



### **LOST VS. FOUND: A Primer**

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J. Noble Portis and Coon Dog Twichell were passing a rainy Saturday afternoon in pursuit of self-improvement: Coon Dog always claimed that playing shuffleboard at the Rainbow Tavern improved his concentration and steadied his hand.

However, that concentration was broken when he observed their mutual friend Ashley Chester slipping somewhat furtively (and damply) into the barroom, with something stashed in his windbreaker. Spying the two lawyers, he motioned them to the back booth under the revolving Jax sign.

#### **Oh, my darlin' Clementine ...**

"I just don't know what to do, boys," said Chester. "Seems like ever since I bought the old Clementine Fletcher place out on Wally Road, nothing is simple any more!"

"Weren't the Grundrente brothers helping you fix up the place, Ash?" asked Portis.

#### **Grund news, bad news ...**

"That's part of my problem. The good news is that some pretty valuable stuff has turned up on

the property. The bad news *is* that Dan and Mack Grundrente found it in the course of their work and they say it's theirs—\_under the doctrine of, well, finder's keepers."

"Shucks and pshaw," said Twichell, "you don't have to rely on that doctrine in this instance. You know, people who buy, sell and renovate real estate sometimes have problems like you do. So, the Arkansas Supreme Court tried to lay down some guidelines to help out several years back, in the case of *Terry v. Lock*, 343 Ark. 452. Why don't you give us your facts, and we'll match 'em up against the guidelines and the Court's four classifications?"

### **Talkin' trash . . .**

The first item was an old crate which appeared to contain at least a dozen bottles of aged claret. The Grundrentes had found it in a cave in a secluded corner of the property, which cave the Fletchers apparently used as a make-shift landfill.

Twichell guffawed. "Old Man Bee Fletcher was always bad to try to avoid the County solid waste fee! And he and Clementine were always wrangling about his drinking! I reckon she decided to throw away his claret!"

### **Off a turnip truck . . .**

"Which makes it *abandoned property* — that is, thrown away," said Portis. "So it belongs to you, not the Grundrentes. Now, if it had fallen off a passing truck, the answer might be different — assuming the bottles didn't break!"

"What he means is this," added Coon Dog. "Even if it lands on your property, lost property still belongs to the real owner — they didn't just throw it away, and likely want it back. So, a reasonable wait would be in order. But, if it looks like the owner and the lost goods won't ever get reunited, it belongs to the finder, not the landowner,"

Chester allowed as to how nothing they had found fell into that lost property category. So, he got to keep the claret. But, he did have two other issues.

### **A point of inquiry . . .**

First, there was the sword. When the Grundrentes were repairing the stone fireplace, they came across what appeared to be a Union army cavalry sword stuck in a crevice behind it, and in perfect condition. Now it was Portis' turn to laugh.

"Then the rumors are true! Clementine's grandfather really did serve with the Yankees! He denied it, but was obviously too cheap to give away the incriminating blade! He must've hidden it and never retrieved it before he died!"

### **For want of a sword ...**

Ashley was getting the hang of this, and knew to ask whose property that made it. The sword, Portis explained, was probably mislaid property — that is, the closet Yankee put it there intentionally, but neglected to retrieve it unintentionally.

"That means it's yours, Ash, not the Grundrentes," chimed in Coon Dog, "unless it was actually hidden by someone like Clementine, who can still claim it. But, in no event is it the Grundrentes'."

### **Dirty money ...**

Ashley Chester pondered that a minute, and then slowly pulled a dirty jar filled with old coins out of his windbreaker. "Last question," he said slowly.

The coins, which were dated about the time of Teddy Roosevelt's charge up San Juan Hill, had been found under a statute of a Confederate general which had stood for years in the Fletchers' backyard. Twichell was positively gleeful.

### **Buried treasure ...**

"Why, Ash, this is the first time I've come across 'treasure trove' since I was in law school! And these coins fit the definition to a tee: '*any gold or silver in coin whose owner is unknown, found concealed in the earth...*'" Portis clapped Chester on the shoulder.

"You and your property could be a whole bar exam, Chester!" Ashley Chester was just happy to have just this once bested the Grundrentes...

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