

Memorandum 73-6

Subject: Study 26 - Escheat (Unclaimed Property Law)

Background

The Unclaimed Property Law was enacted in 1968 upon recommendation of the Law Revision Commission. Certain provisions of this law are inconsistent with the holding of the United States Supreme Court in Pennsylvania v. New York, 407 U.S. 206 (1972). Since the Commission recommended the 1968 statute, the State Controller is looking to the Commission for needed revisions to conform to Pennsylvania v. New York. (See the letter handed out at the last meeting.)

I prepared a staff draft of what I thought would be appropriate conforming legislation and sent it to various interested persons for comment. The comments received are attached as exhibits to this memorandum.

The staff draft was distributed to the State Controller, Western Union Telegraph Co., Travelers Express Company, California Bankers Association, and American Express Company. Representatives of some of these groups will be present at the meeting.

The nature of the problem is described in the preliminary portion of the attached staff draft of a tentative recommendation. To minimize the amount of material you must read, we do not repeat the discussion here. You should read the staff draft of the tentative recommendation and the attached copy of the opinion in Pennsylvania v. New York before you read the remainder of this memorandum. We also attach (green pages) a copy of the Unclaimed Property Law, but you need not read the green pages; they are provided only for reference purposes.

Review of Comments on Staff Draft

Need for legislation now. The decisions of the Supreme Court as to which state is entitled to escheat unclaimed property are not based on constitutional requirements; the decisions merely provide the rules that are needed so that the holder of unclaimed property is not required to pay such property over to more than one state. Accordingly, it would be possible--and it is not unlikely--that the United States Congress will enact a special escheat rule for travelers checks and money orders. Absent such federal legislation, the existing California statute is invalid in part under Pennsylvania v. New York. The staff believes that the California statute should be conformed to the requirements of Pennsylvania v. New York as soon as possible and that any revisions required by future federal legislation (if any is enacted) be made when such legislation has been enacted.

Section 1511 (page 5 of staff draft) and conforming revisions in Sections 1513 and 1542 (pages 6-7 and 10 of staff draft). The repeal of Section 1511 and the conforming revisions in Sections 1513 and 1542 are required to conform to the holding in Pennsylvania v. New York. These changes are approved by Western Union (Exhibit I) and the State Controller (Exhibit II). On the other hand, Travelers Express Company (Exhibit III) takes the view that the California scheme is a sound one and should be merely suspended pending enactment of federal legislation that would make the Section 1511 presumption a valid one. Also, Travelers Express Company suggests that it is not at all clear that the Supreme Court in Pennsylvania v. New York ruled the presumption invalid. The staff believes that it is clear from the opinion of the Supreme Court that--absent federal legislation--the presumption will be held invalid under all circumstances. Accordingly, the staff recommends that the provisions of the staff draft under discussion be approved.

Section 1530 (pages 8-9 of staff draft). The State Controller (Exhibit II) approves the substance of the staff proposal on this section but suggests a revision in language. The staff believes the State Controller's suggestion would make subdivision (b)(1) of Section 1530 much clearer. Accordingly, we suggest that the State Controller's revision be approved, and subdivision (b)(1) of Section 1530 be revised to read (changes are from text of statute as it presently exists):

(b) The report shall be on a form prescribed or approved by the Controller and shall include:

(1) ~~Except with respect to travelers checks and money orders, the~~ The name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of value of twenty-five dollars (\$25) or more escheated under this chapter. The State Controller may by rule except sums payable on travelers checks and money orders from this requirement.

Section 1564 (pages 11-12 of staff draft). The State Controller (Exhibit II) suggests that the amendment of Section 1564 be eliminated. Western Union (Exhibit I - point 3 on page 3) suggests that the proposed amendment to Section 1564 "may raise more questions than it answers." Accordingly, the staff withdraws its recommendation that Section 1564 be amended.

Section 1581 (pages 13-14 of staff draft). The record-keeping requirement is, of course, the key to a successful California effort to obtain all the moneys California is entitled to escheat under Pennsylvania v. New York. Absent a record of the last known address of the person entitled to the moneys, it will escheat to the state where the holder (issuing company) is domiciled (incorporated). It should also be noted that Pennsylvania v. New York contains a statement that that decision can be implemented by a state requirement that the business association keep adequate address records. See Pennsylvania v. New York, 407 U.S. at 215, 222. Obviously, a requirement

that a business association keep a record is burdensome and the association would much prefer to merely keep a record of the state where the travelers check or money order is purchased. However, that option--which was incorporated into the 1968 California statute--is not available in view of Pennsylvania v. New York. Accordingly, the policy decision presented is whether the business association is to be required to go to the expense of keeping the record so that California may escheat the funds it is entitled to obtain (rather than some other state) or whether California will give up its claim to such funds and allow the other state to take them. The staff believes that the amount of money involved is so substantial that California should not give up its claim to such funds. Accordingly, it will be necessary to have some type of record-keeping requirement.

The staff believes that the record-keeping requirement should be reduced to the bare minimum required in order to satisfy Texas v. New Jersey. In fact, we believe that it would be desirable as a policy matter to run some slight risk that California would lose the money in order to reduce to a bare minimum the amount of record keeping that will be required. In line with the suggestion made by Travelers Express Company (Exhibit III on page 2), we suggest that the record-keeping requirement--subdivision (a) of Section 1581 (page 13 of staff draft)--be revised to read as follows:

(a) Any business association that sells its travelers checks or money orders in this state or that provides such checks or orders to others for sale in this state shall:

(1) Make and maintain a record with respect to travelers checks and money orders sold in this state on or after January 1, 1974, from which it can be readily ascertained those travelers checks and money orders which were sold to persons who resided in this state at the time of such sale.

(2) Maintain any such records, or any records showing such information in greater detail, with respect to travelers checks and money orders sold in this state prior to January 1, 1974.

The Comment to Section 1581 could include a statement that Section 1581 would be complied with if a negative record were kept (a record showing those travelers checks and money orders sold to persons who then resided outside this state).

The staff believes that the record required by the above provision would satisfy the requirements of Texas v. New Jersey if that decision is given a reasonable interpretation.

Western Union raises the question (Exhibit I, point 5 on page 3) whether California can require Western Union to keep adequate address records. Both the majority and minority opinions in Pennsylvania v. New York state that the states can require Western Union to keep adequate address records. We believe that these statements would be determinative of the issue absent the enactment of additional federal legislation.

Other comments. Western Union (Exhibit I) raises a number of other problems. We believe these problems either are ones that cannot be solved by a state statute or are ones that need not be resolved in order to deal with the problem raised by Pennsylvania v. New York.

Check sellers. The State Controller raises the question whether the record-keeping requirement should apply to check sellers. (See Exhibit II, page 2.) If the bare minimum record-keeping requirement (as recommended above) is adopted, it might be politically feasible to extend the record-keeping requirement to check sellers.

Life insurance companies. The State Controller (Exhibit II, page 2) raises the question whether Section 1515 (dealing with insurance companies) must be conformed to the Western Union decision. The staff believes that Section 1515 may be valid and that it would not be desirable to attempt to revise that section at this time.

Respectfully submitted,

John H. DeMouly
Executive Secretary

EXHIBIT I

THE WESTERN UNION TELEGRAPH COMPANY

OFFICE OF THE GENERAL COUNSEL

60 HUDSON STREET

NEW YORK, N. Y. 10013

RICHARD C. HOSTETLER
VICE PRESIDENT
AND GENERAL COUNSEL

(212) 577-4321

ROBERT H. CUMMINS
HERBERT G. TELSEY
ASSISTANT GENERAL COUNSELS

December 21, 1972.

John H. DeMouilly, Executive Secretary
California Law Revision Commission
School of Law - Stanford University
Stanford, California 94305

Dear Mr. DeMouilly:

This office is glad to offer the following comments about the proposed revision of the California Unclaimed Property Law, as suggested in your December 8 letter. Some portions of them are general, not directed solely to the specifics of your letter.

1. Telegraphic money orders are different from simple money orders and travelers checks. Those are incomplete instruments for the payment of money sold over the counter for future completion and negotiation by the buyer. One who buys them gets substantially everything he pays for at one time and place. What happens later is within his control.

But one who buys telegraphic money order service pays at one time and place in order that Western Union may later pay the same principal sum to some person at some other place. The essentials of the telegraphic money order service are described in Pennsylvania v. New York, 407 U.S. at 208-209.

Existing statutes do not plainly reflect the difference between simple and telegraphic money orders. The Supreme Court recognized that "the person entitled" (407 U.S. at 223) may be either the sender entitled to a refund or the sendee to whom an unpaid draft was delivered, or, of course, anyone underpaid (407 U.S. at 213).

A sum payable with respect to a telegraphic money order is not accurately described by the present §1513(e). For example, if the sendee cannot be located and given a payment draft, and the sender cannot be found to receive a refund draft, we merely have an unfulfilled service contract. It is going too far to deem the receipt given the sender a "money order". The sender's application is labelled "money order", but it is merely a service document and we retain it, so that it is not issued or outstanding as an unrepresented payment or refund draft is. Also, an outstanding draft is itself not a "money order" but a draft like any other draft. It contains no blanks. Accordingly, we would be inclined to consider §1520 the more accurate and more clearly applicable section of your statute.

The next topic is statutory definitions. Does §1501(h) adequately recognize what the Court said as to "the person entitled"? Perhaps it does, but some thought might be given to this point. As we understand the result in Pennsylvania v. New York, apart from underpayment situations the only person entitled is the purchaser or sender of the telegraphic money order, except where our records show that we issued a payment draft to the sendee, in which case the sendee is the person entitled. What state has the initial right to escheat the principal sum remaining in our hands is a separate question, to be answered by ascertaining whether or not the records contain an address for the person entitled.

2. In Pennsylvania v. New York the Court was not dealing with simple money orders or travelers checks. It refused to adopt the strongly advocated suggestion that the place of sale should be determinative. Had it done so, it would have made feasible the same test for telegraphic money orders and simple money orders and travelers checks. Instead, it applied Texas v. New Jersey to telegraphic money orders. A fortiori, that case still applies to simple money orders and travelers checks. Their issuer cannot identify any "person entitled" to the amount of an unpaid instrument except the purchaser. As we understand the current law, unless the issuer has an address in its records for the purchaser (and it almost never has), the issuer's domiciliary state enjoys the initial right to escheat. We think you are correct in proposing to repeal §1511.

3. There is some question in our minds whether the Supreme Court's decision to make the expense of analyzing our telegraphic money order records payable (in effect) out of the escheatable funds is intended as a general rule. Neither the parties nor the Special Master discussed the merits of or took any position on the point. The Court may have intended its action only to fit the particular facts. Accordingly, the proposed §1564(a)(10) may raise more questions than it answers. Perhaps the purpose could be served administratively, making clause (1) read "For payment of claims allowed and payment of expenses incurred, with the specific consent of the State Controller, in complying with this chapter". Clause (4) could also probably be expanded to cover this species of expense.

4. The proposed new text of §1581(a)(1) does not completely fit the telegraphic money order situation because the purchaser is not always the "person entitled", as mentioned above. However, the purchaser's address and the sendee's address are given to Western Union on the same application form. Sometimes, the purchaser does not know a precise address for the sendee. The application is occasionally marked "Will Call", meaning that the sendee will contact Western Union. In most cases, some species of address for the sendee is shown. Of course, if the sendee's address is in another state, the state of purchase is not ordinarily concerned with it.

5. The Court stated, 407 U.S. at 215, "...nothing we say here prohibits the States from requiring Western Union to keep adequate address records". The Court has made plain that states cannot regulate interstate and foreign telecommunications. Western Union Telegraph Co. v. Boegli, 251 U.S. 315(1920), is one of many authorities showing that federal occupation of the field is intended to be pervasive. The California Public Utilities Commission (Decision 76322, October 21, 1969) exempted Western Union from Code provisions concerning issuance of securities. What does, and what does not, constitute impermissible regulation of interstate commerce can raise difficult legal questions. The federal law does pay some respect to local concerns. See, e.g., Wilburn Boat Co. v. Fireman's Fund Ins. Co., 348 U.S. 310, 322, 333 (1955). The FCC's

Mr. John H. DeMouilly

December 21, 1972

4.

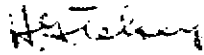
rules (47 CFR) include more than adequate record retention periods. We do think regulations concerning the documentation of interstate and foreign telegraphic money order service, offered to the public solely under federal tariffs, could become questionable. Only intrastate telegraph service is subject to local regulation. See generally the Communications Act of 1934, as amended, Title 47 USC.

6. On page 2 of your letter, you ask whether it would be desirable to unify the periods of dormancy for travelers checks and money orders by shortening the period applicable to the former. Western Union does not issue its own travelers checks and therefore is not directly experienced in regard to them. However, it is self-evident that any record-keeping burden would be eased by such a change. Also, there seems to be a trend away from long periods of dormancy (originally carried over from escheat of real property) under the custodial type statutes, since the true owner may always obtain his property. As for travelers checks sold prior to the effective date of amendments, it would seem permissible to apply the same period of dormancy as is chosen for the future, but since it would be impossible to cure any lack of recorded information about purchasers, the effect of so doing might be nil, as a practical matter.

7. In both Texas v. New Jersey and Pennsylvania v. New York the Court focussed on the holder's records of addresses for persons entitled, in preference to any search for facts which, by hypothesis, are generally unavailable. (Facts, when discovered, may be used by a state to make claim against the initially escheating state.) We therefore wonder whether §1510(b)(1) should not be repealed, since it is directed at an address existing in fact but not shown in the holder's records.

We hope that the foregoing may be of some interest to you. It would certainly be desirable for all states to try to conform their abandoned property statutes to the Supreme Court's ideas.

HGT:fms


Herbert G. Telsey
Assistant General Counsel



HOUSTON I. FLOURNOY

Controller of the State of California

SACRAMENTO, CALIFORNIA 95805

January 2, 1973

Mr. John H. DeMouilly
Executive Secretary
Law Revision Commission
School of Law
Stanford, California 94305

Dear Mr. DeMouilly:

This is in reply to your letter of December 8 concerning revision of the California Unclaimed Property Law. We have reviewed the proposed revision which was forwarded to us and our comments follow.

The repeal of §1511, Code of Civil Procedure and the amendment of §§1513 and 1542 are appropriate and meet with our approval.

We believe the wording of the proposed amendment to §1530 would provide a clearer statement of the exception if it read as follows:

Except with respect to travelers checks and money orders,
the The name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of value of twenty-five dollars (\$25) or more escheated under this chapter. The State Controller may by rule except sums payable on travelers checks and money orders from this requirement.

We suggest that the proposed amendment to §1564 be eliminated. The operating costs of our Bureau of Unclaimed Property are a part of our General Fund support appropriation. We use the Unclaimed Property Fund only for those out of pocket costs which are chargeable to a specific account in the fund. In addition, the proposed amendment would involve an appropriation and would, therefore, require a hearing before the Assembly Ways and Means Committee, and the Senate Finance Committee as well as the policy committees in both houses. We believe the language contained in subdivision b of §1564 is broad enough to permit us to make the type of payments to which you refer.

Mr. John H. DeMouilly
January 2, 1973
Page 2

With respect to the proposed amendment to §1581, we wonder whether or not check sellers should be included. It is our understanding that the general practice among check sellers is to maintain only a record of outstanding checks by number and amount with no record being kept of the name and address of either the purchaser or the payee.


Section 1515 dealing with life insurance companies also contains a presumption of last known address. ~~It~~ would be necessary to amend that section also to conform with the Western Union decision.

The amendments proposed by you are of such a nature that we do not feel it necessary to attend the Law Revision Commission meeting at which the matter will be discussed. If you feel, however, that our presence is necessary, please let me know.

Very truly yours,

HOUSTON I. FLOURNOY, STATE CONTROLLER

By


S. J. Cord, Chief
Division of Accounting

RICHARDS, MONTGOMERY, COBB & BASSFORD
LAWYERS

FRED B. SNYDER
EDWARD C. GALE
FRANK A. JAMES
DECEASED

BERGMANN RICHARDS
EDMUND T. MONTGOMERY
NATHAN A. COBB
PAUL L. SPOONER, JR.
CHARLES A. BASSFORD
MELVIN D. HECKT
GREER E. LOCKHART
WILLIAM G. SALE
LYNN G. TRUESDELL III
JEROME C. BRIGGS
L. HAMILTON MAY
JAMES P. CULLEN
JON D. JENSVOLD
RICHARD L. LUTHER
JONATHAN P. SCOLL

TELEPHONE 332-8541
1430 DAIN TOWER
527 MARQUETTE AVE.
MINNEAPOLIS
MINNESOTA 55402

January 3, 1973

Mr. John H. DeMouilly, Executive Secretary
California Law Revision Commission
School of Law - Stanford University
Stanford, California 94305

Re: Revision of the California
Unclaimed Property Law

Dear Mr. DeMouilly:

Thank you very much for your letter of December 8 and as you surmised we do have a continuing interest in the California Unclaimed Property Law and in custodial takings and escheat generally.

It is quite possible that I will attend the hearing on January 19. Meanwhile I may telephone you to discuss the proposed revision of the California law in greater detail than here.

First, preliminarily, I should say that it does not seem at all clear to me that the Supreme Court, in Pennsylvania vs. New York, did pass upon, and thus rule out, a statutory presumption like California's. The Pennsylvania statute at issue was not the new one (Senate Bill 333, 1971, effective January 1, 1972) which contains a presumption like yours, but rather the pre-existing law.

Second, it seems to me that proposed new Section 1581 of your Code of Civil Procedure calls for precise addresses within California (apparently streets and street numbers, apartment numbers, and so on), whereas, clearly, neither the Texas Case or the Pennsylvania Case calls for addresses any more pin-pointed than as to which State was involved.

For this reason, if Section 1581 is to be amended, I would propose that subparagraphs (1) and (2) of Section 1581(a) read

Mr. John H. DeMouilly, Executive Secretary
California Law Revision Commission - page 2 January 3, 1973

as follows:

"(1) Make and maintain a record of all travelers checks and money orders sold in this state on or after January 1, 1974, to persons who then resided within this state or, in cases where the foregoing information can be readily ascertained therefrom, a record of all travelers checks and money orders sold in this state on or after January 1, 1974, to persons who then resided outside of this state; and

"(2) Maintain any such records, or any records showing such information in greater detail, with respect to travelers checks and money orders sold in this state prior to January 1, 1974."

Referring to the third paragraph, above, there is a thought that, perhaps, goes more directly to the heart of the problem: the validity of the California presumption. (There still seem good arguments in favor of it, to me.) I wonder whether we couldn't leave your Section 1511 (the presumption section) and its related sections in being, merely suspending them and their alternative machinery "until Congress shall have enacted a presumption applicable to and within all states like that provided for in Section 1511 or until presumptions like that provided for in Section 1511 shall have been sustained by the United States Supreme Court."

Sincerely,

Paul L. Spooner, Jr.

PLSjr
lb

cc: Mr. A. S. Moore, President
Travelers Express Company, Inc.

STAFF DRAFT

TENTATIVE

RECOMMENDATION OF THE CALIFORNIA

LAW REVISION COMMISSION

relating to

REVISIONS OF THE UNCLAIMED PROPERTY LAW

The California Unclaimed Property Law¹ provides a comprehensive scheme for the escheat to the state of various kinds of unclaimed personal property such as amounts held by sellers on account of travelers checks and money orders. If the owner of such property has failed to claim it for a specified period of time, the statute requires the holder to report this fact to the State Controller. Subsequently, the property is transferred to the custody of the State Controller who then holds it subject to the claim of the owner. Little of such property is ever reclaimed by the persons entitled to it.

The Unclaimed Property Law, which was enacted in 1968 upon recommenda-² tion of the Law Revision Commission, superseded a prior statute based on the Uniform Disposition of Unclaimed Property Act.³ A primary purpose of the 1968 enactment was to conform the prior statute to the rules established⁴ by the Supreme Court of the United States in Texas v. New Jersey. In that case, the court held that only one state may escheat intangible personal property even though the holder of the property may be subject to the jurisdiction of several states. The court ruled that (1) the state of the last

-
1. Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure.
 2. See Recommendation Relating to Escheat, 8 CAL. L. REVISION COMM'N REPORTS 1001 (1967).
 3. 9A UNIFORM LAWS ANN. 416 (1965).
 4. 379 U.S. 674 (1965).

known address of the owner as shown by the records of the holder may escheat⁵ intangible personal property and (2) if the records do not show an address of the owner, the property may be escheated by the state where the holder⁶ is domiciled.

Under the rules of Texas v. New Jersey, California is entitled to escheat amounts held on account of travelers checks and money orders sold by companies domiciled (incorporated) outside California only if the seller maintains a record showing the last known address of the purchaser to be in California. Absent such a record, the state of incorporation is entitled to escheat such amounts. Nevertheless, in recognition of the burden on the seller of maintaining a record of the names and addresses of purchasers of travelers checks and money orders, Code of Civil Procedure Sections 1511 and 1581 were included in the Unclaimed Property Law.

Section 1511 creates a presumption affecting the burden of proof that, "where the records of the holder do not show a last known address of the apparent owner of a travelers check or money order, it is presumed that the state in which the travelers check or money order was purchased is the state of the last known address of the apparent owner." This presumption was designed to avoid the need to maintain a record showing name and address of the purchaser and instead to permit escheat on the basis of the state where the travelers check or money order was purchased, a fact relatively easy

-
5. If the state in which the owner had his last known address (as shown by the records of the holder) does not provide for the escheat of unclaimed property, the state where the holder is domiciled may escheat the property subject to a claim of the former state if its law later provides for the escheat of such property.
 6. In cases falling in the second category, if another state proves that the last known address of the owner actually was within its borders, that state may escheat the property and recover it from the holder or from the state that first escheated it.

to determine.⁷ Section 1581 requires that the seller maintain either a record showing the last known address of the purchaser (permitting escheat under the rule of Texas v. New Jersey) or a record showing those travelers checks and money orders sold in California (permitting escheat under the presumption created by Section 1511).

The statutory scheme outlined above is inconsistent with Pennsylvania v. New York,⁸ a 1972 decision of the United States Supreme Court. In that case, the court held that escheat of amounts held by Western Union on account of money orders is governed by the rules set forth in Texas v. New Jersey. In Pennsylvania v. New York, a number of states proposed that such amounts should escheat to the states where the money orders were purchased, but the court refused to make any exceptions to Texas v. New Jersey. Accordingly, it is now clear that a presumption like the one created by Section 1511 may not be used as the basis for the escheat of money orders and travelers checks.

To conform the Unclaimed Property Law to the holding in Pennsylvania v. New York and thus assure that California will receive the property it is entitled to escheat under that decision, the Commission makes the following recommendations:

(1) Section 1511 of the Code of Civil Procedure, which creates a presumption that the state in which a travelers check or money order was purchased is the state of the last known address of the apparent owner (absent an address being shown on the records of the holder), should

7. See discussion in Recommendation Relating to Escheat, 8 CAL. L. REVISION COMM'N REPORTS 1001, 1010-1012 (1967). See also discussion in the dissenting opinion in Pennsylvania v. New York, 407 U.S. 206, 216 (1972).

8. 407 U.S. 206 (1972).

be repealed. As indicated above, this presumption is contrary to the holding in Pennsylvania v. New York.

(2) Section 1581 of the Code of Civil Procedure, which specifies the record required to be maintained by a person selling travelers checks or money orders in this state, should be amended to delete the option that permits compliance with the record keeping requirement merely by maintaining a record of travelers checks and money orders sold in this state. This option was designed to implement the impermissible presumption created by Section 1511. As amended, Section 1581 would follow the suggestion in Pennsylvania v. New York that that decision can be implemented by a state requirement that the person selling travelers checks or money orders keep adequate address records.⁹

(3) Section 1564 of the Code of Civil Procedure should be amended to make clear that the State Controller is authorized to pay the cost of finding and recording addresses of last known owners to the extent that such costs are imposed on this state by Pennsylvania v. New York.¹⁰

(4) Technical conforming amendments should be made to Sections 1530 and 1542 of the Code of Civil Procedure.

The Commission's recommendation would be effectuated by enactment of the following measure:

9. See 407 U.S. at 215, 222.

10. See 407 U.S. at 215.

An act to amend Sections 1513, 1530, 1542, 1564, and 1581 of, and to
repeal Section 1511 of, the Code of Civil Procedure, relating
to unclaimed property.

The people of the State of California do enact as follows:

Section 1. Section 1511 of the Code of Civil Procedure is
repealed.

~~1511. For the purposes of Section 1510, where the records
of the holder do not show a last known address of the apparent
owner of a travelers check or money order, it is presumed that
the state in which the travelers check or money order was pur-
chased is the state of the last known address of the apparent
owner. This presumption is a presumption affecting the burden
of proof.~~

Comment. Section 1511 is repealed because the presumption created by
the section is contrary to the holding in Pennsylvania v. New York, 407 U.S.
206 (1972).

Sec. 2. Section 1513 of the Code of Civil Procedure is amended to read:

1513. Subject to Sections 1510 and 1511, the following property held or owing by a business association escheats to this state:

(a) Any demand, savings, or matured time deposit made with a banking organization, together with any interest or dividends thereon, excluding any reasonable service charges which may lawfully be withheld and which do not (where made in this state) exceed those set forth in schedules filed by the banking organization from time to time with the State Controller, when the owner, for more than 15 years, has not:

(1) Increased or decreased the amount of the deposit, or presented the passbook or other similar evidence of the deposit for the crediting of interest; or

(2) Corresponded in writing with the banking organization concerning the deposit; or

(3) Otherwise indicated an interest in the deposit as evidenced by a memorandum or other record on file with the banking organization.

(b) Any funds paid toward the purchase of shares or other interest in a financial organization or any deposit made therewith, and any interest or dividends thereon, excluding any reasonable service charges which may lawfully be withheld and which do not (where paid or made in this state) exceed those set forth in schedules filed by the financial organization from time to time with the State Controller, when the owner, for more than 15 years, has not:

(1) Increased or decreased the amount of the funds or deposit, or presented an appropriate record for the crediting of interest or dividends; or

(2) Corresponded in writing with the financial organization concerning the funds or deposit; or

(3) Otherwise indicated an interest in the funds or deposit as evidenced by a memorandum or other record on file with the financial organization.

(c) Any sum payable on a travelers check issued by a business association that has been outstanding for more than 15 years from the date of its issuance, when the owner, for more than 15 years, has not corresponded in writing with the business association concerning it, or otherwise indicated an interest as evidenced by a memorandum or other record on file with such association.

(d) Any sum payable on any other written instrument on which a banking or financial organization is directly liable, including, by way of illustration but not of limitation, any draft, certified check, or money order, that has been outstanding for more than seven years from the date it was payable, or from the date of its issuance if payable on demand, excluding any charges that may lawfully be withheld, when the owner, for more than seven years, has not corresponded in writing with the banking or financial organization concerning it, or otherwise indicated an interest as evidenced by a memorandum or other record on file with the banking or financial organization.

§ 1513

(e) Any sum payable on a money order issued by a business association (other than a banking or financial organization) that has been outstanding for more than seven years from the date it was payable, or from the date of its issuance if payable on demand, excluding any charges that may lawfully be withheld, when the owner, for more than seven years, has not corresponded in writing with the business association concerning it, or otherwise indicated an interest as evidenced by a memorandum or other record on file with the business association.

Comment. The amendment to Section 1513 deletes the reference to Section 1511 which has been repealed.

Sec. 3. Section 1530 of the Code of Civil Procedure is ~~repealed~~

to read:

1530. (a) Every person holding funds or other property escheated to this state under this chapter shall report to the State Controller as provided in this section.

(b) The report shall be on a form prescribed or approved by the Controller and shall include:

(1) Except to the extent that the State

Controller by rule provides otherwise with

respect to travelers checks and money

orders, the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of value of twenty-five dollars (\$25) or more escheated under this chapter.

(2) In case of escheated funds of life insurance corporations, the full name of the insured or annuitant, and his last known address, according to the life insurance corporation's records;

(3) In the case of the contents of a safe deposit box or other safekeeping repository or in the case of other tangible property, a description of such property and the place where it is held and may be inspected by the State Controller. The report shall set forth any amounts owing to the holder for unpaid rent or storage charges and for the cost of opening the safe deposit box or other safekeeping repository, if any, in which the property was contained.

(4) The nature and identifying number, if any, or description of any intangible property and the amount appearing from the records to be due, except that items of value under twenty-five dollars (\$25) each may be reported in aggregate.

(5) Except for any property reported in the aggregate, the date when the property became payable, demandable, or returnable, and the date of the last transaction with the owner with respect to the property.

(6) Other information which the State Controller prescribes by rule as necessary for the administration of this chapter.

(c) If the holder is a successor to other persons who previously held the property for the owner, or if the holder has changed his name while holding the property, he shall file with his report all prior known names and addresses of each holder of the property.

(d) The report shall be filed before November 1st of each year as of June 30th or fiscal year-end next preceding, but the report of life insurance corporations shall be filed before May 1st of each year as of December 31st next preceding. The State Controller may postpone the reporting date upon his own motion or upon written request by any person required to file a report.

(e) The report, if made by an individual, shall be verified by the individual; if made by a partnership, by a partner; if made by an unincorporated association or private corporation, by an officer; and if made by a public corporation, by its chief fiscal officer.

§ 1530

Comment. Paragraph (1) of subdivision (b) of Section 1530 is amended to permit the State Controller to require the information therein specified if such information is necessary for the administration of the Unclaimed Property Law.

Sec. 4. Section 1542 of the Code of Civil Procedure is amended

to read:

1542. (a) At any time after property has been paid or delivered to the State Controller under this chapter, another state is entitled to recover the property if:

(1) The property escheated to this state under subdivision (b) of Section 1510 because no address of the apparent owner of the property appeared on the records of the holder when the property was escheated under this chapter, the last known address of the apparent owner was in fact in such other state, and, under the laws of that state, the property escheated to that state;

(2) The last known address of the apparent owner of the property appearing on the records of the holder is in such other state and, under the laws of that state, the property has escheated to that state; or

~~(3) The property is the sum payable on a travelers check or money order that escheated to this state by application of the presumption provided by Section 1511, the last known address of the apparent owner was in fact in such other state, and, under the laws of that state, the property escheated to that state; or~~

(4)

(3) The property is funds held or owing by a life insurance corporation that escheated to this state by application of the presumption provided by subdivision (b) of Section 1515, the last known address of the person entitled to the funds was in fact in such other state, and, under the laws of that state, the property escheated to that state.

(b) The claim of another state to recover escheated property under this section shall be presented in writing to the State Controller, who shall consider the claim within 90 days after it is presented. He may hold a hearing and receive evidence. He shall allow the claim if he determines that the other state is entitled to the escheated property. A claim allowed under this section is subject to the charge specified by subdivision (c) of Section 1540.

Comment. Paragraph (3) of Subdivision (a) of Section 1542 has been deleted because that subdivision was designed to implement the presumption created by Section 1511 and that section has been repealed. See the Comment to Section 1511.

Sec. 5. Section 1564 of the Code of Civil Procedure is amended

to read:

1564. (a) All money received under this chapter, including the proceeds from the sale of property under Section 1563, shall be deposited in the Unclaimed Property Fund in an account titled "Abandoned Property."

(b) All money in the abandoned property account in the Unclaimed Property Fund is hereby continuously appropriated to the State Controller, without regard to fiscal years, for expenditure in accordance with law in carrying out and enforcing the provisions of this chapter, including, but not limited to, the following purposes:

(1) For payment of claims allowed by the State Controller under the provisions of this chapter.

(2) For refund, to the person making such deposit, of amounts, including overpayments, deposited in error in such fund.

(3) For payment of the cost of appraisals incurred by the State Controller covering property held in the name of an account in such fund.

(4) For payment of the cost incurred by the State Controller for the purchase of lost instrument indemnity bonds, or for payment to the person entitled thereto, for any unpaid lawful charges or costs which arose from holding any specific property or any specific funds which were delivered or paid to the State Controller, or which arose from complying with this chapter with respect to such property or funds.

(5) For payment of amounts required to be paid by the state as trustee, bailee, or successor in interest to the preceding owner.

(6) For payment of costs incurred by the State Controller for the repair, maintenance, and upkeep of property held in the name of an account in such fund.

(7) For payment of costs of official advertising in connection with the sale of property held in the name of an account in such fund.

(8) For transfer to the General Fund as provided in subdivision (c).

(9) For transfer to the Inheritance Tax Fund of the amount of any inheritance taxes determined to be due and payable to the state by any claimant with respect to any property claimed by him under the provisions of this chapter.

(10) For the payment of the cost of finding

and recording addresses of last known owners

to the extent that such costs are imposed on

this state by decision of the United States

Supreme Court.

(c) At the end of each month, or oftener if he deems it advisable, the State Controller shall transfer all money in the abandoned property account in excess of fifty thousand dollars (\$50,000) to the General Fund. Before making this transfer, he shall record the name and last known address

of each person appearing from the holders' report to be entitled to the escheated property and the name and last known address of each insured person or annuitant, and with respect to each policy or contract listed in the report of a life insurance corporation, its number, and the name of the corporation. The record shall be available for public inspection at all reasonable business hours.

Comment. Paragraph (10) has been added to subdivision (b) of Section 1564 to permit compliance with the requirement of Pennsylvania v. New York, 407 U.S. 206, 215, (1972), that claimant states must bear the cost of finding and recording the available addresses necessary for the escheat of certain unclaimed funds held by Western Union.

Sec. 6. Section 1581 of the Code of Civil Procedure is amended

to read:

1581. (a) Any business association that sells its travelers checks or money orders in this state or that provides such checks or orders to others for sale in this state shall either:

(1) ~~Make and maintain~~ maintain a record of the names and addresses of the purchasers of all travelers checks and money orders sold on or after January 1, ~~1969~~ 1974, to purchasers residing in this state; ~~or and~~

(2) ~~Maintain a record indicating those travelers checks and money orders that are sold in this state on or after January 1, 1969, and pay to this state the sums that this chapter provides escheat to this state.~~ any record of the names and addresses of travelers checks and money orders sold prior to January 1, 1974, to purchasers residing in this state.

(b) ~~The~~ Any record required to be maintained by this section may be destroyed after it has been retained for such reasonable time as the State Controller shall designate by regulation. ~~If the business association complies with paragraph (2) of subdivision (a), the State Controller may not require that the business association maintain the record described in paragraph (1) of subdivision (a). If any provision of this chapter or application thereof to any person or circumstance is held invalid, the requirement of paragraph (2) of subdivision (a) that the business association pay to this state the sums that this chapter provides escheat to this state is satisfied by payment to this state of the sums that escheat to this state under the provisions of this chapter which can be given effect without the invalid provision or application.~~

(c) Any business association that willfully fails to comply with this section is liable to the state for a civil penalty of five hundred dollars (\$500) for each day of such failure to comply, which penalty may be recovered in an action brought by the State Controller.

ALL
IN
STRIKEOUT

Comment. Section 1581 is amended to omit the provision giving the business association the option to maintain a record indicating those travelers checks and money orders sold in California. This option was designed to implement the presumption created by former Section 1581, a

presumption that was contrary to the holding in Pennsylvania v. New York, 407 U.S. 206 (1972). As amended, Section 1581 follows the suggestion in Pennsylvania v. New York, supra, that that decision can be implemented by a state requirement that the business association keep adequate address records. See Pennsylvania v. New York, 407 U.S. at 215, 222.

A P P E N D I X

208

OCTOBER TERM, 1971

Syllabus

407 U. S.

PENNSYLVANIA v. NEW YORK ET AL.

ON BILL OF COMPLAINT

No. 40, Orig. Argued March 29, 1972—Decided June 19, 1972

Pennsylvania brought this original action against New York to determine the authority of States to escheat, or take custody of, unclaimed funds paid to Western Union Telegraph Co. for purchase of money orders. The Special Master, following *Texas v. New Jersey*, 379 U. S. 674, recommended that any sum held by Western Union unclaimed for the time period prescribed by state statute may be escheated or taken into custody by the State in which the company's records placed the creditor's address, whether the creditor be the payee of an unpaid draft, the sender of a money order entitled to a refund, or an individual whose claim has been erroneously underpaid; and where the records show no address, or where the State in which the creditor's address falls has no applicable escheat law, the right to escheat or take custody shall be in the debtor's domiciliary State, here New York. The recommended decree is adopted and entered, and the cause is remanded to the Special Master for a proposed supplemental decree with respect to the distribution of the costs to the States of the inquiry as to available addresses. Pp. 208-216.

BRENNAN, J., delivered the opinion of the Court, in which BURGER, C. J., and DOUGLAS, STEWART, WHITE, and MARSHALL, JJ., joined. POWELL, J., filed a dissenting opinion, in which BLACKMUN and REHNQUIST, JJ., joined, *post*, p. 216.

Herman Rosenberger II, Assistant Attorney General of Pennsylvania, argued on the exceptions to the Report of the Special Master for plaintiff. On the brief were *J. Shane Creamer*, Attorney General, and *Joseph H. Resnick*, Assistant Attorney General.

F. Michael Ahern, Assistant Attorney General, argued on the exceptions to the Report of the Special Master for intervenor-plaintiff the State of Connecticut. With him on the brief was *Robert K. Kullian*, Attorney General. *Theodore L. Sendak*, Attorney General, and *Rob-*

206

Opinion of the Court

ert A. Zubern, Deputy Attorney General, filed a brief on exceptions to the Report of the Special Master for intervenor-plaintiff the State of Indiana.

Winfred L. Wentworth, Assistant Attorney General, argued on the exceptions to the Report of the Special Master for defendant the State of Florida. With her on the brief was Robert E. Shewin, Attorney General. Julius Greenfield, Assistant Attorney General, argued in support of the Report of the Special Master for defendant the State of New York. With him on the brief were Louis J. Lefkowitz, Attorney General, Samuel A. Hershowitz, First Assistant Attorney General, and Gustave Harter, Assistant Attorney General. Lee Johnson, Attorney General, John W. Osburn, Solicitor General, and Philip J. Heggigan, Assistant Attorney General, filed a brief on exceptions to the Report of the Special Master for defendant the State of Oregon.

Mr. Justice BREWSTER delivered the opinion of the Court.

Pennsylvania and other States except to, and New York supports,¹ the Report of the Special Master filed in this original action brought by Pennsylvania against New York for a determination respecting the authority of the several States to exhaust, or take custody of, unclaimed funds paid to the Western Union Telegraph Company for the purchase of money orders.² We over-

¹ Of the remaining States party to this case, Florida has filed exceptions as defendant, and Connecticut and Indiana as intervening plaintiff. New Jersey has filed a brief amicus curiae in support of Pennsylvania's position.

² We granted leave to file the bill of complaint, 308 U. S. 956, permitted the State of Connecticut to intervene as a party plaintiff, and appointed Mr. John F. Davis as a Special Master to take evidence and make appropriate reports. 400 U. S. 811. Thereafter, California and Indiana were permitted to intervene as plaintiff, and Arizona as a defendant. 400 U. S. 924, 1019; 401 U. S. 981.

rule the exceptions and enter the decree recommended by the Special Master, see *post*, p. 223.²

The nature of Western Union's money order business, and the source of the funds here in dispute, were described by the Court in *Western Union Telegraph Co. v. Pennsylvania*, 368 U. S. 71 (1961):

"Western Union is a corporation chartered under New York law with its principal place of business in that State. It also does business and has offices in all the other States except Alaska and Hawaii, [as well as] in the District of Columbia, and in foreign countries, and was from 1916 to 1934 subject to regulation by the I. C. C. and since then by the F. C. C. In addition to sending telegraphic messages throughout its world-wide system, it carries on a telegraphic money order business which commonly works like this. A sender goes to a Western Union office, fills out an application and gives it to the company clerk who waits on him together with the money to be sent and the charges for sending it. A receipt is given the sender and a telegraph message is transmitted to the company's office nearest to the payee directing that office to pay the money order to the payee. The payee is then notified and upon properly identifying himself is given a negotiable draft, which he can either endorse and cash at once or keep for use in the future. If the payee cannot be located for delivery of the notice, or fails to call for the draft within 72 hours, the office of destination notifies the sending office. This office then notifies the original sender of the failure to deliver and makes a refund, as it

² The exception of Indiana as to a typographical error in the recommended decree is sustained. The phrase "eschent of custodial taking" in paragraph 2, lines 4-5 of the decree should read "eschent or custodial taking."

rule the exceptions and enter the decree recommended by the Special Master, see *post*, p. 223.²

The nature of Western Union's money order business, and the source of the funds here in dispute, were described by the Court in *Western Union Telegraph Co. v. Pennsylvania*, 368 U. S. 71 (1961):

"Western Union is a corporation chartered under New York law with its principal place of business in that State. It also does business and has offices in all the other States except Alaska and Hawaii, [as well as] in the District of Columbia, and in foreign countries, and was from 1916 to 1934 subject to regulation by the I. C. C. and since then by the F. C. C. In addition to sending telegraphic messages throughout its world-wide system, it carries on a telegraphic money order business which commonly works like this. A sender goes to a Western Union office, fills out an application and gives it to the company clerk who waits on him together with the money to be sent and the charges for sending it. A receipt is given the sender and a telegraph message is transmitted to the company's office nearest to the payee directing that office to pay the money order to the payee. The payee is then notified and upon properly identifying himself is given a negotiable draft, which he can either endorse and cash at once or keep for use in the future. If the payee cannot be located for delivery of the notice, or fails to call for the draft within 72 hours, the office of destination notifies the sending office. This office then notifies the original sender of the failure to deliver and makes a refund, as it

² The exception of Indiana as to a typographical error in the recommended decree is sustained. The phrase "eschew of custodial taking" in paragraph 2, lines 4-5 of the decree should read "eschew or custodial taking."

makes payments to payees, by way of a negotiable draft which may be either cashed immediately or kept for use in the future.

"In the thousands of money order transactions carried on by the company, it sometimes happens that it can neither make payment to the payee nor make a refund to the sender. Similarly payees and senders who accept drafts as payment or refund sometimes fail to cash them. For this reason large sums of money due from Western Union for undelivered money orders and unpaid drafts accumulate over the years in the company's offices and bank accounts throughout the country." *Id.*, at 72-73.

In 1953 Pennsylvania began state proceedings under its escheat statute⁴ to take custody of those unclaimed funds, held by Western Union, that arose from money order purchases in the company's Pennsylvania offices. The Supreme Court of Pennsylvania affirmed a judgment for the State of about \$40,000, *Commonwealth v. Western Union*, 400 Pa. 337, 162 A. 2d 617 (1960), but this Court reversed, *Western Union v. Pennsylvania*, *supra*, holding that the state court judgment denied Western Union due process of law because it could not protect the company against rival claims of other States. We noted that controversies among different States over their right

⁴ The Pennsylvania statute, Act of July 29, 1953, Pub. L. 986, § 1, (Pa. Stat. Ann., Tit. 27, § 333) provides in part:

"(b) Whosoever the . . . person entitled to any . . . personal property within or subject to the control of the Commonwealth or the whereabouts of such . . . person entitled has been or shall be and remain unknown for the period of seven successive years, such . . . personal property . . . shall escheat to the Commonwealth . . ."

"(c) Whosoever any . . . 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 . . . personal property . . . shall escheat to the Commonwealth . . ."

to escheat intangibles could be settled only in a forum "where all the States that want to do so can present their claims for consideration and final, authoritative determination. Our Court has jurisdiction to do that." *Id.*, at 79.

Thereafter, in *Texas v. New Jersey*, 379 U. S. 674 (1965), the Court was asked to decide which of several States was entitled to escheat intangible property consisting of debts owed by the Sun Oil Co. and left unclaimed by creditors. Four different rules were proposed. Texas argued that the funds should go to the State having the most significant "contacts" with the debt, as measured by a number of factors; New Jersey, that they should go to the State of the debtor company's incorporation; Pennsylvania, to the State where the company had its principal place of business; and Florida, to the State of the creditor's last known address as shown by the debtor's books and records. We rejected Texas' and Pennsylvania's proposals as being too uncertain and difficult to administer, and rejected New Jersey's because "it would too greatly exalt a minor factor to permit escheat of obligations incurred all over the country by the State in which the debtor happened to incorporate itself." *Id.*, at 680. Florida's proposal, on the other hand, was regarded not only as a "simple and easy" standard to follow, but also as one that tended "to distribute escheats among the States in the proportion of the commercial activities of their residents." *Id.*, at 681. We therefore held that the State of the creditor's last known address is entitled to escheat the property owed him, adding that if his address does not appear on the debtor's books or is in a State that does not provide for escheat of intangibles, then the State of the debtor's incorporation may take custody of the funds "until some other

State comes forward with proof that it has a superior right to escheat." *Id.*, at 682. The opinion concluded:

"We realize that this case could have been resolved otherwise, for the issue here is not controlled by statutory or constitutional provisions or by past decisions, nor is it entirely one of logic. It is fundamentally a question of ease of administration and of equity. We believe that the rule we adopt is the fairest, is easy to apply, and in the long run will be the most generally acceptable to all the States." *Id.*, at 683.

On March 13, 1970, Pennsylvania filed this original action to renew its efforts to escheat part of Western Union's unclaimed money order proceeds. The complaint alleged that Western Union had accumulated more than \$1,500,000 in unclaimed funds "on account of money orders purchased from the company on or before December 31, 1962," and that about \$100,000 of that amount, "held by Western Union on account of money orders purchased from it in Pennsylvania," was subject to escheat by that State. Pennsylvania asked for a judgment resolving the conflicting claims of it and the defendant States, and for a temporary injunction against payment of the funds by Western Union or a taking of them by the defendant States, pending disposition of the case.*

In their arguments before the Special Master, the parties suggested three different formulas to resolve their conflicting claims. Pennsylvania contended that Western Union's money order records do not identify anyone as a "creditor" of the company and in many instances do

*The Court has taken no action on the plea for temporary injunction, and accepts the recommendation of the Special Master that it now "be denied as unnecessary." Report 3 n. 2.

not list an address for either the sender or payee; therefore, strict application of the *Texas v. New Jersey* rule to this type of intangible would result in the escheat of almost all the funds to the State of incorporation, here New York. To avoid this result, Pennsylvania proposed that the State where the money order was purchased be permitted to take the funds. It claimed that the State where the money orders are bought should be presumed to be the State of the sender's residence. Connecticut, California, and Indiana supported this proposal, as did New Jersey as *amicus curiae*.

Florida and Arizona also supported Pennsylvania, but argued that where the payee had received but not cashed the money order, his address, if known, should determine escheat, regardless of the sender's address.

New York argued that *Texas v. New Jersey* should be strictly applied, but that it was not retroactive. Thus, as to money orders purchased between 1930 and 1958 (seven years before the *Texas* decision)⁴ New York asserted its right as the State of incorporation to all unclaimed funds, regardless of the creditor's address.⁵ As for money orders drawn after 1958, New York would apply the *Texas* rule, and take the funds in all cases where the creditor's address did not appear or was located in a State not providing for escheat.

The Special Master has submitted a report recommending that the *Texas* rule "be applied to all the items involved in this case regardless of the date of the trans-

⁴ New York makes no claim with respect to money orders issued before 1930.

⁵ Section 1309 of New York's Abandoned Property Law provides for the custodial taking, not escheat, of uncashed money orders, so that "the rights of a holder of a . . . money order to payment . . . shall be in no wise affected, impaired or enlarged by reason of the provisions of this section or by reason of the payment to the state comptroller of abandoned property hereunder." *Ibid.*

actions out of which they arose." Report 21. The Report expresses some doubt about the constitutionality of the suggested alternatives, stating that both the place-of-purchase and place-of-destination rules might permit intangible property rights to be "cut off or adversely affected by state action in an *in rem* proceeding in a forum having no continuing relationship to any of the parties to the proceedings." *Id.*, at 19. These doubts, however, were not the sole basis for the Special Master's recommendation. He found that "[a]s in the case of the obligations in [*Texas v. New Jersey*], [the *Texas*] rule presents an easily administered standard preventing multiple claims and giving all parties a fixed rule on which they can rely." *Id.*, at 20. He concluded that:

"Any sum now held by Western Union unclaimed for the period of time prescribed by the applicable State statutes may be escheated or taken into custody by the State in which the records of Western Union placed the address of the creditor, whether that creditor be the payee of an unpaid draft, the sender of a money order entitled to a refund, or an individual whose claim has been underpaid through error. . . . [I]f no address is contained in the records of Western Union, or if the State in which the address of the creditor falls has no applicable escheat law, then the right to escheat or take custody shall be in the domiciliary State of the debtor, in this case, New York." *Id.*, at 20-21.

The Report also states that New York would bear the burden of establishing "as to all escheatable items the absence from Western Union's records of an address for the creditor." *Id.*, at 16.

Pennsylvania's exceptions argue that where a transaction is of a type that "the obligor does not make entries upon its books and records showing the address of the

obligee," only "the State of origin of the transaction" should be permitted to escheat. Florida and Arizona have abandoned their state-of-destination test, and together with the other participating States save New York, have joined in Pennsylvania's exceptions. Tr. of Oral Arg. 20, 42.

Pennsylvania's proposal has some surface appeal. Because Western Union does not regularly record the addresses of its money order creditors, it is likely that the corporate domicile will receive a much larger share of the unclaimed funds here than in the case of other obligations, like bills for services rendered, where such records are kept as a matter of business practice. In a sense, there is some inconsistency between that result and our refusal in *Texas* to make the debtor's domicile the primary recipient of unclaimed intangibles. Furthermore, the parties say, the *Texas* rule is nothing more than a legal presumption that the creditor's residence is in the State of his last known address. A presumption based on the place of purchase is equally valid, they argue, and should be applied in order to prevent New York from gaining this windfall.

Assuming, without resolving the doubts expressed by the Special Master, that the Pennsylvania rule provides a constitutional basis for escheat, we do not regard the likelihood of a "windfall" for New York as a sufficient reason for carving out this exception to the *Texas* rule. *Texas v. New Jersey* was not grounded on the assumption that all creditors' addresses are known. Indeed, as to four of the eight classes of debt involved in that case, the Court expressly found that some of the creditors "had no last address indicated." 379 U. S., at 675-676, n. 4. Thus, the only arguable basis for distinguishing money orders is that they involve a higher percentage of unknown addresses. But we are not told what percentage

is high enough to justify an exception to the *Texas* rule, nor is it entirely clear that money orders constitute the only form of transaction where the percentage of unknown addresses may run high. In other words, to vary the application of the *Texas* rule according to the adequacy of the debtor's records would require this Court to do precisely what we said should be avoided—that is, “to decide each escheat case on the basis of its particular facts or to devise new rules of law to apply to ever-developing new categories of facts.” *Texas v. New Jersey*, 379 U. S., at 679.

Furthermore, a substantial number of creditors' addresses may in fact be available in this case. Although Western Union has not kept ledger records of addresses, the parties stipulated, and the Special Master found, that money order applications have been retained in the company's records “as far back as 1930 in some instances and are generally available since 1941.” Report 9. To the extent that creditor addresses are available from those forms, the “windfall” to New York will, of course, be diminished.

We think that as a matter of fairness the claimant States, and not Western Union, should bear the cost of finding and recording the available addresses, and we shall remand to the Special Master for a hearing and recommendation as to the appropriate formula for distributing those costs. As for future money order transactions, nothing we say here prohibits the States from requiring Western Union to keep adequate address records. The decree recommended by the Special Master is adopted and entered,⁶ and the cause is remanded to the

⁶ Insofar as the invocation of any provision of the Revised Uniform Disposition of Unclaimed Property Act would be inconsistent with this decree, the decree prevails. See *Board of Education v. Swann*, 402 U. S. 43, 45-46 (1971).

Special Master for further proceedings and the filing of a proposed supplemental decree with respect to the distribution of costs of the inquiry as to available addresses.

It is so ordered.

[For decree adopted and entered by the Court, see *post*, p. 223.]

MR. JUSTICE POWELL, with whom MR. JUSTICE BLACKMUN and MR. JUSTICE REHNQUIST join, dissenting.

The majority opinion today purports to apply the rule laid down in *Texas v. New Jersey*, 379 U. S. 674 (1965), to a fact situation not contemplated when that case was decided. In applying that rule to these new facts, it seems to me that the Court exalts the rule but derogates the reasons supporting it.

I

Texas v. New Jersey, a case decided within the Court's original jurisdiction, is a unique precedent. Disposition of that case necessarily required a departure from the Court's usual mode of decisionmaking. Our role in this country's scheme of government is ordinarily a restricted one, limited in large measure to the resolution of conflicts calling for the interpretation and application either of statutory acts or of provisions of the Federal Constitution. In the performance of this function, an individual Justice's views as to what he might consider "fair" or "equitable" or "expeditious" are largely immaterial. Infrequently, however, we are called on to resolve disputes arising under the original jurisdiction of the Court (Art. III, § 2) in which our judgment is unaided by statutory or constitutional directives.

In approaching such cases, we may find, as did the

Court in *Texas v. New Jersey*, that fairness and expeditiousness provide the guideposts for our decision:

"[T]he issue here is not controlled by statutory or constitutional provisions or by past decisions, nor is it entirely one of logic. It is fundamentally a question of ease of administration and of equity." *Id.*, at 683.

The case before us today requires the application of similar principles, and I agree that Mr. Justice Black's opinion in *Texas v. New Jersey* points the way to the most desirable result. In my view, however, the majority's application of that precedent to the facts of this case offends both the "fairness" and "ease of administration" bases of that opinion.

The Court in *Texas v. New Jersey* was asked to decide which States could take title to escheatable intangible personal property in the form of debts owed by Sun Oil Co. to a large number of individual creditors. After rejecting several alternatives offered by the parties, the Court adopted the rule proposed by the State of Florida and approved by the Special Master. Under that rule the power to escheat the debts in question, in the first instance, was to be accorded "to the State of the creditor's last known address as shown by the debtor's books and records." *Id.*, at 680-681. In the "infrequent" case in which no record of last address was available or in which the appropriate State's laws did not provide for the escheat of abandoned intangibles, the property was to go to the State of the debtor's corporate domicile. *Id.*, at 682.

This disposition recommended itself to the Court for several reasons. The rule was generally consistent with the common-law maxim "*mobilia sequuntur personam*"**

**See *Blodgett v. Silberman*, 277 U. S. 1, 9-10 (1928).

under which intangible personal property may be found to follow the domicile of its owner—here the creditor. *Id.*, at 680 n. 10. In looking to the residence of the creditor, the rule adopted by the Court recognized that the Company's unclaimed debts were assets of the individual creditors rather than assets of the debtor. *Id.*, at 681. Also, in distributing the property among the creditors' States, the rule had the advantage of dividing the property in a manner roughly proportionate to the commercial activities of each State's residents. In using the last-known address as the sole indicator of domicile, the rule would be easy to administer and apply. The Court recognized, of course, that this approach might lead to the escheat of property to a State from which the creditor had removed himself in the period since the debt arose. Yet it concluded that these instances would "tend to a large extent to cancel each other out," and would not disrupt the basic fairness and expeditiousness of the result. *Id.*, at 681.

Paradoxically, the mechanistic application of the *Texas v. New Jersey* rule to the present case leads ultimately to the defeat of each of the beneficial justifications for that rule. Unlike the records of the numerous debts owed by Sun Oil, Western Union's records may reflect the creditors' addresses for only a relatively small percentage of the transactions. As a consequence, the greater portion of the entire Western Union fund will go to the State of New York—the State of corporate domicile. Effectively then, the obligation of the debtor will be converted into an asset of the debtor's State of domicile to the exclusion of the creditors' States. The Court in *Texas v. New Jersey* specifically repudiated this result on the ground that it was inconsistent with "principles of fairness." *Id.*, at 680. It would have "exalt[ed] a minor factor to permit escheat of obligations incurred all over the country by the State in which the debtor happened

to incorporate itself." *Ibid.* The fact that the Court was willing to permit this result in the few cases in which no record of address was available or in which no law of escheat governed, does not diminish the clear view of the Court that this result would be impermissible as a basis for disposing of more than a small minority of the debts. Yet the decision today ignores the Court's unwillingness to "exalt" the largely coincidental domicile of the corporate debtor. It also disregards the Court's clearly expressed intent that the escheatable property be distributed in proportions roughly comparable to the volume of transactions conducted in each State.

Furthermore, the rule today is incompatible with the Court's view in *Texas v. New Jersey* that an easily and inexpensively discernible mode of allocation be utilized. The majority's rule will require the examination of every available money order application to determine whether the applicant filled out the address blank for his own address, or in the case of money order drafts received but not cashed, whether the holder's address had been preserved. Western Union estimated in the stipulated statement of facts that such an item-by-item examination could be undertaken at a cost of approximately \$175,000. Report of the Special Master 16.

In sum, the invocation of the *Texas v. New Jersey* rule in the manner contemplated by the majority will lead to a result that is neither expeditious nor equitable.

II

The reasons underlying *Texas v. New Jersey* could best be effectuated by a relatively minor but logical deviation in the manner in which that rule is implemented in this case. Rather than embarking upon a potentially fruitless search for the creditor's last-known address as a rough indicator of domicile, reliance should be placed upon the State where the debtor-creditor relationship was

established. In most cases that State is likely also to be the site of the creditor's domicile. In other words, in the case of money orders sent and then returned to the initiating Western Union office because the sendee failed to claim the money, the State in which the money order was purchased may be presumed to be the State of the purchaser-creditor's domicile. And, where the draft has been received by either the initiating party or by the recipient but not negotiated, the State in which the draft was issued may be assumed to be the State of that creditor's domicile.

This modification is preferable, first, because it preserves the equitable foundation of the *Texas v. New Jersey* rule. The State of the corporate debtor's domicile is denied a "windfall"; the fund is divided in a proportion approximating the volume of transactions occurring in each State; and the integrity of the notion that these amounts represent assets of the individual purchasers or recipients of money orders is maintained. Secondly, the relevant information would be more easily obtainable. The place of purchase and the office of destination are reflected in Western Union's ledger books and it would, therefore, be unnecessary to examine the innumerable application forms themselves. Since the ledgers are more readily available, the allocation of the fund would be effected at less expense than would be required by the majority's resolution.

Despite these advantages, the Special Master rejected this alternative. He reasoned that an undetermined number of these transactions must have taken place outside the creditors' State of domicile. Specifically, he cited the cases in which a New Jersey or Connecticut resident might purchase a money order in New York, or cases in which a resident of Virginia or Maryland might make his purchase in the District of Columbia. Report of the Special Master 18. While such cases

certainly exist, they are merely exceptions to a generally reliable rule that money order purchases are likely to have occurred within the State of the purchaser's domicile. That perfection is not achieved is no reason to reject this alternative. The *Texas v. New Jersey* Court recognized that absolute fairness was not obtainable and that the most that could be expected was a rule providing a reasonable approximation. *Id.*, at 681 n. 11. Certainly this objection should not be allowed to frustrate the better alternative in favor of one that is less fair and more difficult to administer.

III

The majority opinion intimates, as I think it must, that the ultimate consequence of its decision today is "inconsistent" (*ante*, at 214) with the result in *Texas v. New Jersey*. While the opinion appears to recognize that New York will reap the very "windfall" that *Texas v. New Jersey* sought to avoid, its refusal to bend in the face of this consequence goes largely unexplained. Apparently, the basis for its decision is the conviction that the Court's prior precedent was designed to settle the question of escheat of intangible personal property "once and for all." *Id.*, at 678. The majority adheres to the existing rule because of some apprehension that flexibility in this case will deprive the Court of a satisfactory test for the resolution of future cases. The opinion anticipates that departure from *Texas v. New Jersey* will leave other cases to be decided on an *ad hoc* basis, depending in each case on the "adequacy of the debtor's records." *Ante*, at 215. Although the factual circumstances of future cases cannot be predicted, it is likely that most of such cases can be resolved within the principles of *Texas v. New Jersey*. The factual range is limited. The debtor either will or will not maintain creditors' addresses in the ordinary course of business.

In some categories of transactions, such as those involving money orders and traveler's checks, adequate address records may not be available. In the case of ordinary corporate debts, however, it is more likely that records will be available. Moreover, as the majority points out, any State is free to require corporations doing business in that State to maintain records of its creditors' addresses. *Ante*, at 215.

In short, the threat of frequent and complicated cases in this area seems remote. It provides little justification for the majority's Cinderella-like compulsion to accommodate this ill-fitting precedential "slipper." From a result that seems both inflexible and inequitable, I dissent.

Decree

PENNSYLVANIA v. NEW YORK ET AL.

No. 40, Orig. Decided June 19, 1972—

Decree entered June 19, 1972

Opinion reported: *Ante*, p. 206.

DECREE

It is now Ordered, Adjudged, and Decreed as follows:

1. Each item of property in question in this case as to which a last known address of the person entitled thereto is shown on the books and records of the defendant, Western Union Telegraph Co., is subject to escheat or custodial taking only by the State of that last known address, as shown on the books and records of defendant, Western Union Telegraph Company, to the extent of that State's power under its own laws, to escheat or take custodially.

2. Each item of property in question in this case as to which there is no address of the person entitled thereto shown on the books and records of defendant Western Union Telegraph Company is subject to escheat or custodial taking only by New York, the State in which Western Union Co. was incorporated to the extent of New York's power under its own laws to escheat or take custodially, subject to the right of any other State to recover such property from New York upon proof that the last known address of the creditor was within that other State's borders.

3. Each item of property in question in this case as to which the last known address of the person entitled thereto as shown on the books and records of defendant Western Union Telegraph Company is in a State the laws of which do not provide for the escheat of such property, is subject to escheat or custodial taking only by New York the State in which Western Union Tele-

graph Company was incorporated, to the extent of New York's power under its own laws to escheat or to take custodially, subject to the right of the State of the last known address to recover the property from New York if and when the law of the State of the last known address makes provisions for escheat or custodial taking of such property.

CHAPTER 7. UNCLAIMED PROPERTY LAW

Article	Section
1. Short Title; Definitions; Application [New].....	1500
2. Escheat of Unclaimed Personal Property [New].....	1510
3. Identification of Escheated Property [New]	1530
4. Payment of Claims [New].....	1540
5. Administration of Unclaimed Property [New].....	1560
6. Compliance and Enforcement [New].....	1570
7. Miscellaneous [New].....	1580

ARTICLE 1. SHORT TITLE; DEFINITIONS;
APPLICATION [NEW]

Sec.	
1500.	Short title.
1501.	Definition.
1502.	Exemptions from chapter.
1502.5	Application of chapter [New].
1503.	Filing report or payment or delivery of property not subject to old act; action barred prior to Jan. 1, 1969; property held less than escheat period [New].
1504.	Payment or delivery of property not subject to old act; escheat of property under laws of another state [New].
1505.	Duty to file report or to pay or deliver property arising prior to Jan. 1, 1969; enforcement by controller; penalties [New].
1506.	Construction of chapter; restatement and continuation of provisions [New].
1507.	Renumbered § 1519.
1508.	Renumbered § 1520.
1509.	Repealed.

§ 1500. Short title

This chapter may be cited as the Unclaimed Property Law.
(Amended by Stats.1968, c. 356, p. 739, § 4, operative Jan. 1, 1969.)

§ 1501. Definitions

As used in this chapter, unless the context otherwise requires:

(a) "Apparent owner" means the person who appears from the records of the holder to be entitled to property held by the holder.

(b) "Banking organization" means any national or state bank, trust company, banking company, land bank, savings bank, safe deposit company, private banker, or any similar organization.

(c) "Business association" means any private corporation, joint stock company, business trust, partnership, or any association for business purposes of two or more individuals, whether or not for profit, including,

§ 1501

CODE OF CIVIL PROCEDURE

but not by way of limitation, a banking organization, financial organization, life insurance corporation, and utility.

(d) "Financial organization" means any federal or state savings and loan association, building and loan association, credit union, investment company, or any similar organization.

(e) "Government or governmental subdivision or agency" does not include the United States government or any officer, department, or agency thereof.

(f) "Holder" means any person in possession of property subject to this chapter belonging to another, or who is trustee in case of a trust, or is indebted to another on an obligation subject to this chapter.

(g) "Life insurance corporation" means any association or corporation transacting the business of insurance on the lives of persons or insurance appertaining thereto, including, but not by way of limitation, endowments and annuities.

(h) "Owner" means a depositor in case of a deposit, a beneficiary in case of a trust, or creditor, claimant, or payee in case of other choses in action, or any person having a legal or equitable interest in property subject to this chapter, or his legal representative.

(i) "Person" means any individual, business association, government or governmental subdivision or agency, two or more persons having a joint or common interest, or any other legal or commercial entity, whether such person is acting in his own right or in a representative or fiduciary capacity.

(j) "Utility" means any person who owns or operates, for public use, any plant, equipment, property, franchise, or license for the transmission of communications or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas, whose rates are regulated by the Public Utilities Commission of this state or by a similar public agency of another state or of the United States.

(Amended by Stats. 1968, c. 356, p. 789, § 5, operative Jan. 1, 1969.)

§ 1502. Exemptions from chapter

(a) This chapter does not apply to:

- (1) Any property in the official custody of a municipal utility district.
- (2) Any property in the official custody of a local agency if such property may be transferred to the General Fund of such agency under the provisions of Sections 50050-50053 of the Government Code.
- (3) Any instrument issued in a foreign country.
- (4) Any funds held only in a foreign country.

(b) Except for sums payable on telegraphic money orders, this chapter does not apply to any property held by a utility which is of a type that the Public Utilities Commission of this state or a similar public agency of another state or of the United States directly or indirectly takes into consideration for the benefit of the ratepayers in determining the rates to be charged by the utility.

(c) None of the provisions of this chapter applies to any type of property received by the state under the provisions of Chapter 1 (commencing with Section 1300) to Chapter 8 (commencing with Section 1440), inclusive, of this title.

(Formerly § 1526, added by Stats.1959, c. 1809, p. 4307, § 2. Renumbered § 1502 and amended by Stats.1968, c. 356, p. 740, § 6, operative Jan. 1, 1969.)

§ 1502.5 Application of chapter

(a) This chapter does not apply to any property held by any interstate railroad company whose rates are regulated by the Public Utilities Commission of this state and by a regulatory agency of the United States.

(Added by Stats.1968, c. 523, p. 1170, § 1.)

§ 1503. Filing report or payment or delivery of property not subject to old act; action barred prior to Jan. 1, 1969; property held less than escheat period

(a) As used in this section:

(1) "Old act" means this chapter as it existed prior to January 1, 1969.

(2) "New act" means this chapter as it exists on and after January 1, 1969.

(3) "Property not subject to the old act" means property that was not presumed abandoned under the old act and would never have been presumed abandoned under the old act had the old act continued in existence on and after January 1, 1969, without change.

(b) The holder is not required to file a report concerning, or to pay or deliver to the State Controller, any property not subject to the old act if an action by the owner against the holder to recover such property was barred by an applicable statute of limitations prior to January 1, 1969.

(c) The holder is not required to file a report concerning, or to pay or deliver to the State Controller, any property not subject to the old act, or any property that was not required to be reported under the old act, unless on January 1, 1969, such property has been held by the holder for less than the escheat period. "Escheat period" means the six-month or seven-year or fifteen-year period referred to in Sections 1518 to 1520, inclusive, of the new act, whichever is applicable to the particular property.

(Added by Stats.1968, c. 356, p. 741, § 7, operative Jan. 1, 1969).

§ 1504. Payment or delivery of property not subject to old act; escheat of property under laws of another state

(a) As used in this section:

(1) "Old act" means this chapter as it existed prior to January 1, 1969.

(2) "New act" means this chapter as it exists on and after January 1, 1969.

(3) "Property not subject to the old act" means property that was not presumed abandoned under the old act and would never have been presumed abandoned under the old act had the old act continued in existence on and after January 1, 1969, without change.

§ 1504

CODE OF CIVIL PROCEDURE

(b) This chapter does not apply to any property that was escheated under the laws of another state prior to September 18, 1959.

(c) This chapter does not require the holder to pay or deliver any property not subject to the old act to this state if the property was escheated under the laws of another state prior to January 1, 1969, and was delivered to the custody of that state prior to January 1, 1970, in compliance with the laws of that state. Nothing in this subdivision affects or limits the right of the State Controller to recover such property from the other state.

(Added by Stats.1968, c. 356, p. 741, § 8, operative Jan. 1, 1969.)

§ 1505. Duty to file report or to pay or deliver property arising prior to Jan. 1, 1969; enforcement by controller; penalties

This chapter does not affect any duty to file a report with the State Controller or to pay or deliver any property to him that arose prior to January 1, 1969, under the provisions of this chapter as it existed prior to January 1, 1969. Such duties may be enforced by the State Controller, and the penalties for failure to perform such duties may be imposed, under the provisions of this chapter as it existed prior to January 1, 1969. The provisions of this chapter as it existed prior to January 1, 1969, are continued in existence for the purposes of this section.

(Added by Stats.1968, c. 356, p. 742, § 9, operative Jan. 1, 1969.)

§ 1506. Construction of chapter; restatement and continuation of provisions

The provisions of this chapter as it exists on and after January 1, 1969, insofar as they are substantially the same as the provisions of this chapter as it existed prior to January 1, 1969, relating to the same subject matter, shall be construed as restatements and continuations thereof and not as new enactments.

(Added by Stats.1968, c. 356, p. 742, § 10, operative Jan. 1, 1969.)

§ 1507. Renumbered § 1519 and amended by Stats.1968, c. 356, p. 746, § 20, operative Jan. 1, 1969

§ 1508. Renumbered § 1520 and amended by Stats.1968, c. 356, p. 746, § 21, operative Jan. 1, 1969

§ 1509. Repealed by Stats.1968, c. 356, p. 746, § 22, operative Jan. 1, 1969

**ARTICLE 2. ESCHEAT OF UNCLAIMED PERSONAL PROPERTY
[NEW]**

Sec.

- 1510. Escheat of intangible personal property to state; conditions.
- 1511. Last known address of apparent owner of travelers check or money order; presumption.
- 1512. Renumbered § 1532.
- 1513. Property held by banking or financial organizations or business associations.
- 1514. Contents of safe deposit box or other safekeeping depository [New].
- 1515. Funds held or owing by life insurance corporations [New].
- 1516. Undistributed dividends and distributions of business associations [New].
- 1517. Property distributable in course of voluntary or involuntary dissolution or liquidation of business [New].
- 1518. Property held by fiduciaries.
- 1519. Property held for owner by government, governmental subdivision or agency.
- 1520. Other intangible personal property held for another person.
- 1521. Renumbered § 1565.
- 1522. Renumbered § 1571.
- 1523. Repealed.
- 1524. Renumbered § 1576.
- 1525. Renumbered § 1580.
- 1526. Renumbered § 1502.
- 1527. Renumbered § 1582.

§ 1510. Escheat of intangible personal property to state; conditions

Unless otherwise provided by statute of this state, intangible personal property escheats to this state under this chapter if the conditions for escheat stated in Sections 1513 through 1520 exist, and if:

(a) The last known address, as shown on the records of the holder, of the apparent owner is in this state.

(b) No address of the apparent owner appears on the records of the holder and:

- (1) The last known address of the apparent owner is in this state; or
- (2) The holder is domiciled in this state and has not previously paid the property to the state of the last known address of the apparent owner; or

(3) The holder is a government or governmental subdivision or agency of this state and has not previously paid the property to the state of the last known address of the apparent owner.

(c) The last known address, as shown on the records of the holder, of the apparent owner is in a state designated by regulation adopted by the

§ 1510

CODE OF CIVIL PROCEDURE

State Controller as a state that does not provide by law for the escheat of such property and the holder is (1) domiciled in this state or (2) a government or governmental subdivision or agency of this state.

(d) The last known address, as shown on the records of the holder, of the apparent owner is in a foreign nation and the holder is (1) domiciled in this state or (2) a government or governmental subdivision or agency of this state.

(Added by Stats.1968, c. 356, p. 742, § 11, operative Jan. 1, 1969.)

§ 1511. Last known address of apparent owner of travelers check or money order; presumption

For the purposes of Section 1510, where the records of the holder do not show a last known address of the apparent owner of a travelers check or money order, it is presumed that the state in which the travelers check or money order was purchased is the state of the last known address of the apparent owner. This presumption is a presumption affecting the burden of proof.

(Added by Stats.1968, c. 356, p. 743, § 11, operative Jan. 1, 1969.)

§ 1512. Renumbered § 1532 and amended by Stats.1968, c. 356, p. 749, § 24, operative Jan. 1, 1969

§ 1513. Property held by banking or financial organizations or business associations

Subject to Sections 1510 and 1511, the following property held or owing by a business association escheats to this state:

(a) Any demand, savings, or matured time deposit made with a banking organization, together with any interest or dividends thereon, excluding any reasonable service charges which may lawfully be withheld and which do not (where made in this state) exceed those set forth in schedules filed by the banking organization from time to time with the State Controller, when the owner, for more than 15 years, has not:

(1) Increased or decreased the amount of the deposit, or presented the passbook or other similar evidence of the deposit for the crediting of interest; or

(2) Corresponded in writing with the banking organization concerning the deposit; or

(3) Otherwise indicated an interest in the deposit as evidenced by a memorandum or other record on file with the banking organization.

(b) Any funds paid toward the purchase of shares or other interest in a financial organization or any deposit made therewith, and any interest or dividends thereon, excluding any reasonable service charges which may lawfully be withheld and which do not (where paid or made in this state) exceed those set forth in schedules filed by the financial organization from time to time with the State Controller, when the owner, for more than 15 years, has not:

(1) Increased or decreased the amount of the funds or deposit, or presented an appropriate record for the crediting of interest or dividends; or

(2) Corresponded in writing with the financial organization concerning the funds or deposit; or

(3) Otherwise indicated an interest in the funds or deposit as evidenced by a memorandum or other record on file with the financial organization.

(c) Any sum payable on a travelers check issued by a business association that has been outstanding for more than 15 years from the date of its issuance, when the owner, for more than 15 years, has not corresponded in writing with the business association concerning it, or otherwise indicated an interest as evidenced by a memorandum or other record on file with such association.

(d) Any sum payable on any other written instrument on which a banking or financial organization is directly liable, including, by way of illustration but not of limitation, any draft, certified check, or money order, that has been outstanding for more than seven years from the date it was payable, or from the date of its issuance if payable on demand, excluding any charges that may lawfully be withheld, when the owner, for more than seven years, has not corresponded in writing with the banking or financial organization concerning it, or otherwise indicated an interest as evidenced by a memorandum or other record on file with the banking or financial organization.

(e) Any sum payable on a money order issued by a business association (other than a banking or financial organization) that has been outstanding for more than seven years from the date it was payable, or from the date of its issuance if payable on demand, excluding any charges that may lawfully be withheld, when the owner, for more than seven years, has not corresponded in writing with the business association concerning it, or otherwise indicated an interest as evidenced by a memorandum or other record on file with the business association.

(Formerly § 1502, added by Stats.1959, c. 1809, p. 4297, § 2. Amended by Stats.1961, c. 1904, p. 4011, § 1. Renumbered § 1513 and amended by Stats.1968, c. 356, p. 743, § 12, operative Jan. 1, 1969.)

§ 1514. Contents of safe deposit box or other safekeeping depository

The contents of any safe deposit box or any other safekeeping repository, held in this state by a business association, escheat to this state if unclaimed by the owner for more than seven years from the date on which the lease or rental period on the box or other repository expired.

(Added by Stats.1968, c. 356, p. 744, § 13, operative Jan. 1, 1969.)

§ 1515. Funds held or owing by life insurance corporations

(a) Subject to Section 1510, funds held or owing by a life insurance corporation under any life or endowment insurance policy or annuity contract which has matured or terminated escheat to this state if unclaimed

§ 1515

CODE OF CIVIL PROCEDURE

and unpaid for more than seven years after the funds became due and payable as established from the records of the corporation.

(b) If a person other than the insured or annuitant is entitled to the funds and no address of such person is known to the corporation or if it is not definite and certain from the records of the corporation what person is entitled to the funds, it is presumed that the last known address of the person entitled to the funds is the same as the last known address of the insured or annuitant according to the records of the corporation. This presumption is a presumption affecting the burden of proof.

(c) A life insurance policy not matured by actual proof of the death of the insured according to the records of the corporation is deemed to be matured and the proceeds due and payable if:

(1) The insured has attained, or would have attained if he were living, the limiting age under the mortality table on which the reserve is based;

(2) The policy was in force at the time the insured attained, or would have attained, the limiting age specified in paragraph (1); and

(3) Neither the insured nor any other person appearing to have an interest in the policy has, within the preceding seven years, according to the records of the corporation (i) assigned, readjusted, or paid premiums on the policy, (ii) subjected the policy to loan, or (iii) corresponded in writing with the life insurance corporation concerning the policy.

(d) Any funds otherwise payable according to the records of the corporation are deemed due and payable although the policy or contract has not been surrendered as required.

(Added by Stats.1968, c. 366, p. 744, § 15, operative Jan. 1, 1969.)

§ 1516. Undistributed dividends and distributions of business associations

(a) Subject to Section 1510, any dividend, profit, distribution, interest, payment on principal, or other sum held or owing by a business association for or to its shareholder, certificate holder, member, bondholder, or other security holder, or a participating patron of a cooperative, who has not claimed it, or corresponded in writing with the business association concerning it, within seven years after the date prescribed for payment or delivery, escheats to this state.

(b) Subject to Section 1510, any intangible interest in a business association, as evidenced by the stock records or membership records of the association, escheats to this state if (1) the interest in the association is owned by a person who for more than 20 years has neither claimed a dividend or other sum referred to in subdivision (a) nor corresponded in writing with the association or otherwise indicated an interest as evidenced by a memorandum or other record on file with the association, and (2) the association does not know the location of the owner at the end of such 20-year period. With respect to such interest, the business association shall be deemed the holder.

(c) Subject to Section 1510, any dividends or other distributions held for or owing to a person at the time the stock or other security to which they attach escheats to this state also escheat to this state as of the same time.

(Formerly § 1504, added by Stats.1959, c. 1809, p. 4299, § 2. Amended by Stats.1961, c. 1904, p. 4012, § 2. Renumbered § 1516 and amended by Stats. 1968, c. 356, p. 745, § 16, operative Jan. 1, 1969.)

§ 1517. Property distributable in course of voluntary or involuntary dissolution or liquidation of business

All property distributable in the course of a voluntary or involuntary dissolution or liquidation of a business association that is unclaimed by the owner within six months after the date of final distribution or liquidation escheats to this state. This section applies to all tangible personal property located in this state and, subject to Section 1510, to all intangible personal property.

(Added by Stats.1968, c. 356, p. 745, § 18, operative Jan. 1, 1969.)

§ 1518. Property held by fiduciaries

(a) All tangible personal property located in this state and, subject to Section 1510, all intangible personal property, and the income or increment on such tangible or intangible property, held in a fiduciary capacity for the benefit of another person escheats to this state if the owner has not, within seven years after it becomes payable or distributable, increased or decreased the principal, accepted payment of principal or income, corresponded in writing concerning the property, or otherwise indicated an interest as evidenced by a memorandum or other record on file with the fiduciary.

(b) For the purpose of this section, when a person holds property as an agent for a business association, he is deemed to hold such property in a fiduciary capacity for the business association alone, unless the agreement between him and the business association clearly provides the contrary. For the purposes of this chapter, if a person holds property in a fiduciary capacity for a business association alone, he is the holder of the property only insofar as the interest of the business association in such property is concerned and the association is deemed to be the holder of the property insofar as the interest of any other person in the property is concerned.

(Formerly § 1506, added by Stats.1959, c. 1809, p. 4300, § 2. Amended by Stats.1961, c. 1904, p. 4013, § 3. Renumbered § 1518 and amended by Stats.1968, c. 356, p. 746, § 19, operative Jan. 1, 1969.)

§ 1519. Property held for owner by government, governmental subdivision or agency

All tangible personal property located in this state, and, subject to Section 1510, all intangible personal property, held for the owner by any government or governmental subdivision or agency, that has remained unclaimed by the owner for more than seven years escheats to this state.

§ 1519**CODE OF CIVIL PROCEDURE**

(Formerly § 1507, added by Stats.1959, c. 1809, p. 4300, § 2. Renumbered § 1519 and amended by Stats.1968, c. 356, p. 746, § 20, operative Jan. 1, 1969.)

§ 1520. Other intangible personal property held for another person

All tangible personal property located in this state and, subject to Section 1510, all intangible personal property, except property of the classes mentioned in Sections 1513, 1514, 1515, 1516, 1517, 1518, and 1519, including any income or increment thereon and deducting any lawful charges, that is held or owing in the ordinary course of the holder's business and has remained unclaimed by the owner for more than seven years after it became payable or distributable escheats to this state.

(Formerly § 1509, added by Stats.1959, c. 1809, p. 4300, § 2. Renumbered § 1520 and amended by Stats.1968, c. 356, p. 746, § 21, operative Jan. 1, 1969.)

§ 1521. Renumbered § 1565 and amended by Stats.1968, c. 356, p. 755, § 39, operative Jan. 1, 1969

§ 1522. Renumbered § 1571 and amended by Stats.1968, c. 356, p. 756, § 43, operative Jan. 1, 1969

§ 1523. Repealed by Stats.1968, c. 356, p. 756, § 44, operative Jan. 1, 1969

§ 1524. Renumbered § 1576 and amended by Stats.1968, c. 356, p. 757, § 49, operative Jan. 1, 1969

§ 1525. Renumbered § 1580 and amended by Stats.1968, c. 356, p. 758, § 51, operative Jan. 1, 1969

§ 1526. Renumbered § 1502 and amended by Stats.1968, c. 356, p. 740, § 6, operative Jan. 1, 1969

Amendment of this section by Stats.1968, c. 332, p. 1179, § 2, not operative, see note under § 1602.6.

§ 1527. Renumbered § 1582 and amended by Stats.1968, c. 356, p. 759, § 53, operative Jan. 1, 1969

ARTICLE 3. IDENTIFICATION OF ESCHEATED PROPERTY [NEW]

Sec.

1530. Report of escheated property.
1531. Notice and publication of lists of escheated property.
1532. Payment or delivery of escheated property.
1533. Exclusion of certain tangible personal property from notice requirement and escheat [New].

§ 1530. Report of escheated property

(a) Every person holding funds or other property escheated to this state under this chapter shall report to the State Controller as provided in this section.

(b) The report shall be on a form prescribed or approved by the Controller and shall include:

(1) Except with respect to travelers checks and money orders, the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of value of twenty-five dollars (\$25) or more escheated under this chapter.

(2) In case of escheated funds of life insurance corporations, the full name of the insured or annuitant, and his last known address, according to the life insurance corporation's records;

(3) In the case of the contents of a safe deposit box or other safekeeping repository or in the case of other tangible property, a description of such property and the place where it is held and may be inspected by the State Controller. The report shall set forth any amounts owing to the holder for unpaid rent or storage charges and for the cost of opening the safe deposit box or other safekeeping repository, if any, in which the property was contained.

(4) The nature and identifying number, if any, or description of any intangible property and the amount appearing from the records to be due, except that items of value under twenty-five dollars (\$25) each may be reported in aggregate.

(5) Except for any property reported in the aggregate, the date when the property became payable, demandable, or returnable, and the date of the last transaction with the owner with respect to the property.

(6) Other information which the State Controller prescribes by rule as necessary for the administration of this chapter.

(c) If the holder is a successor to other persons who previously held the property for the owner, or if the holder has changed his name while holding the property, he shall file with his report all prior known names and addresses of each holder of the property.

(d) The report shall be filed before November 1st of each year as of June 30th or fiscal year-end next preceding, but the report of life insurance corporations shall be filed before May 1st of each year as of December 31st next preceding. The State Controller may postpone the reporting

§ 1530 **CODE OF CIVIL PROCEDURE**

date upon his own motion or upon written request by any person required to file a report.

(e) The report, if made by an individual, shall be verified by the individual; if made by a partnership, by a partner; if made by an unincorporated association or private corporation, by an officer; and if made by a public corporation, by its chief fiscal officer.

(Formerly § 1510, added by Stats.1959, c. 1809, p. 4301, § 2. Amended by Stats.1961, c. 1904, p. 4014, § 4. Renumbered § 1530 and amended by Stats.1968, c. 356, p. 746, § 24, operative Jan. 1, 1969.)

§ 1531. Notice and publication of lists of escheated property

(a) Within 120 days from the final date for filing the reports required by Section 1530, the State Controller shall cause a notice to be published at least once each week for two successive weeks in an English language newspaper of general circulation in each county in this state in which is located:

(1) The last known address, as listed in the reports, of any person named in the reports as the apparent owner of property escheated to this state under this chapter; or

(2) If no address of any apparent owner named in the reports is listed, or if the address listed in the reports for any apparent owner named therein is outside this state, the principal place of business within this state of the holder of the escheated property.

(b) Each published notice shall be entitled "notice of names of persons appearing to be owners of unclaimed property," and shall contain the names in alphabetical order and last known addresses, if any, of:

(1) Those apparent owners listed in the reports as having a last known address within the county;

(2) Those apparent owners listed as having a last known address outside this state or as having no last known address in a report filed by a holder with his principal place of business within the county; and

(3) The insured or annuitant in the case of funds described in Section 1515 if:

(i) The report does not list the name of the apparent owner of the funds and his last known address; and

(ii) The last known address of the insured or annuitant is within the county.

(c) Each published notice shall also contain:

(1) A statement that information concerning the amount or description of the property and the name and address of the holder may be obtained by any persons possessing an interest in the property by addressing an inquiry to the State Controller.

(2) A statement that, if proof of claim is not presented by the owner to the holder and if the owner's right to receive the property is not established to the holder's satisfaction before a date specified in the notice (which shall be the date five months from the final date for filing the report), the property will be placed, not later than one month after such

date, in the custody of the State Controller and all further claims must thereafter be directed to the State Controller.

(d) The State Controller is not required to publish in such notice any item of less than twenty-five dollars (\$25) unless he deems such publication to be in the public interest.

(e) Within 120 days from the final date for filing the report required by Section 1530, the State Controller shall mail a notice to each person having an address listed therein who appears to be entitled to property of the value of twenty-five dollars (\$25) or more escheated under this chapter.

(f) The mailed notice shall contain:

(1) A statement that, according to a report filed with the State Controller, property is being held to which the addressee appears entitled.

(2) The name and address of the person holding the property and any necessary information regarding changes of name and address of the holder.

(3) A statement that, if satisfactory proof of claim is not presented by the owner to the holder by the date specified in the published notice, the property will be placed in the custody of the State Controller and all further claims must be directed to the State Controller.

(g) This section is not applicable to sums payable on travelers checks or money orders that escheat under Section 1513.

(Formerly § 1511, added by Stats.1959, c. 1809, § 2. Renumbered § 1531 and amended by Stats.1968, c. 356, p. 748, § 25, operative Jan. 1, 1969.)

§ 1532. Payment or delivery of escheated property

(a) Except as otherwise provided in subdivisions (b) and (c), every person who has filed a report as provided by Section 1530 shall, within six months from the final date for filing reports as required by Section 1530, pay or deliver to the State Controller all escheated property specified in the report.

(b) If any person establishes his right to receive any property specified in the report to the satisfaction of the holder before such property has been delivered to the State Controller, or if it appears that for some other reason the property is not subject to escheat under this chapter, the holder need not pay or deliver the property to the State Controller, but in lieu thereof shall file with the State Controller a written explanation of the proof of claim or of the reason the property is not subject to escheat.

(c) In the case of sums payable on travelers checks or money orders escheated under Section 1513, such sums shall be paid to the State Controller not later than 20 days after the final date for filing the report.

(d) The holder of any interest under subdivision (b) of Section 1516 shall deliver a duplicate certificate to the State Controller. Upon delivery of a duplicate certificate to the State Controller, the holder and any transfer agent, registrar or other person acting for or on behalf of the holder in executing or delivering such duplicate certificate shall be relieved from all liability of every kind to any person including, but not

§ 1532

CODE OF CIVIL PROCEDURE

limited to, any persons acquiring the original certificate or the duplicate of such certificate issued to the State Controller for any losses or damages resulting to such person by the issuance and delivery to the State Controller of such duplicate certificate.

(e) Payment of any intangible property to the State Controller shall be made at the office of the State Controller in Sacramento or at such other location as the State Controller by regulation may designate. Except as otherwise agreed by the State Controller and the holder, tangible personal property shall be delivered to the State Controller at the place where it is held.

(Formerly § 1512, added by Stats.1959, c. 1809, p. 4303, § 2. Amended by Stats.1961, c. 1904, p. 4015, § 5. Renumbered § 1532 and amended by Stats.1968, c. 356, p. 749, § 26, operative Jan. 1, 1969.)

§ 1533. Exclusion of certain tangible personal property from notice requirement and escheat

Tangible personal property may be excluded from the notices required by Section 1531, shall not be delivered to the State Controller, and shall not escheat to the state, if the State Controller, in his discretion, determines that it is not in the interest of the state to take custody of the property and notifies the holder in writing, within 120 days from receipt of the report required by Section 1530, of his determination not to take custody of the property.

(Added by Stats.1968, c. 356, p. 750, § 27, operative Jan. 1, 1969.)

ARTICLE 4. PAYMENT OF CLAIMS [NEW]

Sec.

1540. Filing of claim; form; consideration; notice and hearing; service charge.

1541. Judicial action on determinations.

1542. Recovery of property by another state; grounds.

§ 1540. Filing of claim; form; consideration; notice and hearing; service charge

(a) Any person, excluding another state, who claims an interest in property paid or delivered to the State Controller under this chapter may file a claim to the property or to the net proceeds from its sale. The claim shall be on a form prescribed by the State Controller and shall be verified by the claimant.

(b) The State Controller shall consider each claim within 90 days after it is filed. He may hold a hearing and receive evidence. He shall give written notice to the claimant if he denies the claim in whole or in part. Such notice may be given by mailing it to the address, if any, stated in the claim as the address to which notices are to be sent. If no such address is stated in the claim, the notice may be mailed to the

address, if any, of the claimant as stated in the claim. No notice of denial need be given if the claim fails to state either an address to which notices are to be sent or an address of the claimant.

(c) Except as otherwise provided in Section 1560, the State Controller shall deduct from the amount of any claim allowed under this section 1 percent of the total amount of the claim, but in no event less than ten dollars (\$10), for each individual share claimed, as a service charge for receiving, accounting for, and managing the money or other property claimed and for processing the claim to recover it.

(Added by Stats.1968, c. 356, p. 750, § 28, operative Jan. 1, 1969.)

§ 1541. Judicial action on determinations

Any person aggrieved by a decision of the State Controller or as to whose claim the Controller has failed to make a decision within 90 days after the filing of the claim, may commence an action, naming the State Controller as a defendant, to establish his claim in the superior court in any county or city and county in which the Attorney General has an office. The action shall be brought within 90 days after the decision of the State Controller or within 180 days from the filing of the claim if the State Controller fails to make a decision. The summons and a copy of the complaint shall be served upon the State Controller and the Attorney General and the State Controller shall have 60 days within which to respond by answer. The action shall be tried without a jury. If judgment is awarded in favor of the plaintiff, the State Controller shall make payment subject to any charges provided by subdivision (c) of Section 1540. (Formerly § 1520, added by Stats.1959, c. 1809, p. 4305, § 2. Renumbered § 1541 and amended by Stats.1968, c. 356, p. 750, § 31, operative Jan. 1, 1969.)

§ 1542. Recovery of property by another state; grounds

(a) At any time after property has been paid or delivered to the State Controller under this chapter, another state is entitled to recover the property if:

(1) The property escheated to this state under subdivision (b) of Section 1510 because no address of the apparent owner of the property appeared on the records of the holder when the property was escheated under this chapter, the last known address of the apparent owner was in fact in such other state, and, under the laws of that state, the property escheated to that state;

(2) The last known address of the apparent owner of the property appearing on the records of the holder is in such other state and, under the laws of that state, the property has escheated to that state;

(3) The property is the sum payable on a travelers check or money order that escheated to this state by application of the presumption provided by Section 1511, the last known address of the apparent owner was in fact in such other state, and, under the laws of that state, the property escheated to that state; or

§ 1542**CODE OF CIVIL PROCEDURE**

(4) The property is funds held or owing by a life insurance corporation that escheated to this state by application of the presumption provided by subdivision (b) of Section 1515, the last known address of the person entitled to the funds was in fact in such other state, and, under the laws of that state, the property escheated to that state.

(b) The claim of another state to recover escheated property under this section shall be presented in writing to the State Controller, who shall consider the claim within 90 days after it is presented. He may hold a hearing and receive evidence. He shall allow the claim if he determines that the other state is entitled to the escheated property. A claim allowed under this section is subject to the charge specified by subdivision (c) of Section 1540.

(Added by Stats.1968, c. 356, p. 751, § 32, operative Jan. 1, 1969.)

**ARTICLE 5. ADMINISTRATION OF UNCLAIMED
PROPERTY [NEW]****Sec.**

- 1560. Relief from liability by payment or delivery; payment to others; reimbursement; reclamation of property.
- 1561. Defense of payee against claims of others; indemnification; mistake of law or fact; refund or redelivery of property [New].
- 1562. Income accruing after payment or delivery.
- 1563. Sale of escheated property.
- 1564. Deposit of funds.
- 1565. Destruction or disposition of property having no commercial value.
- 1566. Suits against state or officer or employee [New].
- 1567. Use of property by department of parks and recreation [New].

§ 1560. Relief from liability by payment or delivery; payment to others; reimbursement; reclamation of property

(a) Upon the payment or delivery of escheated property to the State Controller, the state shall assume custody and shall be responsible for the safekeeping of the property. Any person who pays or delivers escheated property to the State Controller under this chapter is relieved of all liability to the extent of the value of the property so paid or delivered for any claim which then exists or which thereafter may arise or be made in respect to the property. Property removed from a safe deposit box or other safekeeping repository shall be received by the State Controller subject to any valid lien of the holder for rent and other charges, such rent and other charges to be paid out of the proceeds remaining after the State Controller has deducted therefrom his selling cost.

(b) Any holder who has paid moneys to the State Controller pursuant to this chapter may make payment to any person appearing to such holder to be entitled thereto, and upon filing proof of such payment and proof that the payee was entitled thereto, the State Controller shall forthwith reimburse the holder for the payment without deduction of any fee or

CODE OF CIVIL PROCEDURE

§ 1562

other charges. Where reimbursement is sought for a payment made on a negotiable instrument (including a travelers check or money order), the holder shall be reimbursed under this subdivision upon filing proof that the instrument was duly presented to him and that payment was made thereon to a person who appeared to the holder to be entitled to payment.

(c) The holder shall be reimbursed under this section even if he made the payment to a person whose claim against him was barred because of the expiration of any such period of time as those described in Section 1570.

(d) Any holder who has delivered personal property, including a certificate of any interest in a business association, to the State Controller pursuant to this chapter may reclaim such personal property if still in the possession of the State Controller without payment of any fee or other charges upon filing proof that the owner thereof has claimed such personal property from such holder. The State Controller may, in his discretion, accept an affidavit of the holder stating the facts that entitle the holder to reimbursement under this subdivision as sufficient proof for the purposes of this subdivision.

(Formerly § 1513, added by Stats.1959, c. 1809, p. 4302, § 2. Amended by Stats.1961, c. 1904, p. 4016, § 6. Renumbered § 1560 and amended by Stats.1968, c. 356, p. 752, § 34, operative Jan. 1, 1969.)

§ 1561. Defense of payee against claims of others; indemnification; mistake of law or fact; refund or redelivery of property

(a) If the holder pays or delivers escheated property to the State Controller in accordance with this chapter and thereafter any person claims the property from the holder or another state claims the property from the holder under that state's laws relating to escheat, the State Controller shall, upon written notice of such claim, defend the holder against the claim and indemnify him against any liability on the claim.

(b) If any holder, because of mistake of law or fact, pays or delivers any property to the State Controller that has not escheated under this chapter and thereafter claims the property from the State Controller, the State Controller shall, if he has not disposed of the property in accordance with this chapter, refund or redeliver the property to the holder without deduction for any fee or other charge.

(c) As used in this section, "escheated property" means property which this chapter provides escheats to this state, whether or not it is determined that another state had a superior right to escheat such property at the time it was paid or delivered to the State Controller or at some time thereafter.

(Added by Stats.1968, c. 356, p. 752, § 35, operative Jan. 1, 1969.)

§ 1562. Income accruing after payment or delivery

When property other than money is delivered to the State Controller under this chapter, any dividends, interest or other increments realized or accruing on such property at or prior to liquidation or conversion there-

§ 1562

CODE OF CIVIL PROCEDURE

of into money, shall upon receipt be credited to the owner's account by the State Controller. Except for amounts so credited the owner is not entitled to receive income or other increments on money or other property paid or delivered to the State Controller under this chapter. All interest received and other income derived from the investment of moneys deposited in the Unclaimed Property Fund under the provisions of this chapter shall, on order of the State Controller, be transferred to the General Fund.

(Formerly § 1514, added by Stats.1959, c. 1809, p. 4304, § 2. Amended by Stats.1961, c. 1904, p. 4016, § 7. Renumbered § 1562 and amended by Stats. 1968, c. 356, p. 753, § 36, operative Jan. 1, 1969.)

§ 1563. Sale of escheated property

(a) Except as provided in subdivision (b), all escheated property delivered to the State Controller under this chapter shall be sold by the State Controller to the highest bidder at public sale in whatever city in the state affords in his judgment the most favorable market for the property involved. The State Controller may decline the highest bid and reoffer the property for sale if he considers the price bid insufficient. He need not offer any property for sale if, in his opinion, the probable cost of sale exceeds the value of the property. Any sale of escheated property held under this section shall be preceded by a single publication of notice thereof, at least one week in advance of sale, in an English language newspaper of general circulation in the county where the property is to be sold.

(b) Securities listed on an established stock exchange shall be sold at the prevailing prices on such exchange. United States Government Savings Bonds and United States War Bonds shall be presented to the United States for payment. Subdivision (a) does not apply to the property described in this subdivision.

(c) The purchaser at any sale conducted by the State Controller pursuant to this chapter shall receive title to the property purchased, free from all claims of the owner or prior holder thereof and of all persons claiming through or under them. The State Controller shall execute all documents necessary to complete the transfer of title.

(Formerly § 1516, added by Stats.1959, c. 1809, p. 4304, § 2. Amended by Stats.1963, c. 669, p. 1657, § 1. Renumbered § 1563 and amended by Stats.1968, c. 356, p. 753, § 37, operative Jan. 1, 1969.)

§ 1564. Deposit of funds

(a) All money received under this chapter, including the proceeds from the sale of property under Section 1563, shall be deposited in the Unclaimed Property Fund in an account titled "Abandoned Property."

(b) All money in the abandoned property account in the Unclaimed Property Fund is hereby continuously appropriated to the State Controller, without regard to fiscal years, for expenditure in accordance with law in carrying out and enforcing the provisions of this chapter, including, but not limited to, the following purposes:

CODE OF CIVIL PROCEDURE

§ 1565

(1) For payment of claims allowed by the State Controller under the provisions of this chapter.

(2) For refund, to the person making such deposit, of amounts, including overpayments, deposited in error in such fund.

(3) For payment of the cost of appraisals incurred by the State Controller covering property held in the name of an account in such fund.

(4) For payment of the cost incurred by the State Controller for the purchase of lost instrument indemnity bonds, or for payment to the person entitled thereto, for any unpaid lawful charges or costs which arose from holding any specific property or any specific funds which were delivered or paid to the State Controller, or which arose from complying with this chapter with respect to such property or funds.

(5) For payment of amounts required to be paid by the state as trustee, bailee, or successor in interest to the preceding owner.

(6) For payment of costs incurred by the State Controller for the repair, maintenance, and upkeep of property held in the name of an account in such fund.

(7) For payment of costs of official advertising in connection with the sale of property held in the name of an account in such fund.

(8) For transfer to the General Fund as provided in subdivision (c).

(9) For transfer to the Inheritance Tax Fund of the amount of any inheritance taxes determined to be due and payable to the state by any claimant with respect to any property claimed by him under the provisions of this chapter.

(c) At the end of each month, or oftener if he deems it advisable, the State Controller shall transfer all money in the abandoned property account in excess of fifty thousand dollars (\$50,000) to the General Fund. Before making this transfer, he shall record the name and last known address of each person appearing from the holders' report to be entitled to the escheated property and the name and last known address of each insured person or annuitant, and with respect to each policy or contract listed in the report of a life insurance corporation, its number, and the name of the corporation. The record shall be available for public inspection at all reasonable business hours.

(Formerly § 1517, added by Stats.1959, c. 1809, p. 4304, § 2. Renumbered § 1564 and amended by Stats.1968, c. 356, p. 754, § 38, operative Jan. 1, 1969.)

§ 1565. Destruction or disposition of property having no commercial value

Any property delivered to the State Controller pursuant to this chapter which has no apparent commercial value shall be retained by the State Controller until such time as he determines to destroy or otherwise dispose of it. If the State Controller determines that any property delivered to him pursuant to this chapter has no apparent commercial value, he may at any time thereafter destroy or otherwise dispose of the property, and in that event no action or proceeding shall be brought or maintained against the state or any officer thereof or against the holder for or on

§ 1565

CODE OF CIVIL PROCEDURE

account of any action taken by the State Controller pursuant to this chapter with respect to the property.

(Formerly § 1521, added by Stats.1959, c. 1809, p. 4306, § 2. Amended by Stats.1961, c. 1904, p. 4016, § 8. Renumbered § 1565 and amended by Stats.1968, c. 356, p. 755, § 39, operative Jan. 1, 1969.)

§ 1566. Suits against state or officer or employee

(a) When payment or delivery of money or other property has been made to any claimant under the provisions of this chapter, no suit shall thereafter be maintained by any other claimant against the state or any officer or employee thereof for or on account of such property.

(b) Except as provided in Section 1541, no suit shall be maintained by any person against the state or any officer or employee thereof for or on account of any transaction entered into by the State Controller pursuant to this chapter.

(Added by Stats.1968, c. 356, p. 755, § 40, operative Jan. 1, 1969.)

§ 1567. Use of property by department of parks and recreation

The Director of Parks and Recreation may examine any tangible personal property delivered to the State Controller under this chapter for purposes of determining whether such property would be useful under the provisions of Section 512 of the Public Resources Code. If the director makes such a determination with respect to the property, the State Controller may deliver the property to the director for use in carrying out the purposes of Section 512 of the Public Resources Code. Upon the termination of any such use, the director shall return the property to State Controller.

(Added by Stats.1969, c. 838, p. 1670, § 1.)

ARTICLE 6. COMPLIANCE AND ENFORCEMENT [NEW]

Sec.

- 1570. Limitations as not preventing money or property from being escheated; duty to file report or to pay or deliver escheated property.
- 1571. Examination of records.
- 1572. Action by state controller; purposes [New].
- 1573. Agreements by state controller with other states to furnish information; reporting of information to controller; regulations [New].
- 1574. Action by attorney general, in name of other state, to enforce unclaimed property laws of other state [New].
- 1575. Request by state controller to bring action in name of state to enforce provisions of this chapter in another state; costs and rewards [New].
- 1576. Penalties.

CODE OF CIVIL PROCEDURE

§ 1572

§ 1570. Limitations as not preventing money or property from being escheated; duty to file report or to pay or deliver escheated property

The expiration of any period of time specified by statute or court order, during which an action or proceeding may be commenced or enforced to obtain payment of a claim for money or recovery of property from the holder, does not prevent the money or property from being escheated, nor affect any duty to file a report required by this chapter or to pay or deliver escheated property to the State Controller.

(Formerly § 1515, added by Stats.1959, c. 1809, p. 4304, § 2. Renumbered § 1570 and amended by Stats.1968, c. 356, p. 755, § 42, operative Jan. 1, 1969.)

§ 1571. Examination of records

(a) The State Controller may at reasonable times and upon reasonable notice examine the records of any person if he has reason to believe that such person has failed to report property that should have been reported pursuant to this chapter.

(b) When requested by the State Controller such examination shall be conducted by any licensing or regulating agency otherwise empowered by the laws of this state to examine the records of the holder. For the purpose of determining compliance with this chapter, the Superintendent of Banks and the Savings and Loan Commissioner are hereby respectively vested with full authority to examine the records of any banking organization and any savings and loan association doing business within this state but not organized under the laws of or created in this state.

(Formerly § 1522, added by Stats.1959, c. 1809, p. 4306, § 2. Renumbered § 1571 and amended by Stats.1968, c. 356, p. 756, § 43, operative Jan. 1, 1969.)

§ 1572. Action by state controller; purposes

(a) The State Controller may bring an action in a court of appropriate jurisdiction, as specified in this section, for any of the following purposes:

(1) To enforce the duty of any person under this chapter to permit the examination of the records of such person.

(2) For a judicial determination that particular property is subject to escheat by this state pursuant to this chapter.

(3) To enforce the delivery of any property to the State Controller as required under this chapter.

(b) The State Controller may bring an action under this chapter in any court of this state of appropriate jurisdiction in any of the following cases:

(1) Where the holder is any person domiciled in this state, or is a government or governmental subdivision or agency of this state.

(2) Where the holder is any person engaged in or transacting business in this state, although not domiciled in this state.

(3) Where the property is tangible personal property and is held in this state.

§ 1572

CODE OF CIVIL PROCEDURE

(c) In any case where no court of this state can obtain jurisdiction over the holder, the State Controller may bring an action in any federal or state court with jurisdiction over the holder.

(Added by Stats.1968, c. 356, p. 756, § 45, operative Jan. 1, 1969.)

§ 1573. Agreements by state controller with other states to furnish information; reporting of information to controller; regulations

The State Controller may enter into an agreement to provide information needed to enable another state to determine unclaimed property it may be entitled to escheat if such other state or an official thereof agrees to provide this state with information needed to enable this state to determine unclaimed property it may be entitled to escheat. The State Controller may, by regulation, require the reporting of information needed to enable him to comply with agreements made pursuant to this section and may, by regulation, prescribe the form, including verification, of the information to be reported and the times for filing the reports.

(Added by Stats.1968, c. 356, p. 756, § 46, operative Jan. 1, 1969.)

§ 1574. Action by attorney general, in name of other state, to enforce unclaimed property laws of other state

At the request of another state, the Attorney General of this state may bring an action in the name of the other state, in any court of appropriate jurisdiction of this state or federal court within this state, to enforce the unclaimed property laws of the other state against a holder in this state of property subject to escheat by the other state, if:

(a) The courts of the other state cannot obtain jurisdiction over the holder;

(b) The other state has agreed to bring actions in the name of this state at the request of the Attorney General of this state to enforce the provisions of this chapter against any person in the other state believed by the State Controller to hold property subject to escheat under this chapter, where the courts of this state cannot obtain jurisdiction over such person; and

(c) The other state has agreed to pay reasonable costs incurred by the Attorney General in bringing the action.

(Added by Stats.1968, c. 356, p. 757, § 47, operative Jan. 1, 1969.)

§ 1575. Request by state controller to bring action in name of state to enforce provisions of this chapter in another state; costs and rewards

(a) If the State Controller believes that a person in another state holds property subject to escheat under this chapter and the courts of this state cannot obtain jurisdiction over that person, the Attorney General of this state may request an officer of the other state to bring an action in the name of this state to enforce the provisions of this chapter against such person.

CODE OF CIVIL PROCEDURE

§ 1580

(b) This state shall pay all reasonable costs incurred by the other state in any action brought under the authority of this section. The State Controller may agree to pay to any state bringing such an action a reward not to exceed fifteen percent of the value, after deducting reasonable costs, of any property recovered for this state as a direct or indirect result of such action. Any costs or rewards paid pursuant to this section shall be paid from the Abandoned Property Account in the Unclaimed Property Fund and shall not be deducted from the amount that is subject to be claimed by the owner in accordance with this chapter.

(Added by Stats.1968, c. 356, p. 757, § 48, operative Jan. 1, 1969.)

§ 1576. Penalties

(a) Any person who willfully fails to render any report or perform other duties required under this chapter shall be punished by a fine of ten dollars (\$10) for each day such report is withheld or such duty is not performed, but not more than one thousand dollars (\$1,000).

(b) Any person who willfully refuses to pay or deliver escheated property to the State Controller as required under this chapter shall be punished by a fine of not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000), or imprisonment for not more than six months, or both.

(Formerly § 1524, added by Stats.1959, c. 1809, p. 4307, § 2. Renumbered § 1576 and amended by Stats.1968, c. 356, p. 757, § 49, operative Jan. 1, 1969.)

ARTICLE 7. MISCELLANEOUS [NEW]

Sec.

1580. Rules and regulations.

1581. Record of sales of travelers checks on money orders [New].

1582. Validity of contracts to locate property.

§ 1580. Rules and regulations

(a) The State Controller is hereby authorized to make necessary rules and regulations to carry out the provisions of this chapter.

(b) The Controller shall designate by regulation each state that does not provide by law for the escheat of unclaimed or abandoned intangible property of any kind described in Sections 1513 to 1520, inclusive.

(Formerly § 1525, added by Stats.1959, c. 1809, p. 4307, § 2. Renumbered § 1580 and amended by Stats.1968, c. 356, p. 758, § 51, operative Jan. 1, 1969.)

§ 1581

CODE OF CIVIL PROCEDURE

§ 1581. Record of sales of travelers checks or money orders

(a) Any business association that sells its travelers checks or money orders in this state or that provides such checks or orders to others for sale in this state shall either:

(1) Maintain a record of the names and addresses of the purchasers of all travelers checks and money orders sold on or after January 1, 1969, to purchasers residing in this state; or

(2) Maintain a record indicating those travelers checks and money orders that are sold in this state on or after January 1, 1969, and pay to this state the sums that this chapter provides escheat to this state.

(b) The record required by this section may be destroyed after it has been retained for such reasonable time as the State Controller shall designate by regulation. If the business association complies with paragraph (2) of subdivision (a), the State Controller may not require that the business association maintain the record described in paragraph (1) of subdivision (a). If any provision of this chapter or application thereof to any person or circumstance is held invalid, the requirement of paragraph (2) of subdivision (a) that the business association pay to this state the sums that this chapter provides escheat to this state is satisfied by payment to this state of the sums that escheat to this state under the provisions of this chapter which can be given effect without the invalid provision or application.

(c) Any business association that willfully fails to comply with this section is liable to the state for a civil penalty of five hundred dollars (\$500) for each day of such failure to comply, which penalty may be recovered in an action brought by the State Controller.

(Added by Stats.1968, c. 356, p. 758, § 52, operative Jan. 1, 1969.)

§ 1582. Validity of contracts to locate property

No agreement entered into within nine months after the date a report is filed under subdivision (d) of Section 1530 is valid if any person thereby undertakes to locate property included in that report for a fee or other compensation exceeding 10 percent of the value of recoverable property unless the agreement is in writing and signed by the owner and discloses the nature and value of the property and the name and address of the holder thereof, as such facts are so reported. Nothing in this section shall be construed to prevent an owner from asserting, at any time, that any agreement to locate property is based upon an excessive or unjust consideration.

(Formerly § 1527, added by Stats.1959, c. 1809, p. 4307, § 2. Renumbered § 1582 and amended by Stats.1968, c. 356, p. 759, § 53, operative Jan. 1, 1969.)