

made in the same manner and on the same notice as is provided in the case of a nonresident motorist.

Sections 2 and 3.
act of May 14,
1929, P. L. 1721,
amended June
25, 1937, P. L.
2277, further
amended.

Process
procedure.

Section 3. Sections two and three of the act, amended June twenty-five, one thousand nine hundred thirty-seven (Pamphlet Laws 2277), are amended to read:

Section 2. Such process shall be served, by the officer to whom the same shall be directed, upon the Secretary of [Revenue] *the Commonwealth* of the Commonwealth of Pennsylvania, by sending by registered mail, postage prepaid, at least fifteen (15) days before the return day of such process, a true and attested copy thereof, and by sending to the defendant, by registered mail, postage prepaid, a like true and attested copy, with an endorsement thereon of the service upon said Secretary of [Revenue] *the Commonwealth*, addressed to such defendant at his last known address. The registered mail return receipts of the Secretary of [Revenue] *the Commonwealth* and of such defendant shall be attached to and made a part of the return of service of such process: Provided, That if the defendant refuses to accept the notice mailed, or cannot be found at his last known address, the registered mail return receipt or other evidence of such facts shall be attached to and made a part of the return, and shall constitute sufficient service under the provisions of this section.

Fee.

Section 3. The officer serving such process upon the Secretary of [Revenue] *the Commonwealth* shall pay to said secretary, at the time of service, a fee of [two dollars (\$2.00)] *five dollars (\$5.00)* for each process served, which fee shall be taxed as costs in the case. The Secretary of [Revenue] *the Commonwealth* shall keep a record of each such process and the day and hour of the service thereof upon him.

Record.

APPROVED—The 17th day of February, A. D. 1956.

GEORGE M. LEADER

No. 346

AN ACT

Amending the act of April twenty-four, one thousand nine hundred forty-seven (Pamphlet Laws 89), entitled "An act relating to the form, execution, revocation, operation, and interpretation of wills; to nuncupative wills; to the appointment of testamentary guardians; to elections to take under or against wills and the procedure in reference thereto," revising and changing provisions relating to foreign wills, divorce, testamentary conveyances affecting right of spouse taking against a will, rights of

adopted persons and illegitimates in lapsed and void devises and legacies, and appointment of guardian of property passing to a minor upon testator's death whether or not passing under the will.

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

Wills Act
of 1947.

Section 1. Section four, clause (2) of section seven, subsection (a) of section eight, subsection (a) of section twelve, and clauses (6) and (7) of section fourteen, act of April twenty-four, one thousand nine hundred forty-seven (Pamphlet Laws 89), known as the "Wills Act of 1947," are amended to read:

Section 4, clause (2) of section 7, subsection (a) of section 8, subsection (a) of section 12, and clauses (6) and (7) of section 14, act of April 24, 1947, P. L. 89, amended.

Section 4. Witnesses.—

(a) *General Rule.* Except as provided in subsection (b) hereof, no will shall be valid unless proved by the oaths or affirmations of two competent witnesses.

(b) *Foreign Execution.* A written will of a testator domiciled outside of Pennsylvania but within the United States, executed and proved in accordance with the law of his domicile, shall be effective as to property within Pennsylvania.

Section 7. Modification by Circumstances.—Wills shall be modified upon the occurrence of any of the following circumstances, among others:

* * * * *

(2) Divorce. If the testator is divorced from the bonds of matrimony after making a will, all provisions in the will in favor of or relating to his spouse so divorced shall [be thereby revoked] thereby become ineffective for all purposes.

* * * * *

Section 8. Change by Election of Surviving Spouse.—

(a) Right of Election. When a married person dies testate as to any part of his estate, the surviving spouse while living shall have a right of election under the limitations and conditions hereinafter stated: *Provided, That the spouse so electing also must elect to take against all conveyances within the scope of subsection (a) of section 11 of the Estates Act of 1947, as amended, of which he is a beneficiary.*

(b) Share of Estate. The surviving spouse, upon an election to take against the will, shall be entitled to one-third of the real and personal estate of the testator if the testator is survived by more than one child or by one or more children and the issue of a deceased child or children or by the issue of more than one deceased child, and in all other circumstances the surviving spouse shall

be entitled to one-half of the real and personal estate of the testator.

* * * * *

Section 12. Failure to Make an Election.—

(a) Effect. Except as provided in section 7 (3) hereof, failure to make an election in the manner and within the time limits set forth in section 11 hereof shall be deemed an election to take under the will or an acquiescence in the provisions thereof. No payment or distribution from the estate, except the exemption allowed by law to the [widow] *surviving spouse*, shall be required to be made to the surviving spouse within one year after the probate of the will unless his election to take under or acquiesce in the will shall have been made and filed as provided in section 10 hereof.

* * * * *

Section 14. Rules of Interpretation.—In the absence of a contrary intent appearing therein, wills shall be construed as to real and personal estate in accordance with the following rules:

* * * * *

(6) Adopted Children. In construing *clauses (8), (9) and (10) of this section, relating to lapsed and void devises and legacies, and in construing a will making a devise or bequest to a person or persons described by relationship to the testator or to another, any person adopted before the death of the testator shall be considered the child of his adopting parent or parents and not the child of his natural parents: Provided, That if a natural parent shall have married the adopting parent before the testator's death, the adopted person shall also be considered the child of such natural parent.*

(7) Illegitimates. In construing *clauses (8), (9) and (10) of this section, relating to lapsed and void devises and legacies, and in construing a will making a devise or bequest to a person or persons described by relationship to the testator or to another, an illegitimate person shall be considered the child of his mother and not of his father: Provided, That when the parents of a person born illegitimate shall have married each other, he shall thereafter be considered legitimate.*

* * * * *

Section 2. Clause (11) of section fourteen of the act is repealed.

Section 3. Subsection (b) of section eighteen of the act is amended to read:

Section 18. Testamentary Guardian.—

* * * * *

(b) Guardian of the Estate. Any person may by will appoint a [testamentary] guardian of [the] real or per-

Clause (11),
section 14, act
of April 24, 1947,
P. L. 89, re-
pealed.

Subsection (b),
section 18, act of
April 24, 1947,
P. L. 89,
amended.

sonal [estate which he shall devise, bequeath or appoint to a minor] *property passing to a minor upon his death, when such property*

(1) *Is devised, bequeathed or appointed to the minor in that person's will.*

(2) *Is the proceeds of an insurance or annuity contract on the testator's life, unless the owner of the contract has made an inter vivos designation of a guardian therefor.*

(3) *Arises from an inter vivos transfer, the major portion of which constituted a gift from the testator, unless the testator has made an inter vivos designation of a guardian therefor.*

(4) *Is a cause of action arising by reason of the testator's death.*

(5) *Is a pension or death benefit from an employer of the testator or a society or organization of which the testator was a member.*

(6) *Is a tentative trust of which the testator was the settlor.*

Section 4. This act shall take effect on April one, one-thousand nine hundred fifty-six, and shall apply only to the wills of all persons dying on or after that day. As to the wills of persons dying before that day the existing law shall remain in full force and effect.

Effective date.

APPROVED—The 17th day of February, A. D. 1956.

GEORGE M. LEADER

No. 347

AN ACT

Amending the act of April twenty-four, one thousand nine hundred forty-seven (Pamphlet Laws 100), entitled "An act relating to the incidents of legal and equitable interests in real and personal property, including the validity thereof, the powers, rights, and duties of persons with respect thereto, and the disposition of interests which fail, and containing provisions concerning termination of trusts, releases and disclaimers of powers and interests, perpetuities, accumulations, charitable estates, rights of a surviving spouse in property as to which the decedent has retained certain powers, spendthrift trusts, limited estates in property, rules of interpretation, estates pur auter vie, estates in fee tail, and the Rule in Shelley's Case," revising and changing