior counsel). However, Galvanus calls Bartolus to stand in for him and take over the proceedings, on the basis that Bartolus sold him the cup on the authority of Alfredus and also has authority to act on behalf of Alfredus in the dispute.