

THE LAW AND PRACTICE CONCERNING COIN FINDS IN DENMARK

The laws

Coin finds in Denmark are covered by the provisions on treasure trove, which go back to the Middle Ages. It is called *Danefæ* which is an old Danish word, whose etymological meaning is “dead ownerless property”. It states the principle that finds of gold and silver in the earth, to which nobody can claim property, belong to the king (today the state). This rule is a consequence of the general royal rule, that “what belongs to nobody, belongs to the king”, as stated in the article on ship-wrecks of the Jutland Law of 1241, volume 3, article 61 (Galster 1938; Lund 1942; Ørsnes 1980).

The oldest known version of the rules on gold and silver are from the provincial laws of the 13th century. The Jutland Law, which was officially confirmed by the king Valdemar II in 1241, states in volume 2, article 112:

“If any man finds silver or gold in barrows or after the plough, or by any other means, the King shall have it” (Ørsnes 1980, p. 18).

Eric’s Seeland Law is a presumably private compilation of the current laws of Seeland. It was written sometime in the 13th century, but it gained general legal acceptance in the 16th century. Volume 3, article 69, states:

“Gold that is found and dug up from the earth, should be called *Danefæ*...*Danefæ* belongs to the King, gold and silver” (author’s translation).

The formulation of the Jutland Law was incorporated into the new lawbook for all Denmark, which was issued by the young absolutism, the so-called Danish Law of Christian V from 1683. In volume 5, part 9, article 3, one reads:

“Gold and silver found either in barrows or after the plough, or elsewhere, and claimed by none and called *Danefæ*, belongs to the King alone and none other” (Ørsnes 1980, p. 18).

Court cases on the application of the law (Galster 1946) several times forced the King to make clear what was meant. In an ordinance of March 22, 1737, the definition of *Danefæ* was expanded to

“Gold, silver, metal and all other treasure found in earth, wood, field or house, or elsewhere...” (Ørsnes 1980, p. 18).

A public notice of August 7, 1752 adds:

“Whosoever shall find old coins and the like, which because of age and special character be considered of some rarity, he shall send the same to Our exchequer, for which according to its worth he shall receive full payment from Our privy purse... And anyone who dares conceal that which is found shall be subject to rightful punishment” (Ørsnes 1980, p. 18).

The provisions of Danish Law of Christian V from 1683 with the above mentioned amendments were reformulated and modernised in the Act on Museums of June

6, 1984. This new law was in turn revised in 1989 and published on August 31, 1989. *Danefæ* is dealt with in article 27:

“Objects of the past, including coins found in Denmark, of which no one can prove to be the rightful owner, shall be treasure trove (*Danefæ*) if made of valuable material or being of a special cultural heritage value.

- 2. Treasure trove shall belong to the state. Any person who finds treasure trove, and any person who gains possession of treasure trove, shall immediately deliver it to the State Antiquary.

- 3. The State Antiquary shall pay a reward to the finder. The amount shall be fixed on the basis of the value of the material and rarity of the find and also of the care with which the finder has safeguarded the find.

- 4. If treasure trove is found in connection with archaeological investigations headed by a state or state-subsidised institution or otherwise financed, wholly or in part, by public funds, no treasure trove reward shall be paid to the finder. In special cases, however, the State Antiquary may pay a reward to the owner or user of the area where the investigation takes place.

- 5. Treasure trove shall be included in the collections of the National Museum and the State Antiquary may deposit it in other state or state-subsidised museums at their request.” (translation provided by the Danish Council of Museums).

Article 28 deals with historic ship wrecks and old artefacts found in Danish waters. If they are lost more than 100 years ago, they belong to the state. If somebody finds anything of that kind, he shall declare it to the State Antiquary, who may pay a reward to the finder.

Article 37 states that persons not respecting these rules will be fined or condemned up to one year of imprisonment.

The official comments to this act from the Parliament (Karnov, p. 627) states that the intention of replacing the 1683, 1737 and 1752 provisions by a modern act is to confirm, not to change current practice. Artefacts should be buried or hidden to be considered as *Danefæ*. They have to be of a certain age, which is not determined explicitly. The comments outline three categories of finds, of which the first is items eligible for *Danefæ* beyond any discussion and the two others would be *Danefæ* under certain circumstances. Coins of all kinds and all materials are explicitly mentioned as belonging to the first category.

The practice

In the Middle Ages and Early Modern Period, the purpose of the *Danefæ* provisions was to get precious metal to the King. Most items would have been melted down at the mint. But from the seventeenth century on, the King kept special artefacts, such as the famous gold horns from the Iron Age, for his collection of antiquities and curiosities. This new interest can be seen in the documents from 1737 and 1752, quoted above. Important in this respect is the principle of paying the value

of the item to the finder, first mentioned in 1752. In the nineteenth century, archaeological considerations of saving the country's historical heritage definitively superseded the fiscal purpose of the law.

From the nineteenth century on, the practice was to send coins directly to the Royal Collection of Coins and Medals, created as a separate body in 1780, and other artefacts to the National Archaeological Museum, founded in 1807 (these two and several other museums merged into the National Museum in 1892, though they remained separate departments within it). The 1984 act consecrated the current practice by giving the responsibility for the handling of *Danefæ* to the State Antiquary, who is at the same time director of the National Museum and head of Danish archaeology.

As stated above, coins are explicitly mentioned in the provisions from 1752 on. Thus, in principle, all coins found in Danish soil – hoards and single finds alike – are *Danefæ*. The practice is to interpret the qualifications “of the past” and “of a special cultural heritage value” as coins normally older than 100 years. It will then be an individual evaluation of each find, whether it should be declared *Danefæ* or not. According to current practice, ancient and medieval coins will always be declared *Danefæ*, and many later coins will as well.

The identification and recording of the coins is undertaken by the Royal Collection of Coins and Medals of the National Museum - this task is indeed one of the most time-consuming for the staff. On the other hand it gives a unique view of coin finds from the whole of present day Denmark, which is extremely useful for research purposes, for example in order to study coin circulation patterns for a particular period. Coins declared *Danefæ* automatically enter the Royal Collection of Coins and Medals, and are either kept in the storerooms or put on display in the National Museum or in a local museum (as a loan).

A full list of all coins declared *Danefæ* is published every year in the annual report of archaeological activities, *Arkæologiske Udgravninger i Danmark*. This ensures that quick information about the finds is made available to scholars and others. Typical finds are Roman denarii and solidi, Viking Age Arabic, German and English silver coins, Danish medieval and modern coins and foreign coins from particular countries and periods.

The payment of rewards to finders closely follows the law, reflecting “the value of the material and rarity of the find and ... the care with which the finder has safeguarded the find”. Material value is the metal value, which of course is very low, except for gold coins. The rarity is interpreted as value as evidence for historical knowledge. The care shown by the finder is evaluated on two levels: if he can locate the find spot with a reasonable degree of precision, and if he has contacted the museum quickly (rapid intervention on the ground by a professional archaeologist is sometimes necessary to ensure that all relevant information is recorded). The market value is not taken into account, because, “as prices are determined, among other

factors, by limitations in supply resulting from the *Danefae* provisions and other protectionist legislation, it is neither feasible nor just to make the remuneration for *Danefae* all too dependant upon prices on the free market” (Ørsnes 1980, p. 20). Sometimes the reward is above, sometimes below the value on the market - even the find of a worn, corroded fragment of a copper coin is rewarded! The reward is tax-free. On January 22, 1991, the Danish Supreme Court confirmed the reward fixed by the State Antiquary in the case of the Lundby Krat hoard of rare late Eleventh Century coins, which had been challenged by the finder (*UfR*, no. 13, 1991, March 30). The current practice is thus confirmed.

The land owner only gets a reward when professional archaeologists find *Danefae* during excavation, thus depriving him of the possibility of finding it by himself.

Three particular administrative provisions have the greatest influence on the application of the law in everyday life:

(1) The general rules for construction work in churches. In the 1950s, archaeologists became aware of the rich finds of small artefacts related to everyday life below church floors - spectacles, dices, pipes, coins, etc. They are interpreted as chance losses during the service from purses and pockets, and people could not find them afterwards in cold, dark churches with uneven floors. The coins were probably lost, when people looked for a small coin for making an offering. Of course there can also be items from disturbed burials, and construction materials such as sherds from stained glass windows and fragments of old altars etc. (Olsen 1958; Jensen 1977).

The Danish Church is a Lutheran state church, and all restoration work in churches has to be reviewed by the National Museum in order to protect the cultural heritage. In 1955/56, the recognition of the importance of the church floor material led to a decree from the National Museum stating that all soil from work in church floors (installation of heating systems, reflooring etc.) should be sieved in order to preserve the finds. The result has been the recording of thousands of items, many of which are coins. This group of evidence is important for the sheer number of items, all coming from the same type of archaeological context and reflecting the same kind of situation in the past, and thus fit for serial, statistical exploitation in the study of currency and circulation patterns (see below). In recent years, the number of coins found in churches has diminished, because work on church floors is on a lesser scale today than in past decades.

(2) The policy on metal detecting. When metal detecting emerged as a popular hobby in the 1970s, archaeologists were concerned about the damage amateurs could make. Some people wanted to forbid metal detecting, but a more pragmatic approach slowly emerged. Steps were taken to establish contacts with detectorists in order to recover the finds and to explain the archaeological principles to them. Metal

detecting was never affected by a general ban as in some other countries. Of course, detecting on scheduled monuments and ongoing archaeological excavations is forbidden, and one has to ask for permission from land owners, private and public alike. A detectorist declaring his finds to a museum will be treated as any other finder, and will receive a reward, if his finds are declared *Danefæ*. A detectorist not declaring his finds will be pursued as any other finder not declaring his finds.

Many detectorists have joined clubs and their collaboration with local museums is often very close - some of them are asked by museums to participate in field walking on interesting places or to check spoil heaps from official archaeological excavations. The daily contact has enabled archaeologists to explain the issues of archaeology to detectorists, for example that it causes damage to take items from sites with preserved archaeological layers. On the contrary, their work in finding artefacts in plough soil, where the archaeological context has already been destroyed, is very useful. Indeed, many of these artefacts would have been destroyed by modern fertilizers and farming methods, if the detectorists had not saved them. The detectorists have also learnt the importance of recording exact find spots and to keep items from different find spots apart.

This pragmatic approach has proven to be a success. About 80 % of the coin finds declared *Danefæ* originate from detectorists! The rest are finds from official archaeological excavations (including church finds) and chance finds by farming, gardening, demolitions etc. The detector finds are very often single finds, reflecting losses of small change in everyday life. We have by now recorded thousands of medieval stray finds. Controlled archaeological excavations also provide this kind of evidence, but in such small numbers that analyses of the coin circulation could never be done on a statistically safe documentation. For some periods (especially the late Middle Ages), we now see different patterns in detector finds and in the numerous finds from church floors, which have been recorded from the 1950s on (see above). People thus seem to have selected non-current coins for the offerings in the church and the current coins for going to the market. This new evidence is also highly important to complement the evidence from hoards, which often consist of high value coins specially selected and kept for saving. Thus our picture of coin use is much more precise and complete today (Olsen 1984; Jensen 1988).

Of course, we can not be sure to get every single coin find. But we do get many (thousands!), that we would not have got, if we had made a general ban on detector use. Experience from other countries show that detectorists will continue in spite of a ban.

(3) The responsibility for archaeological activities. As stated above, the office of State Antiquary is held by the director of the National Museum. Along with the Archaeological Board, he is the head of all archaeological activity in Denmark. He has delegated the responsibility for the everyday planning and execution of archaeo-

logical activity to a string of regional and local museums, each having their own area. Each museum has one or more trained archaeologists excavating, looking through development plans, recording finds and monuments. The local museum must in turn report finds to the State Antiquary.

This means that finders can deliver *Danefæ* directly at their nearby local museum, which normally is much easier than to travel to the Capital. The local museum will then record the find spot and circumstances, and then forward the finds to the National Museum.

Local museums are nearer to local life than the National Museum is. Thus they can keep an eye and ear on local activities, and in that way catch many finds, which may not have been declared otherwise. Finds can also be put on deposit for exhibition in local museums, so finders and the general public can see that finds are used for the benefit of the public, not only for a museum storeroom.

The *Danefæ* administration is of course rather time-consuming for local museums. Some succeed better than others in establishing contacts with detectorists (see above). This means that some areas are better represented than others. But even so, the advantages of the system by far outweigh the problems. The action of local museums is most important for keeping up the system.

Generally speaking, the *Danefæ* rules are accepted and the importance of recording finds is widely recognized. This is the result of a long tradition of collaboration between the general public and museums, which goes back deep in the nineteenth century and is continued today and seen as paramount for the functioning of the system. In this way, we probably get one of the best rates of recording coin finds in Europe.

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