

No. 13.

AN ACT

Authorizing county commissioners to provide for the payment for the preparation of plans and specifications heretofore made for public buildings where no legal or valid contract was entered into as required by law.

County commissioners.

Plans and specifications for public improvements.

Ordered by unau-
thorized boards.

Accepted by county
or district.

Payment for.

Repeal.

Section 1. Be it enacted, &c., That whenever heretofore any plans or specifications for any county building or improvement, whether for county or poor purposes, have been prepared by any architect or engineer under contract or agreement between such architect or engineer and a board or boards, other than the board of county commissioners, acting under the presumption that the board entering into such contract had full and complete legal authority to do so, when in fact such contract should have been entered into by county commissioners, and such plans or specifications have been submitted to and accepted for the benefit of such county or district by the board with which the contract or agreement was made, the county commissioners of said county may, by resolution, recognize the moral obligation of the county, and provide for the payment of the fees of such architect or engineer for the preparation of such plans or specifications, or such part thereof as to them seems just and proper, out of the county funds.

Section 2. All acts or parts of acts inconsistent with this act are hereby repealed.

APPROVED—The 19th day of March, A. D. 1923.

GIFFORD PINCHOT.

No. 14.

AN ACT

To amend section two of the act, approved the thirteenth day of March, one thousand eight hundred and fifteen (Pamphlet Laws, one hundred and fifty), entitled "An act concerning divorces," as amended; authorizing prothonotaries and clerks of the court of common pleas to take affidavits to petitions and libels, and validating prior proceedings in which such affidavits were taken.

Divorce

Section 2, act of
March 13, 1815
(P. L. 150), as
amended by act of
May 8, 1919 (P.
L. 164), amended.

Section 1. Be it enacted, &c., That section two of the act, approved the thirteenth day of March, one thousand eight hundred and fifteen (Pamphlet Laws, one hundred and fifty), entitled "An act concerning divorces," which, as amended by the act, approved the eighth day of May, one thousand nine hundred and nineteen (Pamphlet Laws, one hundred and sixty-four), entitled "An act to amend section two of an

act, approved the thirteenth day of March, one thousand eight hundred and fifteen (Pamphlet Laws, one hundred and fifty), entitled 'An act concerning divorces,' as amended, by changing the time for making service of the subpoena upon the respondent, and validating divorces heretofore granted where service was made personally at any time before the return day, or where a return of non est inventus has been sworn to at any time prior to the return day," is hereby further amended to read as follows:—

Section 2. And be it further enacted by the authority aforesaid, That if any person hath been or shall be injured as aforesaid, the husband or the wife 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 cause 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 the prothonotary or clerk of the court of common pleas, or any person in the county legally authorized to take acknowledgments, that the facts contained in the 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 upon the said party, wherever found, or that a copy had been given to him or her on or before the return day 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 said process may be returnable, or afterwards, at which hearing the court may determine the same ex parte, if necessary; but either of the parties who shall desire any matter of fact, that is affirmed by the one and denied by the other, to be tried by a jury, may take a rule upon the opposite party, to be allowed by a judge of the court of common pleas, to show cause why the issues of fact set forth in the said rule shall not be tried by a jury, which said rule shall be served upon the opposite party or his or her counsel. Upon the

Procedure.

Jurisdiction.

Petition.

Affidavit.

Prothonotary or clerk of court.

Subpoena.

Service of process.

Rules and orders.

Jury trial.

Trial by court.

Master.

Validation where
service was defec-
tive.

Validation where
oath was taken be-
fore clerks or pro-
thonotary.

return of said rule, after hearing, the court may discharge it or make it absolute, or frame issues itself, and only the issues as ordered by the court shall be tried accordingly; but such rule shall not be made absolute when, in the opinion of the court, a trial by a jury cannot be had without prejudice to public morals. When neither of the parties takes a rule as aforesaid, or when after hearing the rule is discharged, the court may proceed to hear the cause, or may, upon motion of either party, appoint a master to take the testimony and return the same to the court, together with a report of the proceedings had before him and his opinion of the case, and may, upon the application of either party, and upon such terms as it may order, authorize and direct the master to take testimony of witnesses in any other country, State, or Territory, subject to the jurisdiction of the United States, or in any foreign country. And the said court shall have power to adopt rules regulating the proceedings before the master and fixing his fees.

Whenever heretofore any subpoena in divorce has been regularly issued according to law, and the sheriff of the proper county has served such subpoena personally on the respondent therein any time prior to the return day thereof, or whenever the sheriff of the proper county has at any time prior to such return day made oath to a return of non est inventus to such subpoena, whether such sworn return be filed with the prothonotary before or after such return day,—in all such cases such personal service shall be deemed lawful and valid, and such return of non est inventus and all proceedings in divorce otherwise valid in law based on such service or such return are hereby validated and made good in law.

All petitions and libels heretofore exhibited to any of the courts of common pleas, as provided for in this act, in which the accompanying affidavit or affirmation was taken before the prothonotary or clerk of the court of common pleas, be, and the same are hereby, validated and declared lawful; and no decree of divorce, heretofore or hereafter granted, in which the affidavit or affirmation to the petition or libel was taken as hereinbefore provided shall be declared void, but all such decrees be, and the same are hereby, validated and declared lawful.

APPROVED—The 19th day of March, A. D. 1923.

GIFFORD PINCHOT.