

No. 246

AN ACT

Fixing the salary of jury commissioners in counties of the second class.

Jury commis-
sioners—second
class counties.
Annual salary.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The annual salary of the two elective jury commissioners in counties of the second class shall be eight thousand dollars (\$8,000) each.

APPROVED—The 29th day of July, A. D. 1953.

JOHN S. FINE

No. 247

AN ACT

To further amend the act, approved the second day of May, one thousand eight hundred eighty-nine (Pamphlet Laws 66), entitled "An act defining and regulating escheats in cases where property is without a lawful owner, and providing for more convenient proceedings relative to the same," by further defining property, property subject to escheat and beneficial owner; conferring jurisdiction upon certain courts; providing for procedure; and permitting the joinder of items in escheat proceedings.

Escheats.

Section 3, act of
May 2, 1889,
P. L. 66, as
amended by act
of May 11, 1911,
P. L. 281, further
amended.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section three of the act, approved the second day of May, one thousand eight hundred eighty-nine (Pamphlet Laws 66), entitled "An act defining and regulating escheats in cases where property is without a lawful owner, and providing for more convenient proceedings relative to the same," as amended by the act, approved the eleventh day of May, one thousand nine hundred eleven (Pamphlet Laws 281), is hereby further amended to read as follows:

Property or
estate held by
trustee in fiduci-
ary capacity,
when cestui que
trust or bene-
ficial owner un-
known for seven
years, to escheat
to Common-
wealth.

Section 3. (a) That whensoever any trustee or other person is or shall be seized of any property or estate, real or personal, in a fiduciary capacity, and shall file an account of the same in any court of this Commonwealth, and whensoever it shall appear that the cestui que trust, or beneficial owner, of said property or effects, or any part thereof, has been unknown for a period of seven years, and still remains unknown, then and in such case so much of said property or effects as belonged to said unknown cestui que trust, or beneficial owner, shall escheat to the Commonwealth, subject to all legal demands on the same; and whensoever the trustee or trust-

ees under a dry trust, and whensoever on the termination of an active trust, or afterwards, the trustee or trustees thereunder is, are, or shall be seized or possessed of any property or estate, real or personal, either the subject of the trust or in any wise arising from the possession of the trust property, or the exercise of the trust, or resulting after the termination of the trust and before distribution is actually made under the terms of the trust or decree of court, from rents, accretions, profits, or interest from, of, or on the trust property, or any part thereof, which property or estate is or shall be without a lawful owner, such property or estate shall escheat to the Commonwealth, subject to all legal demands on the same.

Property or estate held by trustee under a dry trust, or on termination of active trust, or afterwards, without a lawful owner, to escheat to Commonwealth.

(b) Whensoever the owner, beneficial owner of, or person entitled to any real or personal property within or subject to the control of the Commonwealth or the whereabouts of such owner, beneficial owner or person entitled has been or shall be and remain unknown for the period of seven successive years, such real or personal property, together with the rents, profits, accretions and interest thereof or thereon, shall escheat to the Commonwealth, subject to all legal demands on the same.

Real or personal property, where owner thereof unknown for seven years, to escheat to Commonwealth.

(c) Whensoever any real or personal property within or subject to the control of this Commonwealth has been or shall be and remain unclaimed for the period of seven successive years, such real or personal property, together with the rents, profits, accretions and interest thereof or thereon, shall escheat to the Commonwealth, subject to all legal demands on the same.

Real or personal property, unclaimed for seven years, to escheat to Commonwealth.

(d) Whensoever any real or personal property within or subject to the control of this Commonwealth is or shall be without a rightful or lawful owner, such real or personal property, together with the rents, profits, accretions and interest thereof or thereon, shall escheat to the Commonwealth, subject to all legal demands on the same.

Real or personal property, without a rightful or lawful owner, to escheat to Commonwealth.

(e) This section shall not apply to corporations which are engaged in receiving deposits of money, securities or other property for safekeeping.

Section inapplicable to certain corporations.

Section 2. Section five of said act, as last amended by the act, approved the twenty-eighth day of June, one thousand nine hundred thirty-five (Pamphlet Laws 475), is hereby further amended to read as follows:

Section 5, said act, as last amended by act of June 28, 1935, P. L. 475, further amended.

Section 5. That the jurisdiction in all cases of escheat under the provisions of this act, shall be vested in the courts of this Commonwealth, as follows, namely:

Jurisdiction.

(a) Whenever an escheat shall occur or be supposed to occur by reason of any person dying intestate, without heirs or known kindred, a widow or surviving husband, the orphans' court of the county wherein said decedent was resident at the time of his death, or in case said

When escheat occurs by reason of any person dying, intestate, etc.

decedent was not at the time of his death resident within this Commonwealth, then the orphans' court of the county in which the greater part of his property, real and personal, shall be situate, shall have jurisdiction.

When escheat occurs by reason of owner being unknown, etc.

(b) Whenever an escheat shall occur, or be supposed to occur, of any property, estate or effects deposited in the custody of any court, or with any depository, receiver or other officer thereof, the owner whereof shall be unknown, and whenever any escheat shall occur or be supposed to occur of any property, estate or effects held by any trustee or other person in a fiduciary capacity, who shall have filed an account thereof in any court of this Commonwealth, by reason of the fact that the cestui que trust or beneficial owner thereof shall be unknown, then and in such case, the court in which, or in the custody of any depository, receiver or other officer of which said property, estate or effects may have been or shall be deposited, whether the same be real or personal, or in which said account has been or may be duly filed, shall have jurisdiction; and whensoever any property, estate, or effects held by any trustee or trustees under any trust, or held by and resulting to such trustee or trustees from the exercise of the trust, or resulting after the termination of the trust and before distribution is actually made under the terms of the trust or decree of court, from rents, accretions, profits, or interest from, of, or on the trust property, or any part thereof, shall escheat or be supposed to escheat by reason of the fact that such property, estate, or effects has no lawful or rightful owner, the court of common pleas of the county in which such property, estate, or effects, or the greater part thereof, shall be located, shall have jurisdiction, except in cases where the trustee shall be a corporation, in which cases the court of common pleas of the county wherein the principal office of such corporation is located shall have jurisdiction.

When escheat occurs by reason that property has no lawful or rightful owner, etc.

Exception—where trustee is a corporation.

When escheat occurs of money or property deposited in custody of court of United States, etc.

(c) Whenever an escheat has occurred, or shall occur, of any money or property deposited in the custody of, or under the control of, any court of the United States in and for any district within this Commonwealth, or in the custody of any depository, clerk or other officer of such court, the court of common pleas of the county in which such court of the United States sits, shall have jurisdiction to ascertain if an escheat has occurred, and to enter a judgment or decree of escheat in favor of the Commonwealth.

All other cases of escheat.

(d) *In all other cases of escheat under the provisions of this act, jurisdiction shall be vested in the court of common pleas of the county in which service of the petition of escheat may be made upon the corporation or other person by whom the property is held or owing, in*

the manner provided under the provisions of the Pennsylvania Rules of Civil Procedure for the service of a writ of summons or complaint in an action of assumpsit.

(e) *The Court of Common Pleas of Dauphin County shall have concurrent jurisdiction in all cases of escheat under the provisions of this act in which jurisdiction is vested in the courts of common pleas.*

Section 3. Section seven of said act, as last amended by the act, approved the thirteenth day of April, one thousand nine hundred forty-three (Pamphlet Laws 41), is hereby further amended to read as follows:

Section 7. (a) That whensoever any escheator shall be duly commissioned by the [Auditor General] *Department of Revenue*, of and concerning any property, real or personal, escheated or supposed to have escheated to the Commonwealth under the provisions of this act, he shall apply by petition to the court having jurisdiction in the premises to hear and determine whether an escheat has occurred or not, and shall in his petition set forth the facts of his appointment and the nature and character of the alleged escheat, and shall also state, as far as he conveniently can, the location, character, and amount of the property, real and personal, alleged to have escheated, together with the name and address of the person or persons having the same in his or their possession [;].

(b) [whereupon the] *The* said court shall have power to issue a summons or citation, directed to any administrator or executor, trustee, depository of the court, receiver, or other officer of the court, to show cause, if any they have, why they should not file a true and accurate account of all and singular the said property alleged to have escheated as aforesaid; and if, upon sufficient proof by oath or affirmation of the service of said summons or citation, no good and valid cause be shown to the contrary, the said court shall proceed to direct said administrator or executor, trustee, depository of the court, receiver, or other officer of the court, to file his said account. And in all cases where any real estate has escheated, or is supposed to have escheated, by reason of the death of the person last seized thereof, without heirs or known kindred, the said court shall have power to order the administrator or executor of said person to file a true and accurate statement of all the real estate whereof said decedent died seized, describing the same by metes and bounds, together with the buildings and improvements thereon erected, as far as he has been able to ascertain the same. And whensoever it shall appear by the account of any executor or administrator, or any receiver or other officer of the court, or of any trustee or other person in a fiduciary capacity, or upon the audit of

Court of Common Pleas of Dauphin County to have concurrent jurisdiction.

Section 7, said act, as last amended by act of April 13, 1943, P. L. 41, further amended.

Duties of escheator.

Petition to court.

Contents of petition.

Court empowered to issue a summons or citation to custodian of property to file account.

Court may direct filing of account.

Court may order statement and description of real estate to be filed.

any such account, that the said receiver or other officer, trustee or other person, has in his possession, or has any knowledge of the existence of, any real estate which shall have escheated or is supposed to have escheated to the Commonwealth, the said court shall have power to order and direct the said administrator or executor, receiver or other officer, trustee or other person, filing an account as aforesaid, to file a true and accurate statement of all said real *estate, describing the same as aforesaid, so far as he has been or shall be able to ascertain the same; and any and all accounts and statements filed under the provisions of this act shall be verified by oath or affirmation, in the customary manner. And whensoever any escheator shall have been commissioned by the Department of Revenue of and concerning any money, estate [or], effects, *real or personal property*, which have been or shall hereafter [be paid into or deposited in the custody, or be under the control of any court of the United States in and for any district within this Commonwealth, or shall be in the custody of any depository, registry, or of any receiver, clerk, or other officer of any such court of the United States, he may join in one petition of escheat any number of items of such money, estate or effects, though held for different persons or in different proceedings in such court of the United States] *be subject to escheat under the laws of this Commonwealth. the escheator may join in one petition any number of items, though held for or owing to different persons or held for different persons or in different proceedings, in any court of this Commonwealth or of the United States.*

Escheator may join any number of items in one petition.

Service of copy of petition.

Respondent to file answer.

Averments not denied deemed admitted.

Interested parties may file written notice of claim with court.

(c) *A copy of the petition shall be served upon the corporation or other person by whom the property is held or owing as respondent, within the time and in the manner provided under the provisions of the Pennsylvania Rules of Civil Procedure for the service of a writ of summons or complaint in an action of assumpsit. The respondent shall, within twenty days after service of the said petition, file an answer thereto, setting forth the name and address, if known, of every person having an interest in the property, together with any other facts relative thereto of which the respondent shall have knowledge, and whether any claim to the property has been made upon or against the respondent. Any averment in the petition not specifically denied in the answer shall be taken as admitted.*

(d) *Any person having or claiming an interest in any real or personal property as to which a petition of escheat has been filed may, on or before the time fixed for hearing or at such subsequent time as may be allowed by order of the court, file with the court a written notice*

* "state" in original.

of claim, in the form of an answer to the petition, and shall serve a copy of such answer upon the escheator, and shall, at the time fixed for hearing, appear in person or by duly authorized counsel and substantiate his claim or otherwise show cause why such property or any part thereof should not be adjudged to have escheated to the Commonwealth. Any averment in the petition not specifically denied in the answer shall be taken as admitted.

In form of answer to petition.

Hearing.

Averments not denied deemed admitted.

Section 8, said act, amended.

Court to audit and adjudicate account or statement filed.

Section 4. Section eight of said act is hereby amended to read as follows:

Section 8. (a) That whensoever any proceedings in escheat have been instituted as aforesaid, the court having jurisdiction in the premises shall upon the filing of any account or statement by any administrator, executor, depository of the court, receiver or other officer of the court, or of any trustee or other person in a fiduciary capacity, of any property or estate, real or personal, escheated or supposed to be escheated, proceed to the audit and adjudication of said account or statement in the same manner as the said court commonly proceeds upon the audit and adjudication of the accounts of executors, administrators and trustees; and shall upon said audit, proceed to inquire and determine whether there has been any escheat or not, and if so, in what manner and for what cause said escheat has occurred, and also what estate, real or personal, has escheated, and what is the value thereof. And the said court shall, in all cases where any real estate has escheated or is alleged to have escheated, before proceeding finally to hear and determine the question of escheat, order and direct notice of said proceedings to be served upon the person or persons in possession of said real estate, in such form as the court shall direct, and the said court shall have full power and authority to summon any person or persons who shall be at any time alleged to have any knowledge touching any escheat or any interest therein, to appear before it, and said court shall have full power and authority to examine any and all of said persons upon their oaths or affirmations, as to any fact or facts, matter or thing touching said escheat, and shall suffer and permit the escheator and all parties claiming to have any interest in said proceedings, to appear therein by counsel or otherwise, and to produce and examine such witnesses under oath or affirmation, as they may see fit, touching said escheat, and the said court shall [have full power at any stage of said proceedings, when they may think it wise so to do, to] make such orders relative to advertisements and notices of the proceedings, as shall best serve to inform and advise all parties having an interest, or who may have an interest in said proceedings, of the pendency thereof.

Determination whether there has been any escheat or not.

Procedure in cases of real estate.

Court may summon and examine persons with knowledge touching the escheat.

Court orders relative to advertisements and notices of the proceedings.

Depositions, discovery and inspection.

Section 27, said act, as amended by act of May 11, 1911, P. L. 281, further amended.

Meaning of term "real or personal property."

Meaning of term "beneficial owner."

Act effective immediately.
Applicability.

(b) *The escheator may, either before or after filing a petition in escheat, file a petition in the court of Common Pleas of Dauphin County or in the court of common pleas of a county in which the respondent may be served in the manner provided for the service of a summons or complaint in an action of assumpsit, praying for depositions, discovery and inspection, and the procedure upon such petition shall be in accordance with the Pennsylvania Rules of Civil Procedure relating to depositions, discovery and inspection.*

Section 5. Section twenty-seven of said act, as amended by the act, approved the eleventh day of May, one thousand nine hundred eleven (Pamphlet Laws 281), is hereby further amended to read as follows:

Section 27. [That the fees in cases of escheat shall be as follows:

To the escheator, fifteen per centum of all moneys paid into the State Treasury from the sales of escheated property, together with all expenses incurred by him, under the direction of the Auditor General, for, in, and about the prosecution of the escheat, and the performance of the duties imposed upon him by this act. And the fees of the prothonotaries and the clerks of the several courts, and the sheriffs and witnesses, shall be the same which they are entitled to receive for similar services in the same court. The above fees and expenses shall be paid out of the State Treasury, by a warrant from the Auditor General, in the customary manner.]

(a) *The term "real or personal property," as used in this act, shall mean and include all real property and all interests therein, whether legal or equitable, and moneys, negotiable instruments, instruments of indebtedness under seal, instruments of indebtedness not under seal, mortgages, choses in action, claims, debts, demands, shares of capital stock or other rights in corporations, dividends, deposits, and every other form of personal property, tangible or intangible, and all interests therein, whether legal or equitable.*

(b) *The term "beneficial owner," as used in this act, shall mean and include any beneficial owner, cestui que trust, depositor, bailor, or other person having a beneficial interest in real or personal property.*

Section 6. The provisions of this act shall become effective immediately upon final enactment; and shall apply to all proceedings now pending and to proceedings hereafter instituted.

APPROVED—The 29th day of July, A. D. 1953.

JOHN S. FINE