

Wrecks Authority

# Marine Heritage Policy

March 2012



GOVERNMENT OF BERMUDA

Ministry of Public works

Department of Conservation Services

Conservation + management + research + education

# Putting Shipwrecks on the Map

## Marine Heritage Section

### Project Objectives

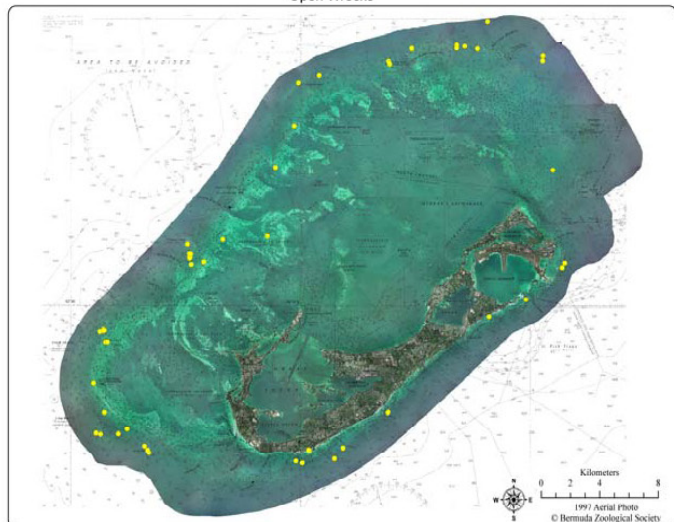
*To update the location of Bermuda's shipwrecks to the latest and highest mapping standards.*

## Summary

Finding and locating shipwrecks is a Bermudian preoccupation rooted in the islands very discovery. The location of shipwrecks historically has always been one deliberately shrouded in mystery and subterfuge. Shipwrecks were until the mid 20th century viewed almost exclusively as items for salvage and made important if not critical contribution to the local economy. For centuries mariners in and around Bermuda have used a myriad of navigational tools to locate and relocate shipwrecks. The advent of SCUBA coinciding with the growth of the recreational water sports arena led to many more individuals having unprecedented access to the waters of Bermuda. Many shipwrecks were discovered in this era. Traditionally the locations of shipwrecks were not shared with others. Shipwreck salvage and shipwreck exploration have now transitioned to shipwreck science. Coincident with this shift has been a shift in the navigational tools and techniques available for locating shipwrecks. This project aims to update or formalize the location of the known shipwrecks of Bermuda and create data standards for the definitive deposition of shipwreck sites in the Conservation Services GIS Mapping Database.

**The Historic Wrecks Act 2001 set pioneering new standards for the management and study of Bermuda's shipwrecks. The mapping of these is an integral part in the development of an effective management plan.**

Open Wrecks



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GOVERNMENT OF BERMUDA

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## **1.0 Responsibilities for managing Bermuda's Marine Heritage**

### **1.1. The Minister**

The Minister charged with responsibility for wrecks is the Minister that oversees the Department of Conservation Services where the office of the Custodian of Historic Wrecks is located.

### **1.2. Historic Wrecks Authority (HWA)**

Is the advisory body to the minister tasked with considering all matters related to Bermuda's Marine Heritage.

Responsibilities include but are not restricted to:

- Classification of Wrecks
- Licences for study
- Proposed development impacting shipwrecks
- Human interaction with Marine Heritage & shipwrecks
- Promotion and education of Marine Heritage and the National Collection
- Liaising with different institutions (local and international)

### **1.3. Department of Conservation Services**

Is the Government Department responsible for monitoring, researching, managing and developing educational materials on Bermuda's marine heritage.

### **1.4. Custodian of Wrecks**

Is the technical officer who monitors and researches known sites, provides advice to the Minister, the Authority and Director on all aspects of marine heritage; develops educational, tour and promotional materials; and enforces the provision of the Act.

## **2.0 Defining Historic Artefact**

### **2.1. Definition.**

Under Part 1 Interpretation historic artefacts are defined as

*- Historic artefact "means flotsam, jetsam, lagan and any artefact found in the waters of Bermuda which is associated with a wreck or a marine heritage site and which is more than 50 years old";*

### **2.2. Inclusion.**

Historic Artefacts that come under the purview of this Act include all portions of shipwrecks which are of historical/cultural interest, including shipwreck material found within a shipwreck and in the debris field of a shipwreck, and underwater materials or features associated with a designated Marine Heritage Site that are over 50 years old. In the case of marine heritage sites artefacts that are protected under this Act are those that are directly connected to the rationale for such designation. (I.e. mooring weights that are over 50 years old on Marine Heritage Site would generally not be classified as historical artefacts).



## 3.0 *Defining a Marine Heritage Site*

### 3.1. Definition.

A Marine Heritage site is an area that is not known to contain a wreck but is one that contains or may contain historical artefacts of importance - defined under section 6 of the Act.

### 3.2. Site Criteria.

To qualify for consideration as a “marine heritage site” sites must be underwater and contain material evidence of cultural traditions or related collections of important historic artefacts tied to historical cultural activities carried out at the site.

In classifying a site as a Marine Heritage Site the Authority and the Custodian will take into consideration:

- a) the cultural, historical or scientific interest of the site. Sites will be considered because they contain specific evidence of maritime cultural traditions with extra emphasis placed on those that will be the subject of archaeological investigation;
- b) specific features (i.e. the rock faces of a fish pond) or related collections or assemblages of important historic artefacts tied to cultural and historical activities carried out at the site (i.e. whale processing implements at whaling sites; the material assemblages related to the presence of convict hulks inside the camber at The Dockyard);
- c) only objects (artefacts) or features on marine heritage sites that are

directly linked to the rationale for the classification will come under the protection of the Act and where possible should be listed;

- d) sites must not be ambiguous in their breadth and scope;
- e) must be practically chosen and demarcated. The functional ability to protect, regulate, or control a proposed site has to be a consideration in their designation;
- f) compatible uses that do not directly impact on the resource cannot be limited. Compatible uses include; scientific research, maritime transport, education, recreation, fishing and other uses unless already prohibited by Law;
- g) pre-existing, or modern use practices that cannot be realistically controlled or changed may be problematic in such designations and cannot be precluded by such a designation. (I.e. the need to follow specific channels, set moorings, use specific docks, or to dredge the shipping channels). Those that are damaging in and of themselves will be addressed.

## **4.0. Survey**

### **4.1. Survey.**

A realistic survey and rescue program may be proposed to mitigate the impact of anthropogenic (Human related) activities. It may be difficult to restrict regular maritime activities but this could be considered as part of a short-term rescue/management plan that has been approved by the relevant representative interest groups.

### **4.2. Temporary Marine Heritage Site Designation.**

When applications are made to conduct pre-disturbance surveys or excavations on underwater sites that are not at that time registered as Marine Heritage Sites the site may be given a temporary Marine Heritage Site designation in order to protect the possible contents of the site.

After completion of the survey or excavation the Custodian will submit for the Authority's approval all submitted reports and determine if the area should retain Marine Heritage Site status.

If deemed necessary the temporary status will be removed.

### **4.3. Assessment.**

Conflicts of use that come to the attention of the Custodian and the Historic Wrecks Authority will be prioritised for assessment and action as deemed necessary.

Actions that cause damage to known wrecks or sites without prior consultation and approval from the Authority the Custodian and the Minister will be subject to the fines as set out within the Act. Every

effort will be made for wide stakeholder consultation.

### **4.4. Temporary assessment of activities.**

All maritime activities will be suspended during the surveying of the site.

## **5.0 National Collection** *(Under review)*

### **5.1. Definition of National Collection**

"The National Collection" and "the Collection" established under section 13; (needs to be amended to read section 12).

The National Collection is an inventory of artefacts and records arising out of new work, excavation, finds and donations coming to be retained by the Minister in connection with the coming into force of this Act.

### **5.2. Excavation Licenses**

All excavation licence holders that recover material artefacts must submit to the Minister, through the Custodian, a list of any artefacts that have been recovered under their licence. Each item on the list must have:

- a) a picture of the artefact;
- b) description of current condition, location;
- c) Conservation/display status.

The database/inventory will document where such artefacts are held (a decision ultimately made by the Minister but taking into consideration the rights of Finders (See policy section on Finders). or pre-negotiated arrangements for display).

### **5.3. Holding the Collection**

The determination of the appropriate institution or body to hold future objects coming into the possession of Government is not pre determined.

### **5.4. Criteria for holding part of the collection**

The Minister with the Authority can request that institutions or individuals formally demonstrate that they meet accredited codes of professional practice in order to hold artefacts found after 2001 that are automatically part of the National Collection.

For items of high intrinsic value the Minister will require annual third party certification of security protocols.

### **5.5. Rights to use Data & Standards**

Standards for data deposition should reflect internationally recognised museum, collections and database standards and institutions need to demonstrate that they meet these.

The Bermuda Government reserves the right of untransferrable access to and use of data, images films etc for its own use.

### **5.6. Database**

The database section of the "virtual national collection" will include not only objects held by the Minister but also objects and artefacts held in private collections found prior to 2001 that have been shared with the Custodian.

The Crown has already abandoned many of these objects over the past fifty years as part of artefact collections linked to licensed excavations carried out by private individuals. There is however little or no documentation of this process just as there is no Government held documentation of Government artefacts held by private museums.

## **6.0 Register of Wrecks**

### **6.1. The Register of Wrecks**

As required by Section 6(1) the Act the Custodian must classify wrecks and sites in an official Register of Wrecks and, in the case of open wrecks, identify the location of the site of the wreck;

### **6.2. Development and holding of the Register**

The Register of Wrecks will be incorporated into a GIS (Global Information System) relational database to facilitate management and decision-making.

The official Register of Wrecks will be held and managed by the Office of the Custodian as a secure database inaccessible from the Government server with copies updated, burned to cd (or other suitable storage media), and deposited in the Office of the Director of Conservation Services and the Minister, the contents of which will only be made available as per rules set out for access to the database.

### **6.3. Finder of Record**

The official Finder of Record will be identified in this Register and will be the Finder to which rights of Finders shall apply. (See Section 9: policy section on Finders).

Privacy and security of coordinates for Restricted Wrecks and New Finds is a high priority and strictly enforced.

### **6.4. Storage of Information**

The Custodian and the Director will vet requests for sensitive data from the database and if need be requests will be taken to the Authority for further consideration. As with any grievances these can be taken to the Minister or the Authority.

Wrecks and sites will be stored as coordinates in decimal degrees and as photo locations on the Bermuda BAMZ photomap.

The Photomap where clear enough will be the definitive locational tool for officially registering shipwrecks on the Bermuda Platform removing the discrepancy in GPS (Global Positioning Systems) or other coordinate systems and allowing for the accurate relocation of wrecks and sites.

Wrecks will where possible be represented by polygons that describe the extent of the site. Marine Heritage sites will also be logged and demarcated in the same manner.

The Official Register of Wrecks will primarily hold the locations of shipwrecks and associated photo documentation but also written descriptions of the site and where possible relationally link to other databases that contain artefacts collections as well as written, photographic and film references that pertain to the wreck or site. The standard for coordinates will be decimal degrees.

There will be a publicly accessible Government map and database of wrecks that has been approved for broad promotion as dive sites.

The Register will be used to create the lists of open and restricted wrecks and deposit coordinates of New Finds.

## **7.0. Classification of Wrecks (Under review)**

### **7.1. Protection of Wrecks**

All wrecks are given the same protection under the Historic Wrecks Act 2001 regardless of classification.

### **7.2. Open wrecks.**

Open wrecks are accessible to the recreational diving public. Bermuda's wrecks are an important part of the Tourism package. These sites have been used to attract divers to our shores – therefore it is important to have open wrecks that are interesting and accessible.

### **7.3. Classifying Open wrecks**

In the classification of a shipwreck site as “**Open**” the following are to be considered:

- a) Whether the wreck will be adversely impacted by ordinary recreational diving activities.
- b) Whether the wreck is of such aesthetic and historical significance that it serves as an underwater museum.
- c) Whether evident artifacts, in the surface sand and above, have been removed.
- d) Whether the site has been known and accessible for a period of time.

- e) Whether the site information has been recorded and/or will not be impacted by recreational diving and can be recorded in the future.
- f) Whether there is something present at the site.
- g) Whether the site is safe for ordinary recreational diving.

### **7.4. Closed Wrecks.**

Historically and aesthetically important shipwreck sites are underwater museums and one of Bermuda's greatest assets.

Closed Wrecks are restricted and not open to recreational diving.

### **7.5. Classifying Closed Wrecks**

In classifying a shipwreck site as “**Closed**” the following criteria are to be considered:

- a) Whether the wreck is a new find or a previously unknown wreck;
- b) Whether the wreck is of national or historic significance;
- c) Whether there are significant artefacts at the site that warrant protection;
- d) Whether the wreck is dangerous (i.e. unexploded ordinance or its hazardous location [extreme depth]);
- e) Whether the wreck will be (further) damaged by ordinary recreational diving activities;
- f) Whether the wreck needs added protection for an ongoing archaeological excavation.



## **8.0. Licenses**

### **8.1. Approval of licenses**

The Authority reviews and approved applications and the Custodian in the designation of a shipwreck as Open or Restricted will consider all relevant factors.

### **8.2. Licenses for Open Wrecks**

Clause 8(1)(c) of the Historic Wrecks Act 2001 allows for a licence to be issued to carry out work on an open wreck site subject to such conditions as the Custodian, after consultation with the Authority, may impose.

The conditions for licenses for work on Open Wrecks are determined by the Custodian, in consultation with the Authority, and are more flexible than for restricted wrecks. This may include:

- a) Opportunities for running archaeological field schools;
- b) training courses for introductory or marketed courses on wreck diving;
- c) tourist related experiential tours;
- d) dive shop sponsored wreck experience packages;
- e) specific activities related to films about shipwrecks or involving shipwrecks, be they as part of documentaries, advertising, reenactments etc.

Such work could possibly be carried out on Open Wrecks, subject to the approval of a license with such conditions attached as the Custodian, after consultation with the Authority, may determine.

A specific list of Wrecks that are deemed suitable for field school activities is available on the Department's website [www.conservation.bm](http://www.conservation.bm).

As with all diving activities on wrecks, the regulations relating to the protection of the wreck and the removal of artefacts remain in force.

### **8.3. License for Closed Wrecks**

The HWA is committed to building Local Capacity in the appreciation, celebration and exploration of Bermuda's Maritime Heritage. Foreign researchers must include a substantive local capacity building component in their plans.

Applicants must fulfil and adhere to all regulations as stipulated under section of the Historic Wrecks Act 2001.

In considering all licence application the Historic Wrecks Authority will adhere to the regulations as set out in the Historic Wrecks Act 2001.

Licence applicants must be in good standing before the Authority will consider a new application or renewal. All obligations under previous licences issued need to have been satisfactorily met before a new application or a renewal will be considered.

A separate application needs to be made for each wreck, site or survey.

The HWA generally issues only one licence per applicant at any given time.

### **8.4. Applications & Conditions**

In an application the objectives of the project must address the issue of what is to be gained by the excavation in terms of increasing our knowledge of the wreck, site or historic period.

Conditions will be attached to each licence commensurate with the type of research

being carried out. For example a licence to excavate may or may not include permission to remove artefacts dependent on the goals of the project. Excavation for photography of a wreck would perhaps not include permission to remove artefacts but would require specific protocols for the insitu stabilisation, recording and reburial of artefacts.

Excavations that include artefact recovery require specific protocols and guarantees for the preservation and long-term management of artefacts.

Unless otherwise stated and approved by the Custodian and HWA the reburial of sites and replacement of ballast material as found is a requirement of an excavation licence. In some cases a licence may require that ballast be replaced on timbers that was removed by a previous excavation.

Licences and permit information will be incorporated into the GIS database to facilitate management.

The Authority will notify the Finders of Wreck (if they are not the applicant) when applications for predisturbance licences are made.

Finders will be given first option to conduct predisturbance surveys if they wish to do so and are capable of meeting the requirements as set out in the Act.

On behalf of the Authority the Custodian will notify the Finders of Wreck (if they are not the applicant) when applications for an excavation licence for a wreck or marine heritage site are made.

The Finder of the wreck (if they are not the applicant) will be given priority for consideration in the issuing of a licence if they wish to do so and are capable of meeting the requirements as set out in the Act.

The Finder will maintain priority to work on a shipwreck unless the applicant in question received a licence and carried out the predisturbance survey after the Finder of record was given first option and turned it down.

In all cases the Authority will consider if the fieldwork plan demonstrates that the applicant has an appropriate strategy for dealing with the protection/stabilisation of the site during and after excavation and are prepared to deal with the stabilisation and conservation of artifacts that are anticipated to be removed from/or left at the site. There will be an agreement that provides for specific criteria relevant to the particulars of the wreck or site giving specific details regarding recovery and preservation. The Authority will also consider the financial commitment of the applicant.

A successful applicant can expect to renew the licence automatically for three years if the conditions of the licence have been met and provided that the licensee has begun the work in earnest in the first year. As a prerequisite for receiving a license the Authority will first consider whether the applicant or their team has advanced SCUBA qualifications or previous experience with underwater work to ensure safety on the site.

In considering the expertise of the applicant the Authority shall view the NAS (Nautical Archaeology Society) program from Portsmouth England as a bonafide training system and NAS level 4 certification will be considered as competence in archaeological techniques. Significant local expertise, affiliations with archaeological groups, institutions or significant work/dive experience with demonstrated experience/competencies in related fields such as, scientific diving, drafting, land archaeology, GIS, bathymetry, reef mapping, etc. will all be considered.

The conditions of licensees for work on open wrecks are less restrictive than for restricted wrecks. Licenses to work on open wrecks can provide more flexibility allowing for diving, research, educational and promotional activities that may not be advisable on restricted wrecks. This may include opportunities for running archaeological field schools, training courses for introductory or marketed courses on wreck diving, tourist related experiential tours, dive shop sponsored wreck experience packages or for specific activities related to films about shipwrecks or involving shipwrecks, advertising, reenactments etc. Such work could possibly be carried out on open wrecks subject to the approval of a license to which will be attached conditions that have met with approval of the Custodian and the Authority.

As with all diving activities on wrecks the regulations relating to the protection of the wreck and the removal of artifacts would remain in force.

## 8.5 Reporting

Licence holders must submit field reports within six months of the completion of the project or within 7 months of the start of the project, whichever comes first.

Final reports need to be submitted within one year of the commencement of the project unless the field aspects of the project are ongoing.

Conditions may be imposed as to what these reports must contain and may require high resolution copies of photomosaics, GIS data, films and other relevant data. Media plans and opportunities should be spelled out as part of the licensing process and if they emerge after the license is issued they must be brought to the attention of the Custodian and the HWA.

Surveys conducted under license must submit their data as part of the records of the project.

The Bermuda Government reserves the right to use this material (with due acknowledgement) for internal government use and the Government promotion of shipwrecks.

The licensee will be contacted and given the opportunity to appear before the Authority to address changes to the conditions of a license or the suspension of a license. This will not alter the Custodians ability to suspend a license in consultation with the Authority.

All activity on shipwrecks has to be consistent with the Historic Wrecks Act as well as consistent with the rules and regulations guaranteed by other Bermuda laws. Therefore, license holders must get relevant permissions to work in areas where other protections apply such as

areas with corals, sea grasses, or other significant natural resources.

## **8.6 Field School Applications**

Applications relating to field schools should ensure that licences for field school activities have been granted before commitments are made to their students and local hosting institutions. Under normal circumstances applications should be submitted 5 months in advance of the projected start of the project.

## **8.7 Environmental Impact Assessment**

Some projects may require an Environmental Impact Assessment commensurate with the potential impact of predicted activities before an application can be fully vetted.

## **9.0 Register of Finders**

### **9.1 Goal of Register**

The Bermuda platform is a dynamic environment upon which huge volumes of sand can shift covering and uncovering shipwrecks. Stories abound of divers, spear fishermen etc finding a promising site and then never being able to relocate it.

It is very difficult to ascertain if a newly located wreck has in fact been found and worked on in the last 60 yrs. It is hoped that the Register of Finders together with the Register of Wrecks and Marine Heritage Sites will make it easier to research potential new finds.

### **9.2. Development and holding of the Register of Finders**

The Register of Finders will be incorporated into the Register of Wrecks GIS (Global

Information System) relational database to facilitate management and decision-making.

The official Register of Finders will be held and managed by the Office of the Custodian as a secure database inaccessible from the Government server with copies updated, burned to cd, and deposited in the Office of the Director of Conservation Services and the Minister, the contents of which will only be made available as per rules set out for access to the database.

The finder first needs to contact the Office of the Custodian of Historic Wrecks to let them know they believe they have found a wreck.

### **9.3. Required information**

The finder must take GPS coordinates of the site and if possible good running marks of the location and if possible sketch out the location of the site inside the reef noting the shape of the sand-hole, reef, etc, and highlighting any outstanding features of the area making it easier to find again. If possible the finder should take pictures of the site, specifically those elements that identify it as a shipwreck site.

The Custodian will initially compare these coordinates and site descriptors with the list of known shipwrecks for Bermuda. If they overlap with known wrecks then it is probably not a new site. If the site does not appear in the Register of Wrecks or there is any doubt the Custodian will work with the finder to return to the site and assess its status.

Each newly found wreck is investigated individually by the Custodian to try and ascertain if it has been recently explored and if so who was the original finder.

If it is a new site the finder will be entered as the official “Finder of record” in the Register of Finders and Wrecks and will be the Finder to which rights of Finders shall apply.

#### **9.4. Finder of Record**

Finders of record will be given notice of applications for licences to work wrecks they have found and will be given priority if they wish to apply for a licence. Copyright rests with the original Finder unless after offering the opportunity to the finder apply for a licence the licence has been granted to another at which point copyright is transferred to that licensee. Privacy and security of coordinates for Restricted Wrecks and New Finds is a high priority.

The Custodian and the Director will vet requests for sensitive data from the database and if need be requests will be taken to the Minister for further consideration.

These new sites will be stored as per the rules set out for the Register of Wrecks. This Register will be used to create the lists of open and restricted wrecks and deposit coordinates of New Finds.

### **10.0 *Honorarium or Compensation (Under review)***

The Minister may pay a good faith honorarium to the person finding the wreck or artefact.

The honorarium is decided at the discretion of the Minister.

### **11.0 *Inspectors***

Inspectors are the Marine Police, Fisheries Wardens and the Technical officers of Conservation Service including the Custodian and Conservation Officers.

Protection of sites should be commensurate with their historical significance/heritage value<sup>1</sup> and further monitoring measures may be considered in the protection of sites of extreme value either monetarily historically or both. Harbour radio can include radar monitoring for boat traffic in and around site areas alerting Inspectors of boat stoppage around a site.

### **12. *Amnesty & Abandonment of Crown Claim. (Under Review)***

### **13.0 *Marking Wrecks & Sites (Under Review)***

A more efficient method of Identifying or Marking of Shipwrecks is currently under development.

The Custodian with the approval of the Authority will try to find the cheapest most rational/effective/reliable/visible method of marking the wrecks.

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<sup>1</sup> *The HWA is reviewing the concept of creating a heritage value designation system*



## **14.0 Protection of wrecks and marine heritage sites**

### **14.1 Possession of artefacts**

As per Section 7(1) of the Act no person shall mark, remove or otherwise interfere with, deal in or possess any wreck or **historic artefact** unless he is licensed under section 8 and authorised by the licence to do so.

Thus will be applied specifically to wreck or historic artefacts that have been taken from the marine environment after the commencement of the Historic Wrecks Act 2001.

### **14.2 Penalties/Enforcement**

Diving refers to scuba diving not snorkeling or free diving.

Penalties shall be applied specifically to the removal of artefacts objects or things that are clearly tied to a wreck site including any markers identifying the wreck or site or the disturbance to any work being carried on the site. In the case of marine heritage sites enforcement and penalties will be applied to items that are intrinsically tied to the documented rationale for the designation of the area as marine heritage site.

Enforcement shall discriminate between those willfully and accidentally diving on a restricted site. It will not be applied to divers who accidentally find themselves on a restricted dive site. There will be a warning procedure for first time transgressions. As any possible markers of restricted sites are underwater it would be difficult to establish willfulness. Enforcement will be applied to repeat offenders who have received a documented warning.

### **14.3 Special Permit**

A special permit can be issued for the recovery and removal or the in situ stabilization/protection of artifacts that are in Peril on an open or restricted wreck or a marine heritage site. Generally threatened objects will trigger management recovery actions and the Custodian can specifically authorize the recovery and removal of artifacts that are in Peril. This permit can be applied retroactively for finders coming forward with new finds and recovery of artifacts thereon that were in Peril. As with all artifacts these are vested in the crown.