



From Sutton Hoo to Linden Dollars: Who Owns What?

So your terrier has gone out into the field, dug up a pouch of coins, and dropped it at your feet. It's now legally yours, correct?

Possibly, but not necessarily.

Are the coins part of a "treasure trove", as covered by the law of *bona vacantia*? The laws pertaining to found treasure have changed over time. In the past, the law stated that treasure trove had to be hidden with *animus revocandi*, that is, an intention to recover it later. For this reason, the objects found in 1939 at Sutton Hoo were determined not to be treasure trove – as the objects were part of a ship burial, there had been no intention to recover the buried objects subsequently.

Greetings!

I was chatting with Richard Davies, TPR's founder, a couple of weeks ago, and he mentioned virtual currencies. I stared at him blankly. "No, really," he said, "what about property that you buy with Linden dollars? Can your heirs inherit it after your death?" I continued to stare blankly.

As someone who uses only hard currencies to purchase reality-based items, I've never given a thought to the virtual economy. After some preliminary research into the matter, I admit I was dumbfounded by the scope of it. Considering the legal ramifications of virtual ownership is mind-boggling. Personally, I like the good old days, when laws went into effect and stayed there for centuries.

Whether you're stubbornly rooted in the past like me or are eagerly snapping up virtual property, this month's newsletter has something for you.

As always, if you have comments or questions, please do share them. I'd be happy to hear from you!

With best wishes,

Amanda

Amanda Coffin
editor@tpr.net

In this issue:

1. From Sutton Hoo to Linden Dollars: Old laws, new laws and not-yet-existent laws regarding ownership
2. Obscure Word du Jour: What the law of *bona vacantia* says about ownership
3. The Big Society Bank: Reactions to Prime Minister Cameron's scheme for dormant accounts



The Crown had a prerogative right to treasure trove, and if the circumstances suggested that it had been hidden, it belonged to the Crown unless someone else could show a better title to it. If an object had been simply lost or abandoned, it either belonged to the first person who found it or the landowner according to the law of finders, that is, legal principles concerning the finding of objects.

These laws, however, were problematic. In addition to the difficulty in determining whether certain objects had been hidden or lost, the law made it possible for cultural and archaeological treasures to be claimed by their finders and subsequently sold overseas, to the dismay of British historians. To remedy the flaws in the old treasure trove regime, the government passed the Treasure Act 1996. Any treasure found on or after 24 September 1997, regardless of the circumstances in which it was deposited, even if it was lost or left with no intention of recovery, belongs to the Crown.

So does your terrier's find meet the definition of "treasure"? That decision lies with your district's coroner and will be based upon the coins' age, material, historical worth, etc. If they are deemed treasure, they pass by virtue of *bona vacantia* to the Crown. If not, they are subject to the law of finders, which requires, among other things, that you own the field.

Next question: Do your dog and field really exist, or are they part of virtual reality in an online gaming venue, such as Linden Lab's *Second Life*? *Second Life* is only one of many virtual worlds and social networks to have introduced a virtual currency. Users may spend these currencies to purchase services or virtual assets. *Second Life* users, for example, may buy virtual Linden dollars (L\$) with which to buy virtual fields.

For those who don't participate in online virtual reality gaming or social networking, the concept of virtual currencies may seem trivial. Or abstruse. Or even absurd. Virtual economics, however, is very big business. Linden Lab says its virtual market is expected to reach USD 500 million this year. China's virtual goods economy, the largest in the world, is worth USD 800 million and growing 30% a year, estimates Shaun Rein, managing director at China Market Research Group.

Social sites IMVU and MyYearbook will be launching a virtual currency exchange, allowing users of one site to swap currency for that of the other, a step which leads one to imagine more comprehensive virtual exchanges. A Swedish virtual reality world, Entropia, will shortly allow users to take out virtual loans. Observers have noted that black markets for virtual currencies are developing. Governments are beginning to explore the idea of taxing virtual profits.

Users can buy virtual currencies with mobile phone credits, with cash at convenience stores, or online with credit cards. Converting virtual money to hard currency, though, is a hit-or-miss affair. Linden Lab claims: "Several online resources allow residents to convert Linden Dollars into US Dollars and vice-versa. Rates fluctuate based on supply and demand..." Some companies offer no redemption or exchange facility.

What is the most expensive item ever bought or sold in *Second Life*? According to Linden Lab: "Recently, the *Second Life* region of Amsterdam was sold for USD 50,000, which we believe to be the most expensive acquisition to date."

But do you really own your virtual property? There is at least one lawsuit in progress revolving around that very question (<http://www.gamepolitics.com/2010/05/10/real-lawsuit-over-virtual-property>).

And can your heirs inherit it? Courts will quite likely be wrestling with that question soon. The law concerning these virtual assets is being hammered out on a daily basis.

Issues like these are of great interest to us at TPR Network, since we've made careers of locating the rightful owners of unclaimed assets and tackling the legal hurdles to prove their ownership. Although we relish the challenge of the unique, the bulk of our work focuses upon recovering rather more mundane assets. Whether it's Roman coins, Linden dollars or a great-aunt's bank account, however, the laws regarding ownership can be complex and in flux. If you have questions about properties that you believe to be yours, please don't hesitate to call upon TPR for guidance.



Obscure Word du Jour

(noun) bo•na va•can•ti•a:

Property without an apparent owner or claimant.

Origin: 1750–60; < L

Bona vacantia is a common law doctrine in the United Kingdom under which ownerless property passes to the Crown, including estates belonging to one who died intestate and for whom no heirs can be identified, assets belonging to defunct companies, and treasure troves.

Do such assets pass directly to Her Majesty, the Queen, for her personal use? No.

According to the Treasury Solicitor's Guide to Discretionary Grants in Estates Cases, the assets are either donated to charity or "together with other forms of *bona vacantia* and subject to deduction of the costs of collection and administration, they will be transferred to the Exchequer to be dealt with in the same way as money raised by general taxation."

The Big Society Bank

Former Prime Minister Gordon Brown proposed, based upon the wording of the 2008 Dormant Accounts Act, that some of the money held in such accounts be reinvested into social or environmental projects. In the UK, accounts are termed dormant when they have sat idle for 15 or more years.

New Conservative Prime Minister David Cameron has taken this idea one step further, proposing that a portion of the dormant account moneys – estimated at GBP 400 million in total – be declared a "Big Society Bank", which would fund local voluntary and charitable organisations to provide social services. Mr. Cameron and the Liberal Deputy Prime Minister, Nick Clegg, purport that smaller, local agencies can provide these services to their communities more effectively and efficiently than the centralised government.

Not everyone sees this as a positive move; some objectors view it as a case of the government shirking its responsibilities. According to the BBC (18 May 2010), Labour's Chris Bryant, a former minister, said: "This is drivel... I think this is an attempt to get government on the cheap."

Philippa Smith, who works in the voluntary sector in Manchester, expressed her reservations: "If communities are given the funds and the initiatives don't work, then who's accountable? The government can shift the blame to and/or pathologise the communities that 'failed'... I believe government funding in the third sector is ultimately a strategy to divide and constrict it. Any community organisation receiving funding from government is immediately limited in terms of its capacity to campaign and push for policy change – scared to bite the hand that feeds them so to speak."

Whether writing in favour of the Big Society Bank idea or not, authors of several articles about the proposal have implied that owners of dormant bank accounts should act quickly to reclaim them before they "disappear" irrevocably into the Big Society Bank. This is not in fact the case. The Dormant Accounts Act requires the moneys to be restored to anyone who can prove his rightful ownership, and the Cooperative Financial Services is currently working to set up a reclaim fund that will be the first step in implementing the scheme.

The Dormant Accounts Act of 2008 is scheduled for review. We will keep you posted on the progress of that review and any resulting changes to the legislation.

