

No. 402

AN ACT

To amend Route Two Hundred and Ninety-eight of section one of an act, approved the twenty-second day of July, one thousand nine hundred and thirteen (Pamphlet Laws, nine hundred forty-eight), entitled "An act establishing certain public roads as State highways, and providing for certain construction and maintenance at the expense of the Commonwealth."

Section 1. Be it enacted, &c., That Route Two Hundred and Ninety-eight of section one of an act, approved the twenty-second day of July, one thousand nine hundred and thirteen (Pamphlet Laws, nine hundred forty-eight), entitled "An act establishing certain public roads as State highways, and providing for certain construction and maintenance at the expense of the Commonwealth," is hereby amended to read as follows:

Route 298,
act of July 22,
1913 (P. L.
948), amended.

Route Two Hundred and Ninety-eight. — A certain public road beginning at [the] *a point on Route Forty-two in Gettysburg, [National Park]* and running thence by way of Greenmount over the Emmittsburg road to a point, on the division line between the State of Maryland and Pennsylvania, about one mile north of Emmittsburg.

APPROVED—The 25th day of June, A. D. 1937.

GEORGE H. EARLE

No. 403

AN ACT

Providing for the payment into the State Treasury, without escheat, of certain moneys and property subject to escheat under existing law, namely unclaimed dividends and profits, certain debts, and interest on certain debts, proceeds of policies of insurance, stock and customers deposits held by certain limited partnerships and unincorporated associations, joint-stock associations, companies and corporations doing business under the laws of this Commonwealth; declaring the legislative intent with respect to such payments; requiring reports of such money and property by, and imposing other duties upon, such partnerships, associations, and corporations; conferring powers and imposing duties on certain State officers, boards, and departments; providing for jurisdiction of courts, and for proceedings for the recovery of such moneys and property by the Attorney General at the suggestion of the Department of Revenue; providing for refunds of such moneys and property; and prescribing penalties.

Be it enacted, &c., As follows:

Section 1. Legislative Determination and Declaration of Policy.—It is hereby declared, as a matter of legislative determination, that the moneys and property, hereinafter enumerated in this act, are now and have

Payment
of money
into State
Treasury
without
escheat
proceedings.

heretofore been subject to escheat both under the common law and under the provisions and requirements of existing acts of Assembly.

That it is both necessary and desirable to provide specific, appropriate methods for the recovery of such money and property by the Commonwealth and the payment thereof into the State Treasury, subject to being refunded to the persons legally entitled thereto, without the necessity of instituting and prosecuting the proceedings for a formal decree of escheat thereof by the court having jurisdiction of said moneys and property.

Therefore, it is hereby declared to be the policy of the Legislature to provide, and it is the purpose and intent of this act so to provide, for the payment of such moneys and property, hereinafter described, into the State Treasury without escheat, according to the provisions of this act and subject to being refunded to the persons legally entitled to the same.

Definitions.

Section 2. Definitions. — The following words, terms and phrases, when used in this act, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

“Company.” The word company shall include limited partnerships and unincorporated associations, joint-stock associations, public utility corporations, insurance exchanges, associations or corporations, and any company or corporation incorporated and doing business under the laws of this Commonwealth, except mutual savings fund societies and building and loan associations, and except banks, national banks, bank and trust companies, trust companies and other corporations, associations, partnerships, limited partnerships, and partnership associations, engaged in the business of receiving money on deposit or securities or other property for safekeeping.

“Creditor.” The word creditor shall include any person who has made deposits or advances of money, or to whom dividends or profits have been declared, or to whom debts and interest on debts have been owed, or to whom the proceeds of any policy of insurance are due and payable.

“Debt.” The word debt shall include only such debts as are formally created and of the type, ownership to which is evidenced by written or printed securities having definite maturities, interest rates, places and times of payment, such as mortgages, bonds, notes, equipment-trust certificates and debentures.

“Department.” The Department of Revenue of this Commonwealth.

“Person.” Any natural person, association or corporation.

“Property.” The word property shall include property and the profits, accretions, and any interest or rights accrued or declared thereon.

The singular shall include the plural, and the masculine shall include the feminine and neuter. Section headings shall not be deemed or construed to limit the text of the sections of this act.

Section 3. Reports.—(a) In the month of January of each year reports shall be made to the department as follows:

(1) Every company shall make a report of all dividends or profits declared by it to any stockholder or member and unclaimed for six or more successive years next preceding the first day of said month, where funds have been provided by the company for the payment of said dividends or profits, and of all debts and interest on debts due by it to any creditor, for the payment of which debts or interest thereon funds have been provided by the company, where said payments have been unclaimed for six or more successive years next preceding the first day of said month.

(2) Every company shall make a report of any and all customers, advances, tolls or deposits held by it, and under the terms of the deposit agreement due and owing to the person or company depositing the same and unclaimed by said person or company for six (6) or more successive years next preceding the first day of said month.

(3) Every company shall make a report of the proceeds of any policy of life, casualty, indemnity or fire insurance awaiting due proof for payment, or the surrender values of policies which have been surrendered by the policyholder or insured, or have been surrendered or are surrenderable at the option of the insurer under the contractual agreement between the insurer and the insured, or the portions of premiums held to the credit of any policyholder and any profits, dividends or accretions thereon which have been held and are owing by any company, as hereinabove defined, and have been unclaimed by and unpaid to the lawful owner thereof, or to the person or persons legally entitled thereto, for seven or more successive years next preceding the first day of said month.

(4) (a) Every company shall make a report of any and all stock or certificates of beneficial interest, of whatsoever nature, issued by or authorized to be issued by such company, which have been demandable and have been and remain unclaimed by the person legally entitled thereto for six or more successive years next preceding the first day of said month.

(b) The said period of six or seven years, as the case may be, shall be computed from the date when the mon-

eys or property, required to be reported under the provisions of this act, first became due and payable to, or became demandable by, the person legally entitled thereto, and said period shall not be affected, terminated, renewed or extended in any way by a transfer or delivery of possession of such moneys or property, or an assignment of title or interest to such moneys or property by any company to any other company whatsoever.

(c) Every report required by this section shall show the names and addresses of said stockholders, members or creditors, and the names and addresses of the depositors of said moneys or property, or the names and addresses of the persons entitled to demand the said stock or the proceeds, surrender values or premiums of said policies of insurance, so far as known, and if any such facts be not known, it shall be so stated, and such facts or particulars as are known shall be stated. Such reports shall contain such other information as is required by the department, and shall be verified by affidavit of the persons making the same, and, in the case of a corporation or other person not a natural person, shall be made and verified by affidavit of the treasurer or chief fiscal officer thereof, said affidavit to declare that the report is true and contains all facts required by law to be reported.

Section 4. Inquisitorial Powers of the Department.

—(a) Every company liable to make such report shall permit the department, acting through any deputy, clerk, accountant or attorney designated by it for that purpose, to inspect the records, books, and papers of such company relating to the subject matter of such report, and when required by the department by subpoena, signed by the secretary thereof, designating a certain time and place, any company or officer, or employe thereof, whether liable to make such report or not, shall attend as a witness before any deputy, clerk, accountant or attorney, designated by the department for that purpose, with such records, books, and papers as the department may require, and shall answer fully such questions as may then be put to him concerning the subject matter of this section, and permit full inspection of such records, books, and papers.

(b) No company or any officer or employe shall be excused from answering or from attending and testifying, or from producing books, papers, and records in any proceeding, criminal or otherwise, relating to the subject matter thereof for the reason that the answer or testimony or evidence, documentary or otherwise, required of him, may tend to criminate him or subject him to a penalty or forfeiture, but no company shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may answer or testify or produce evidence, doc-

umentary or otherwise, in any such proceedings: Provided, That no officer or employe of such company shall be exempt from prosecution and punishment for perjury committed in so testifying.

(c) If any company, or any officer or employe thereof, shall fail to comply with any summons of the department for the attendance of persons, or for the production of books, accounts, documents or papers, or shall refuse to be sworn as a witness, or refuse to testify fully as such, or if any person or corporation shall refuse to permit any person, designated by the department, to inspect books, accounts, documents or papers, as required by this section, the Attorney General acting for the department may apply, by petition in the name of the Commonwealth, to the court of common pleas having jurisdiction, and the court shall make such order on reasonable notice to such company, or the officers thereof, as shall compel compliance with the law, and the violation of such order shall be a contempt of such court and punishable as such. The remedy herein provided shall be in addition to other remedies and penalties provided by law.

Section 5. Notice to Owners of Dividends, Etc.—(a) When any particular dividend, profit, debt or interest on debt customers deposit stock or proceeds of any policy of insurance shall be first reported to the department, the department shall notify the persons entitled thereto of such fact by mail so far as possible, and shall publish once a week for two weeks during the month of July in each year, in one or more general newspapers having the largest circulation published in the city or county in which such company may be located, a true and accurate statement, containing the names, addresses, and amounts of money or character of property belonging or owing to such person or for whose benefit the same is held.

(b) The department, if it deems it to the best interests of the Commonwealth, may make such publication in a legal periodical designated by rules of court for the publication of legal notices in addition to publication in a general newspaper.

(c) It shall not be obligatory upon the department to publish any item of the above described moneys or property where the amount involved is less than ten dollars (\$10), but publication of any such item may be made if the department thinks such publication is to the best interests of the Commonwealth.

(d) The publications required by this section shall not be considered a condition precedent to the bringing of any action in the courts of the Commonwealth for the recovery or payment of such moneys or property into the State Treasury without escheat.

Section 6. Index.—The department shall prepare and keep an alphabetical index for the names of all persons which shall appear upon the reports made to it under the provisions of this act, which index shall contain a reference to the reports from which said names are derived, and the department shall open said index and reports to public inspection, and shall furnish a search of said index, when requested, upon payment of a fee of twenty-five cents (25¢), and ten cents (10¢) additional for each item shown by the search for the use of the Commonwealth.

Section 7. Jurisdiction.—Whenever any moneys or property are required to be reported by any company under the provisions of this act, the court of common pleas of the county in which the principal office of such company is located, shall have jurisdiction of any and all proceedings or actions instituted by the Commonwealth for the recovery of such moneys or property or the payment thereof into the State Treasury without escheat.

Section 8. Procedure for the Escheat of Moneys or Property Subject to Escheat.—The escheat of any moneys or property heretofore subject to escheat and required to be reported to the department under the provisions of this act, may, at the suggestion of the department, be determined and enforced by an action in the nature of a bill in equity, filed by and in the name of the Attorney General against the company and all of its stockholders, creditors, depositors, policyholders or other persons for whom the company holds moneys or property required to be reported under the provisions of this act, in the said court of common pleas. Any such escheat proceedings may be so prosecuted whether such moneys or property shall have been reported to the department as required by the provisions of this act or have not been so reported. Any number of items of such moneys or property may be joined in one action against one company though due and owing to, or held and possessed for, different persons.

If service of the bill cannot be had on any persons legally entitled to the moneys or property required to be reported to the department, service shall be made by publication for two successive weeks in a newspaper of general circulation, published in the county in which such person resides, or, in the case of a corporation, in which it has its principal office, and also, when practicable, for the same period in such a newspaper published in the county, within or without the Commonwealth, where, when last heard from by the company, the person or corporation legally entitled to such property had its residence or place of business. Publication may be made in such form as the court shall direct,

and need not contain any order or other paper in full. If the person legally entitled to such property or his legal representatives shall appear within the time limited by the court and establish his right to recover said moneys or property from the company, but for the provisions of this act, and if this right shall not be barred by the statute of limitations or presumption of payment, a decree shall be made for the payment of said moneys or other property to said person, after paying his proportionate part of the costs of the cause and of said advertising: Provided, That such person legally entitled to such moneys or property may have any issue of fact determined by a jury, and if he shall not so appear and establish such right, a decree shall be made that said moneys or property has escheated and shall be paid by the company into the State Treasury, through the department, for the use of the Commonwealth. The amount of such decree shall bear interest at the rate of twelve per centum per annum sixty days after the same is made, and such decree shall be effectual to bar persons or companies legally entitled to said moneys or property from claiming the same from the company. An appeal may be taken by either or any party to such action to the Supreme Court at any time within thirty days after the date of the decree issued therein. A receipt of the department for any moneys or property paid over to the State Treasury, in accordance with the provisions of such decree, shall be a full and sufficient discharge to the said company from any further liability with respect to such moneys or property to any person or company legally entitled thereto.

Section 9. Alternative Procedure for Payment into State Treasury without Escheat.—Whenever any company shall hold or be possessed of any items of money or property required to be reported under the provisions of this act, the department may, after such items have been reported to or otherwise ascertained by it, and after notice and advertisement of such items shall have been given and made as required by this act, if the number and nature of the items so held or possessed are, in the opinion of the department, such as to make such action desirable, suggest to the Attorney General that, instead of proceeding to secure a decree for the escheat of such items in the manner hereinabove prescribed, the Attorney General apply by petition to said court for an order upon said company holding or possessed of such items of money or property directing the payment of the same without escheat into the State Treasury, through the department, to the credit of the Commonwealth, together with interest thereon actually accrued, if any, to the date of the issue of said order, or if the property consists of shares of stock or other se-

curities that the same be sold in such manner as the court shall direct and the proceeds thereof be similarly paid into the State Treasury, all amounts and proceeds so paid to be subject to being refunded by petition to the Board of Finance and Revenue as hereinafter provided.

A receipt of the department for any moneys or property paid over to the State Treasury, in accordance with the provisions of such order of court, shall be a full and sufficient discharge to the said company from any further liability with respect to such moneys or property to any person or company legally entitled thereto.

Section 10. Refunds.—(a) Any person legally entitled to any moneys which shall have been paid into the State Treasury under the provisions of an order of court entered upon petition of the Attorney General asking for the payment of such moneys into the State Treasury without escheat (or the legal representatives thereof), may, at any time, apply to the Board of Finance and Revenue for a refund of the same, and, upon his making proof of his ownership or right of possession to the satisfaction of the board, such moneys shall be paid to such person, on the requisition of the board and the warrant of the Auditor General drawn on the State Treasurer in conformity therewith, out of any moneys in the State Treasury appropriated for the purpose, with interest thereon at the rate of two per centum per annum from the date when said moneys were paid into the State Treasury to the date of the refund thereof. Any moneys which shall have been voluntarily paid into the State Treasury, or which shall have been paid in under the provisions of an order of court entered upon the petition of the Attorney General asking for the payment of such moneys into the State Treasury without escheat, shall be refunded in the same manner and under the conditions herein above prescribed.

(b) Any person legally entitled to any shares or certificates of stock or other securities, which shall have been transmitted or delivered to the State Treasury, through the department, under the provisions of an order of court entered, upon petition of the Attorney General, directing the transfer of such property to the State Treasury without escheat (of the legal representatives thereof), may, at any time, apply to the Board of Finance and Revenue for a return of said property, and, upon his making proof of his ownership or right of possession, the Board of Finance and Revenue shall order the return of such property to the person legally entitled thereto. In such event, if the State Treasurer shall have converted such property into money, authority to do so being hereby conferred, the board shall order the refund of the proceeds thereof to the person

legally entitled thereto, together with interest at the rate of two per centum per annum from the date such property was so converted to the date of refund thereof.

(c) Any claimant for any such refund of money or for the return of property may appeal by petition to the court of common pleas of Dauphin County from an adverse decision of the Board of Finance and Revenue, which court shall thereupon hear such testimony as may be offered in support of the claim and determine whether or not the claimant is entitled to any refund of money or return of property, and if so, the amount thereof or the nature or character thereof. If the court finds that he is so entitled, it shall report its findings to the board and order the making of a refund of the proper amount of money or the return of the said property. Thereupon, the refund shall be made or the return of the property shall be made in the manner hereinbefore provided. No such appeal shall be entertained, however, unless the claimant shall file with his petition an affidavit that all proof, which he proposes to offer in support of the claim, had been presented to the Board of Finance and Revenue before that board acted adversely upon his claim.

Section 11. Penalties; Failure to Make Reports; False Oath in Report; Refusal to Testify.—(a) If it shall appear that any company failed, at any time, to make any report required under the provisions of this act, such company shall be liable to pay to the Commonwealth interest at the rate of twelve per centum per annum from the time such report should first have been made, to be computed upon the value of said reportable items as finally established in any proceedings under the provisions of this act and to be recovered in such proceedings.

(b) The making of a wilful false oath in any report required under the provisions of this act shall be perjury and punishable as such according to law. If any officer or employe of any company, required to make a report under the provisions of this act, shall fail to make such report when and as required by this act, he shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine not exceeding one thousand dollars (\$1,000), or imprisonment not exceeding three months, either or both, in the discretion of the court.

(c) Any officer or employe of any company, required to make a report under this act, who shall neglect or refuse to attend or testify, or to answer any lawful question, or to produce or permit inspection of any books, papers, and records if in his power to do so, in obedience to a subpoena issued under any section of this act, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not ex-

ceeding one thousand dollars (\$1,000), or imprisonment not exceeding three months, either or both, in the discretion of the court.

Section 12. Constitutional Construction.—It is hereby declared to be the legislative intent that if this act cannot take effect in its entirety because of the decision of any court holding unconstitutional any part or section thereof, the remaining provisions of the act shall be given full force or effect as completely as if the part held unconstitutional had not been included therein.

Section 13. Bar of Statutes of Limitations.—The bar of statutes of limitation and presumptions of payment shall not affect the duty of making reports and payments to the Commonwealth under the provisions of this act.

Section 14. Information Fees.—No fee or reward shall be paid to any person for information which shall result in the report, payment or escheat to the Commonwealth of any property which is the subject matter of this act.

When effective.

Section 15. Effective Date.—This act shall become effective immediately upon its final enactment.

APPROVED—The 25th day of June, A. D. 1937.

GEORGE H. EARLE

No. 404

AN ACT

Providing for the joinder of plaintiffs in civil suits, and the rendition of verdicts and entry of judgment in such cases; and defining the powers of the court in such cases.

Joinder of plaintiffs.

Section 1. Be it enacted, &c., That all parties who have a right of action, whether jointly, severally or in the alternative, in respect of, or arising from, the same transaction or series of transactions, and whose actions would give rise to any common question of law or fact, may join, as plaintiffs, in one civil action.

Section 2. If, in any such action, it shall appear that the joinder of the plaintiffs will complicate, prejudice or delay the trial of such action, the court, on petition or on its own motion, may order separate trials, or make such other order as it deems expedient and proper.

Section 3. In every such action, separate verdicts shall be rendered and judgments entered as to each plaintiff.

APPROVED—The 25th day of June, A. D. 1937.

GEORGE H. EARLE