

Of suits in
Northumber-
land county,
&c.

ty of Columbia, and undetermined, where the defendants reside, or the cause of action arose, in the townships of Turbet and Chillis-
quaque, shall, after the first day of May next, be considered as
pending in the county of Northumberland, and all papers on the
said suits shall be delivered by the prothonotary of Columbia coun-
ty to the prothonotary of Northumberland county, and it shall be
the duty of the prothonotary of Columbia county to make out a
docket or copy of the entries of all suits brought in the court of
common pleas, where the defendants reside or cause of action
arose in the townships aforesaid, and deliver the same, on or be-
fore the said first day of May next, together with the original pa-
pers on the said suits, to the prothonotary of Northumberland
county, and all expenses attending the proceedings under this sec-
tion, shall be paid by the county of Northumberland, on a warrant
drawn by the commissioners thereof in the usual manner.

JACOB HOLGATE, *Speaker*
of the *House of Representatives.*

JOHN TOD, *Speaker of the Senate.*

APPROVED—the thirteenth day of March, one thousand eight hun-
dred and fifteen.

SIMON SNYDER.

CHAPTER CIX.

An ACT concerning divorces.

WHEREAS, the divine precepts of the christian religion, the
promotion of the best interests of human happiness, the design of
marriage, and the object of parties entering into the marriage
state, require that it should continue during their joint lives: Yet,
where one of the parties is under a natural or legal incapacity of
faithfully discharging the matrimonial vow, or is guilty of acts in-
consistent with the sacred contract, the laws of every well regu-
lated society should give relief to the innocent and injured party.

SECT. 1. *BE it enacted by the Senate and House of Representa-
tives of the Commonwealth of Pennsylvania, in General Assembly
met, and it is hereby enacted by the authority of the same, That*
when a marriage hath been heretofore, or shall hereafter be con-
tracted and celebrated between any two persons, and it shall be
judged in the manner herein after mentioned, that either party, at
the time of the contract, was and still is naturally impotent or in-
capable of procreation, or that he or she hath knowingly entered
into a second marriage, in violation of the previous vow he or she
made to the former wife or husband, whose marriage is still sub-
sisting, or that either party shall have committed adultery, or wil-
ful and malicious desertion and absence from the habitation of the
other, without a reasonable cause, for and during the term and
space of two years, or when any husband shall have, by cruel and

Divorce—in
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barbarous treatment, endangered his wife's life, or offered such indignities to her person, as to render her condition intolerable and life burthensome, and thereby force her to withdraw from his house and family, in every such case it shall and may be lawful for the innocent and injured person to obtain a divorce from the bond of matrimony.

SECT. II. *And be it further enacted by the authority aforesaid,* That if any person hath been or shall be injured as aforesaid, the husband, in his own proper person, or the wife, by her next friend, may exhibit his or her petition or libel, to the judges of the court of common pleas of the proper county where the injured party resides, in term time, or to one of the judges of the same court in the vacation, at least thirty days before the next term, setting forth therein particularly and specially, the causes of his or her complaint, and shall, together with such petition or libel, also exhibit an affidavit, on oath or affirmation, taken before one of the same judges or a justice of the peace of the proper county, that the facts contained in said petition or libel are true, to the best of his or her knowledge and belief, and that the said complaint is not made out of levity or by collusion between the said husband and wife, and for the mere purpose of being freed and separated from each other, but in sincerity and truth for the causes mentioned in the said petition or libel, and thereupon a subpoena shall issue from the said court, signed by one of the judges thereof, directed to the party so complained against, commanding him or her to appear at the next or any subsequent court of common pleas, to answer the said petition or libel, and upon due proof, at the return of the said subpoena, that the same shall have been served personally on the said party, wherever found, or that a copy had been given to him or her fifteen days before the return of the same, the said court shall and may make such preparatory rules and orders in the cause, that the same may be brought to a hearing, and determined at the term to which the said process may be returnable, or afterwards, at which hearing the court may determine the same ex parte, if necessary; but if either of the parties shall desire any matter of fact, that is affirmed by the one and denied by the other, to be tried by a jury, an issue shall be formed, and the same shall be tried accordingly, but when neither of the parties require an issue to be so formed, the court may enquire and decide upon the case in the presence of the parties, or if either of them will not attend, then ex parte, by the examination of witnesses on interrogatories, exhibits or other legal proof, had either before or at the hearing.

SECT. III. *And be it further enacted by the authority aforesaid,* That if upon the return of the said subpoena, proof shall be made, that the said party could not be found in the said county, an alias subpoena shall issue, returnable the first day of the next or any subsequent term, and be served personally in manner aforesaid, and if so served, the same proceedings shall be had as are directed and authorized in the second section of this act; and if, on the return of the said alias subpoena, proof shall be made, that the said party could not be found in the said county, the sheriff of the same shall cause notice to be published in one or more newspapers printed within or nearest to the said county for four weeks suc-

In cases of injury, &c.

In what cases juries shall decide.

Of subpoenas.

cessively, prior to the first day of the then next term of said court, requiring the said party to appear on the said day, to answer to the said complaint, at which term, or any subsequent term, the same proceedings shall be had as are authorized and directed by the second section of this act.

Of adultery. SECT. IV. *And be it further enacted by the authority aforesaid,* That when either party shall have been convicted and sentenced for adultery, the records of the said conviction shall be received in evidence on any application for a divorce by the injured party.

Of consanguinity. SECT. V. *And be it further enacted by the authority aforesaid,* That all marriages within the degree of consanguinity, or affinity, according to the table established by law, are hereby declared void to all intents and purposes; and it shall and may be lawful for the courts of common pleas of this commonwealth, or any of them, to grant divorces from the bonds of matrimony in such cases; and the parties shall be subject to the like penalties as are contained in the act against incest: but when any of the said marriages shall not have been dissolved during the life time of the parties, the unlawfulness of the same shall not be enquired into after the death of either of the husband or wife.

Of the death of one party. SECT. VI. *And be it further enacted by the authority aforesaid,* That if any husband or wife, upon any false rumor, in appearance well founded, of the death of the other (when such other has been absent for the space of two whole years) hath married, or shall marry again, he or she shall not be liable to the pains of adultery, but it shall be in the election of the party remaining unmarried, at his or her return, to insist to have his or her former wife or husband restored, or to have his or her own marriage dissolved, and the other party to remain with the second husband or wife, and in any suit or action, instituted for this purpose within six months after such return, the court may and shall sentence and decree accordingly.

In actions of adultery, &c. SECT. VII. *And be it further enacted by the authority aforesaid,* That in any action or suit, commenced in the said court, for a divorce for the cause of adultery, if the defendant shall allege and prove that the plaintiff has been guilty of the like crime, or has admitted the defendant into conjugal society, or embraces, after he or she knew of the criminal fact, or that the said plaintiff, (if the husband) allowed of the wife's prostitutions, or received hire for them, or exposed his wife to lewd company, whereby she became ensnared to the crime aforesaid, it shall be a good defence and a perpetual bar against the same.

Determination of court. SECT. VIII. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the said courts, after hearing any cause, commenced before them, by virtue of this act, to determine the same as to law and justice shall appertain, by either dismissing the petition or libel, or sentencing and decreeing a divorce and separation from the nuptial ties or bonds of matrimony, or that the marriage is null and void, and that after such sentence, nullifying or dissolving the marriage, all and every the duties, rights and claims accruing to either of the said parties at any time theretofore, in pursuance of the said marriage, shall cease and de-

termine, and the said parties shall severally be at liberty to marry again in the like manner as if they never had been married.

SECT. IX. *And be it further enacted by the authority aforesaid,* That the husband or wife, who shall have been guilty of the crime of adultery, shall not marry the person with whom the said crime was committed, during the life of the former wife or husband: but nothing herein contained shall be construed to extend to or affect or render illegitimate any children born of the body of the wife during coverture. Person guilty of adultery shall not marry, &c.

SECT. X. *And be it further enacted by the authority aforesaid,* That when any woman shall be divorced as aforesaid, and shall afterwards openly cohabit, at bed and board, with the person named in the petition or libel, and proved to be the partaker in her crime, she is hereby declared to be incapable to alienate, directly or indirectly, any of her lands, tenements, or hereditaments, but that all deeds, wills, appointments and conveyances thereof, shall be absolutely void and of none effect, and after her death, the same shall descend and be subject to distribution in like manner as if she had died seized thereof intestate. After a divorce the woman not to cohabit, &c.

SECT. XI. *And be it further enacted by the authority aforesaid,* That no person shall be entitled to a divorce from the bond of matrimony, by virtue of this act, who is not a citizen of this state, and who shall not have resided therein at least one whole year previous to the filing his or her petition or libel. Citizens only entitled to a divorce, &c.

SECT. XII. *And be it further enacted by the authority aforesaid,* That the said court may award costs to the party in whose behalf the sentence or decree shall pass, or that each party shall pay his or her own costs, as to them shall appear to be reasonable and just. Costs may be awarded.

SECT. XIII. *And be it further enacted by the authority aforesaid,* That either of the parties, in any suit or action now depending, or that shall hereafter be brought under this act, after the final sentence or decree given, may appeal therefrom to the supreme court of the proper district upon entering into a recognizance before one of the judges of the court of common pleas before whom the cause shall have been tried, with at least one good surety, in a sum double the amount of the costs incurred, conditioned to prosecute the said appeal with effect, and the same appeal shall be prosecuted in the usual manner; and the judges of the supreme court shall transmit the record, with their judgment thereon, with all the proceedings, as in other cases, to the court below, to be carried into effect. An appeal allowed in all actions of divorce.

SECT. XIV. *And be it further enacted by the authority aforesaid,* That the "Act concerning divorces and alimony," passed the nineteenth of September, one thousand seven hundred and eighty-five, and a supplement to the act, entitled "An act concerning divorces and alimony," passed the second day of April, one thousand eight hundred and four, and so much of the act, entitled "An act against incest," as is hereby altered or supplied, be, and they are hereby repealed: *Provided,* That the repeal of the said acts shall not effect any cause or proceeding now pending or commenced under the said acts, but the same shall be finished and concluded under and agreeably to the provisions of Repealing section.

this act, nor shall this act be taken or construed to affect any proceedings under the poor laws of this commonwealth.

JACOB HOLGATE, *Speaker of the House of Representatives.*

JOHN TOD, *Speaker of the Senate.*

APPROVED—the thirteenth day of March, one thousand eight hundred and fifteen.

SIMON SNYDER.

CHAPTER CX.

An ACT to authorize the governor to incorporate the president, managers and company of the Mill creek turnpike road.

SECT. 1. *BE it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That* Mordecai Lee, Samuel Kendal, Jonas Kern and Henry Levan, of Bucks county, John Hughes, John Mallowny and Daniel Graeff, of Schuylkill county, and Henry Shaeffer & Andrew Albright, of Northumberland county, be, and they are hereby appointed commissioners to do and perform the several duties hereinafter mentioned, that is to say, They shall, on or before the first day of May next, procure three or more books, and in each of them enter as follows, to wit: "We, whose names are hereunto subscribed, do promise to pay to the president, managers and company of the Mill creek turnpike road, leading from the house of David Phillips to John Mallowny's saw-mill, and from thence to John Hughes' saw-mill, and from thence the nearest and best route to Orwigsburg, the sum of twenty dollars each for every share of stock in said company set opposite to our respective names, in such manner and in such proportions, and at such times, as shall be determined by the president and managers of said company, in pursuance of an act of the general assembly, entitled "An act to authorize the governor to incorporate the president, managers and company of the Mill creek turnpike road." Witness our hands the day of in the year of our Lord one thousand eight hundred and fifteen." And shall thereupon give public notice in one or more public newspapers, printed in the counties of Northumberland and Berks, for the space of one month at least, of the times and places when and where the said books shall be kept open to receive subscriptions for the stock of said company, at which times and places some one of the said commissioners shall attend, and shall permit and suffer all persons to subscribe in the said books, in their own names or the names of any other persons who shall duly authorize the same, for any number of shares in the said stock; and the said books shall be kept open respectively for the purpose aforesaid, at least six

Commissioners names.

Duties of.

How long books shall be kept open.

hours in every juridical day for three days, or until said books shall have six hundred shares subscribed, and if at the expiration