

FEBRUARY 2012 MICHIGAN BAR EXAMINATION MODEL ANSWERS

ANSWER TO QUESTION NO. 1

(a) Fred may well be able to take ownership of the ring.

Under the Lost and Unclaimed Property Act, MCL 434.21 et seq., Fred must "report the finding and deliver the property to a law enforcement agency in the jurisdiction where the property is found." MCL 434.22. If he "wishes to receive the property if it is not claimed by the legal owner as provided in [the Lost and Unclaimed Property Act], the person shall provide his or her name and current address to the law enforcement agency." *Id.* If the owner of the ring can be established, it is returned to the owner. MCL 434.24(7). Here, the only potential clue to the owner is the initials "TSC" on the ring. If the owner does not claim the ring within six months, it is returned to the finder. MCL 434.26(1); MCL 434.25(2).

This analysis is no different under Michigan common law, whereby a finder of property has complete title to found property over all others except the owner. *Cummings v Stone*, 13 Mich 70 (1864). This common-law right applied even when the finder was on another's land. *Doe v Oceola Nip*, 84 Mich App 514 (1978).

(b) Larry likely cannot take ownership of the ring. The Lost and Unclaimed Property Act provides the *finder* of lost property with the right to receive the property if the actual owner is not found within six months. MCL 434.26(1); MCL 434.25(2). Since it provided no avenue for a landowner to receive lost property found

by another on his property, the Legislature rejected the doctrine of *locus in quo* in adopting the Lost and Unclaimed Property Act.

This policy decision codified Michigan courts' rejection of the *locus in quo* doctrine under Michigan common law. See *Willsmore v Oceola Twp*, 106 Mich App 671, 686 (1981) ("[T]his Court does not find a basis to award the money to claimant Powell by establishing a precedent in favor of the *locus in quo* owner."), *superseded by statute* as stated in *People v \$27,490*, 1996 WL 33348190 ("[*Locus in quo*] has been squarely rejected by the Legislature.") While Michigan courts have recognized the concept of a joint finding where two parties participate in the find of lost property, *Cummings v Stone*, 13 Mich 70 (1864), there are no facts to indicate a joint finding in this situation because Larry was not with Fred when he found the ring.

(c) Larry may well be able to take ownership of the aold ingots. The Lost and Unclaimed Property Act applies whether the property was lost (accidentally misplaced) or mislaid (intentionally placed and subsequently forgotten). *Willsmore v Oceola Trap*, 106 Mich App 671 (1981), *superseded by statute* as stated in *People v \$27,490*, 1996 WL 33348190. Accordingly, Larry would have to report the finding of the metal box and gold ingots to local law enforcement pursuant to the Lost and Unclaimed Property Act, MCL 434.21 et seq. If, after six months, the true owner of the ingots does not claim them, then Larry can take ownership of them. The fact that the metal box containing the ingots was locked and had to be pried open is immaterial to whether he can take ownership of the box and its contents. See *Doe v Oceola Twp*, 84 Mich App 514 (1978). Similarly, the facts that the metal box was buried and covered with burlap are also immaterial, both under the Lost and Unclaimed Property Act and under the common law, as Michigan has not adopted the common-law doctrine of treasure trove. *Willsmore v Oceola Twp*, 106 Mich App 671 (1981), *superseded by statute* as stated in *People v \$27,490*, 1996 WL 33348190.