

MAINE STATE LEGISLATURE

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REVISION II.

REPORT

OF THE

COMMISSIONER

APPOINTED TO

REVISE THE PUBLIC LAWS

OF THE

STATE OF MAINE.

DOMESTIC RELATIONS.

TITLE V.

Augusta:

FULLER & FULLER, PRINTERS TO THE STATE.

1856.

TITLE FIFTH.

DOMESTIC RELATIONS.

- Chap. 59.* Marriage and its solemnization, record of births and deaths, parents and children, and the adoption of children.
60. Divorce and dissolution of marriages.
 61. The rights of married women.
 62. Masters, apprentices and servants.

Chapter 59.

MARRIAGE AND ITS SOLEMNIZATION, RECORD OF BIRTHS AND DEATHS, AND THE ADOPTION OF CHILDREN.

MARRIAGE AND ITS SOLEMNIZATION.

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CHAP. 59.*Marriage and its solemnization.*

Marriages prohibited within certain degrees.

R. S., c. 87, § 1.

Same subject.

R. S., c. 87, § 2.

Certain marriages void.

R. S., c. 87, § 3.

Bigamy prohibited.

R. S., c. 87, § 4.

Entry of intentions of marriage.

1852, c. 282, § 1.
R. S., c. 87, § 8.
1841, c. 8.

Certificate, when to be given; when to be withheld.

1852, c. 282, § 2.

Certificate to be filed of marriage out of the state.

SECT. 1. No man shall marry his mother, grandmother, daughter, granddaughter, stepmother, grandfather's wife, son's wife, grandson's wife, wife's mother, wife's daughter, wife's granddaughter, sister, brother's daughter, sister's daughter, father's sister, or mother's sister.

SECT. 2. No woman shall marry her father, grandfather, son, grandson, stepfather, grandmother's husband, daughter's husband, granddaughter's husband, husband's father, husband grandfather, husband's son, husband's grandson, brother, brother's son, sister's son, father's brother, or mother's mother's brother.

SECT. 3. No white person shall intermarry with any negro, Indian, or mulatto; and no insane person or idiot shall be capable of contracting marriage.

SECT. 4. All marriages contracted, while either of the parties has a former wife or husband living, are void, unless the former marriage was dissolved by a decree of divorce.

SECT. 5. All persons resident in this state intending to be joined in marriage shall cause notice of their intentions to be entered before their marriage in the office of the clerk of the town, in which they respectively dwell; and if there is no such clerk in the place of their residence, the like entry shall be made with the clerk of an adjoining town.

SECT. 6. The clerk shall deliver to the parties a certificate under his hand specifying the time, when notice of the intention of marriage was entered with him, which shall be delivered to the minister or magistrate, before he proceeds to solemnize the same; but no clerk shall issue such certificate to a male under twenty-one or a female under eighteen years of age, unless the applicant first presents to him the written consent of the parents or guardians of such minor, if he has any residing within this state; nor to any town pauper, when a list of the names of the paupers are deposited with him.

SECT. 7. When parties living in this state go into another state for that purpose, and a marriage is there solemnized, and they return to dwell here, they shall file a certificate or declaration of their marriage with the clerk of the town, in which each of them lived at the time, within seven days after their return under a penalty of ten dollars to be recovered by any person suing therefor, one half to his own use,

8 and the other half to the use of the town, in which the for-
9 feiture is incurred.

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1852, c. 282, § 3.

SECT. 8. When a male under twenty-one or a female un-
2 der eighteen years of age is to be married, the consent of
3 the parent, guardian, or other person having the care and
4 government of such party if within the state shall be first
5 obtained.

Consent of
parents, guar-
dians and
masters of
minors.
R. S., c. 87, § 7.

SECT. 9. Any person apprehending, that the contract of
2 matrimony is about to be entered into between persons,
3 either of whom there is reason to believe cannot lawfully
4 enter into such contract may file a caution and reasons in
5 the office of the clerk, where notice of their intentions
6 should be entered. After such caution is filed, if any of
7 said parties applies to the clerk to cause notice of the in-
8 tention of marriage to be entered, he shall withhold the
9 certificate, and as soon as convenient notify the person filing
10 such caution, of said application, and such person shall
11 within seven days after being so notified, unless the justices
12 shall certify that a longer time is necessary, procure the
13 decision of two justices of the peace of the same county af-
14 ter notice to both parties upon the sufficiency of the reasons
15 so filed forbidding the marriage; and their decision shall be
16 duly certified to said clerk, and he shall deliver or withhold
17 the certificate in accordance with such decision. If the de-
18 cision is, that the reasons are not sufficient to forbid the
19 marriage, the justices shall enter judgment for costs against
20 the applicant, and issue execution therefor.

Proceedings
when forbidden.

R. S., c. 87, § 9.

SECT. 10. When any residents of this state undertaking
2 to contract a marriage contrary to the preceding provisions
3 go into another state or country with intent to evade those
4 provisions and to return and reside in this state, and there
5 have their marriage solemnized, and afterwards return and
6 reside here, such marriage shall be deemed void in this state.

Marriage in
another state in
evasion of these
provisions, void.

R. S., c. 87, § 5.

SECT. 11. All marriages solemnized among the people
2 called Quakers or Friends in the form heretofore practiced
3 and in use in their meeting shall be good and valid and not
4 affected by any of the foregoing provisions; and the clerk or
5 the keeper of the records of the meeting, in which such mar-
6 riages are solemnized, shall once every year deliver a list
7 of all such marriages to the clerk of the town in which such
8 clerk resides, on penalty of forfeiting fifty dollars one half
9 to the use of the county, and the residue to the use of the
10 prosecutor.

Marriage among
Quakers.

R. S., c. 87, § 10.

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Justices, ministers and licensed preachers may solemnize.

1852, c. 287,
§ 1, 2,
R. S., c. 87,
§ 11, 12,
1855, c. 153, § 1.

Tenure of office of ministers and preachers.

R. S., c. 87, § 13.

Penalty for marrying persons in violation of these provisions.

R. S., c. 87, § 14.

Penalty for marrying by persons not authorized.

R. S., c. 87, § 15.

Persons so authorized, to keep a record and make return.

1846, c. 190, § 1.

Copies of such to be legal evidence.

SECT. 12. Every justice of the peace appointed for a county or for the state and residing therein, every ordained minister of the gospel, and every person licensed to preach by an association of ministers, religious seminary, or ecclesiastical body, duly appointed and commissioned for that purpose by the governor and council, may solemnize marriages within the limits of their appointment.

SECT. 13. Such ordained or licensed minister shall hold his office during the pleasure of the executive; and the commission shall be conclusive evidence, that he is an ordained or licensed minister, and when the commission is revoked, a copy of such revocation shall be filed in the clerk's office of said county.

SECT. 14. If any justice of the peace or minister commissioned as aforesaid knowingly and willfully joins any persons in marriage contrary to the provisions of this chapter, he shall forfeit and pay the sum of one hundred dollars, two third parts thereof to the use of the county in which the offense was committed, and the residue to the prosecutor, to be sued for and recovered by the county treasurer, or by the parent, guardian, or other person, under whose immediate care and government either of the parties was at the time of such marriage: and every justice or minister, against whom such recovery shall be had, is forbidden from joining any persons in marriage afterwards.

SECT. 15. If any person thus forbidden or any minister or other person, who is not authorized to solemnize marriages, joins any persons in marriage, on conviction thereof upon indictment he shall be punished by confinement to hard labor in the state prison for a term not exceeding five years, or by fine not exceeding one thousand dollars.

SECT. 16. Every such justice of the peace and minister of the gospel shall keep a record of all marriages solemnized by him, and within one year after the date of each marriage make a return to the clerk of the town, in which the marriage is solemnized, certifying the names of the parties and the places of their residence and the date of the marriage; and for any neglect to comply with this requisition, such justice or minister shall forfeit and pay the sum of fifty dollars one half to the use of the county and the other half to the use of the person suing therefor.

SECT. 17. An attested or sworn copy of the record of a marriage made and kept as before mentioned by a justice of

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3 the peace, or commissioned minister, or by the clerk of any
4 town, shall be received in all courts as evidence of the fact
5 of marriage; but where this cannot be produced, other evi-
6 dence may be admitted.

R. S., c. 87, § 17.

SECT. 18. No marriage solemnized before any known in-
2 habitant of this state professing to be a justice of the peace
3 or an ordained or licensed minister of the gospel duly
4 appointed and commissioned shall be deemed void, nor shall
5 its validity be in any manner affected by any want of juris-
6 diction or authority in the justice or minister, or by any
7 omission or informality in entering the intention of marriage,
8 provided the marriage is in other respects lawful and con-
9 summated with a full belief on the part of the persons
10 married or either of them, that they are lawfully joined in
11 marriage.

What marriages
to be valid, &c.

R. S., c. 87, § 18.

SECT. 19. If any town clerk makes out and delivers to
2 any person a false certificate of the entry of the intention
3 of matrimony knowing the same to be false in any particular,
4 he shall be fined one hundred dollars or be imprisoned for
5 the term of six months in the county, where the offense is
6 committed.

Penalty for false
certificate of
intention.

R. S., c. 87, § 20

SECT. 20. The clerk of every town shall return to the
2 clerk of the judicial courts for his county a transcript of all
3 the records of marriages made upon his books during the
4 year, for which he was clerk; and said clerk of the courts
5 shall record the same in a book to be kept for that purpose;
6 and be allowed from the county treasury for recording at
7 the rate of twelve cents a page.

Town clerk to
make annual
return of
marriages.

R. S., c. 87, § 21.

Record of births and deaths.

SECT. 21. Every town clerk shall record all births and
2 deaths, which occur in his town and come to his knowledge,
3 stating the time when each took place, and the names of the
4 parents if known for the fees allowed by law to be paid by
5 such town.

Town clerk to
record births
and deaths.

R. S., c. 38, § 1.

SECT. 22. Parents, householders, masters of work houses,
2 alms houses, prisons, and vessels, shall give notice to the
3 clerk of their town of the births and deaths, which take
4 place in their families, houses, or vessels, and the elder per-
5 son next of kin shall give notice of the death of his kindred.

Parents and
others to notify
clerk.

R. S., c. 38, § 2.

SECT. 23. Any person neglecting to perform the duty
2 required of him in the two preceding sections for the space

Penalty for
neglect.

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R. S., c. 38, § 3.

3 of six months shall forfeit and pay one dollar for each offense
4 to be recovered on complaint to the use of the town.

Parents and children.

Property of
minor children
to be applied to
their support in
certain cases.

SECT. 24. If any minor having a father alive has property
2 sufficient for his maintenance and education in a manner
3 more expensive, than his father can reasonably afford regard
4 being had to the situation of his father's family and to all
5 the circumstances of the case, the expenses of his mainte-
6 nance and education may be defrayed out of his own prop-
7 erty in whole or in part, and the charges therefor allowed
8 accordingly in the settlement of the guardian's account.

R. S., c. 88, § 1.

Guardian by
will.
R. S., c. 88, § 2.

SECT. 25. Every father by his last will may appoint a
2 guardian for his minor children, until the age of fourteen.

Illegitimate
children, &c.
R. S., c. 88, § 3.

SECT. 26. The mother of an illegitimate child may bind
2 him during minority.

Termination of
her power.

SECT. 27. The power of the mother to bind legitimate or
2 illegitimate children shall cease in case of her subsequent
3 marriage; and shall not be exercised during the continuance
4 of such marriage, either by herself or her husband.

R. S., c. 88, § 4.

Adoption of children.

Who may adopt.
Who may be
adopted.

SECT. 28. Any inhabitant of this state not married singly,
2 or any husband and wife jointly, may petition the judge of
3 probate for their county for leave to adopt a child not theirs
4 by birth, and for a change of his name; but a written con-
5 sent must be given to such adoption by the child, if of the
6 age of fourteen years, and by each of his living parents who
7 is not hopelessly insane or intemperate; if there are no such
8 parents, then by the legal guardian; if there is no such guard-
9 ian, then by the next of kin in this state; if there is no such
10 kin, then by a discreet and suitable person appointed by
11 said judge to act in the proceedings as the next friend of
12 such child.

1855, c. 189,
§ 1, 2, 3, 4, 8, 9.

Proceedings in
probate court for
this purpose.

SECT. 29. Thereupon if the judge is satisfied of the identity
2 and relations of said parties; of the ability of the petitioners
3 to bring up and educate the child properly having reference
4 to the degree and condition of his parents, and of the fitness
5 and propriety of such adoption, he shall make a decree set-
6 ting forth the facts and declaring, that from that date such
7 child shall to all legal intents and purposes be deemed the
8 child of the petitioners, and that his name is thereby changed
9 without requiring public notice thereof.

1855, c. 189,
§ 5, 9.

SECT. 30. By such decree the natural parents shall be
 2 divested of all legal rights whatever in respect to such child,
 3 and he shall be free from all legal obligations of obedience
 4 and maintenance in respect to them; and shall be deemed
 5 for the custody of the person and right of obedience, *but not*
 6 *of inheritance*, to all intents and purposes the child of his
 7 adopters as if they had been his natural parents.

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 Legal effect of
 such adoption.

1855, c. 189, § 67.

SECT. 31. Any petitioner or any such child by any next
 2 friend may appeal to the supreme court of probate from any
 3 such decree in the same manner and with the same effect, as
 4 in other cases, except that no bond to prosecute his appeal
 5 shall be required of such child or next friend, nor any costs
 6 awarded against either.

Appeal from the
 decree of the
 probate court.

1855, c. 189, § 10.

Chapter 60.

DIVORCE AND DISSOLUTION OF MARRIAGES.

- Sect. 1. Certain marriages void without divorce.
2. For what causes a divorce may be granted.
 3. Jurisdiction when the wife is libellant.
 4. Evidence not restricted to facts happening in the state.
 5. What shall be alleged in the libel, and when tried by a jury.
 6. Issue not debarred from inheritance by a divorce.
 7. Libel, manner of filing and service.
 8. Lien on lands of the husband.
 9. Provision for the wife on divorce for impotency.
 10. Dower and provision for the wife in case of divorce for other causes. Ali-
 mony.
 11. Provision in case of divorce for adultery of the wife. Exceptions.
 12. Libel for annulling a marriage.
 13. No decree in such case without notice.
 14. Issue, when illegitimate after divorce.
 15. Issue when legitimate.
 16. Same subject.
 17. Court may free the wife from restraint pending the libel.
 18. Disposal of the children on a divorce.
 19. Power of the court to use compulsory process.
 20. Decrees of other states, when void in this.
 21. When valid.
 22. Court may grant a new trial within three years.
 23. Provision and support of the wife pending a libel.
 24. Divorce from bed and board, causes.
 25. Proceedings in such cases, wife libellant.
 26. Proceedings in such cases, husband libellant.
 27. Provisions of § 17, 18 applicable.
 28. Collusion prevents divorce.

SECT. 1. All marriages prohibited by law as specified in
 2 sections one, two, three, and four, of chapter fifty-nine, if
 3 solemnized in this state, are absolutely void without any

Certain mar-
 riages void
 without divorce.

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R. S., c. 89, § 1.

For what causes a divorce may be granted.

1850, c. 171, § 1.
1849, c. 116, § 1.

Jurisdiction when the wife is libellant.

1850, c. 171, § 1.

Evidence not restricted to facts happening in the state.

1850, c. 171, § 2.

What shall be alleged in the libel, and when tried by a jury.

1849, c. 116, § 2.
R. S., c. 89, § 31.

Issue not debarred from inheritance by a divorce.

R. S., c. 89, § 3.

Libel, manner of filing and service.

R. S., c. 89, § 8, 9.
1850, c. 171, § 3.

Lien on lands of the husband.

4 decree of divorce or other legal process; and the sentence
5 of either party to imprisonment for life in the state prison
6 and confinement under such sentence shall dissolve the bond
7 of matrimony without any legal process.

SECT. 2. A divorce from the bonds of matrimony may be
2 decreed by any justice of the supreme judicial court at any
3 term thereof in the county, in which either of the parties
4 resides at the time of filing the libel, when in the exercise
5 of a sound discretion he deems the same reasonable and
6 proper, conducive to domestic harmony, and consistent with
7 the peace and morality of society.

SECT. 3. When the libellant is the wife residing in this
2 state and the marriage took place in this state, or the par-
3 ties after the marriage cohabited in this state as man and
4 wife, the court shall have jurisdiction.

SECT. 4. The libellant shall not be restricted at the trial
2 to proof of causes happening within the state, or when either
3 of the parties resided in the state, but may allege and prove
4 any facts shewing that a decree should be granted.

SECT. 5. The libellant shall particularly allege in the libel
2 the causes, for which the divorce is asked, and prove the
3 same. If either party requests it, or if the court so orders,
4 the matter shall be submitted to a jury, and if they find
5 the allegations in the libel are true, and that a divorce ought
6 to be granted according to the rule prescribed in section
7 two, the court shall decree the same.

SECT. 6. No divorce from the bonds of matrimony shall
2 bar the issue of the marriage from inheriting; but the ques-
3 tion of the right of such issue shall remain unaffected by
4 anything in this chapter.

SECT. 7. The libellant may file the libel signed by him in
2 the office of the clerk of the court, in which shall be set
3 forth, as particularly as may be, the causes of complaint;
4 and shall cause the other party if in the state to be served
5 with an attested copy thereof and a summons at least four-
6 teen days before the session of the court, in which the trial
7 is to be had; or in all cases the libel may be presented to
8 the court in session in any county; and such court shall
9 order, what notice shall be given to the other party and the
10 manner of giving it returnable in the county, where the
11 libellant resides.

SECT. 8. When the libel is filed by the wife in the clerk's
2 office or presented to the court in session praying for a
3 divorce from bed and board, and she causes legal notice to

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4 be served on the husband, all his lands in the state shall be
5 thereby held to answer the order and judgment of court,
6 in case a divorce is decreed, if a lien is prayed for in the libel.

R. S., c. 89, § 10.

SECT. 9. When a divorce is decreed for the impotence of
2 either of the parties, the wife shall have all her lands
3 restored to her; and the court may enter a judgment for
4 all or such part of her personal estate, which came to her
5 husband's hand by virtue of the marriage or the value there-
6 of, as they judge to be reasonable; and may use all neces-
7 sary process to compel the husband to disclose on oath, what
8 personal estate of the wife so came to his hands, how it was
9 disposed of, and how much remained in his hands at the
10 time of divorce.

Provision for the wife on divorce for impotency.

R. S., c. 89, § 15.

SECT. 10. When a divorce is decreed to the wife on her
2 libel for the fault of the husband for any cause except im-
3 potence, she shall be entitled to her dower in the husband's
4 estate to be recovered assigned and set out to her in the
5 same manner, as though he was dead; and the real estate,
6 which he held in her right, the court may assign to her for
7 her own use; and also the personal estate which the husband
8 received in virtue of the marriage or its equivalent in mon-
9 ey, as the court deems reasonable. The court may also
10 decree to the wife reasonable alimony out of the husband's
11 estate or of the rents and profits thereof to be assigned and
12 set out to the wife during her natural life, as may be neces-
13 sary therefor; or instead of alimony the court may decree
14 a specific sum of money to be paid by the husband to the
15 wife, and employ all necessary legal process to carry the
16 decrees aforesaid into execution.

Dower and provision for the wife in case of divorce for other causes. Alimony.

1854, c. 100.

SECT. 11. Where the divorce is decreed on the libel of the
2 husband for adultery committed by the wife, he shall hold
3 her personal estate forever and her real estate, of which she
4 was seized during coverture during his natural life, if they
5 had a child born alive during the marriage; otherwise dur-
6 ing her natural life only, if he should survive her; but the
7 court may allow her for her subsistence so much of her per-
8 sonal or real estate, as is necessary; but this section shall
9 not apply to the property of the wife owned or acquired
10 under the provisions of chapter sixty-one.

Provision in case of divorce for adultery of the wife. Exceptions.

R. S., c. 89, § 18.

SECT. 12. When the validity of a marriage is denied or
2 doubted, either party may file a libel for annulling it, as a
3 libel for a divorce; and upon due proof of the nullity or of
4 the validity of the marriage it shall be declared void or
5 affirmed by sentence of the court.

Libel for annulling a marriage.

R. S., c. 89, § 21.

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No decree in
such case
without notice.

R. S., c. 89, § 22.

Issue, when
illegitimate after
divorce.

R. S., c. 89, § 23.

Issue, when
legitimate.

R. S., c. 89, § 24.

Same subject.

R. S., c. 89, § 25.

Court may free
the wife from
restraint pending
the libel.

R. S., c. 89, § 26.

Disposal of the
children on a
divorce.

R. S., c. 89, § 27.

Power of the
court to use
compulsory
processes.

R. S., c. 89, § 28.

SECT. 13. No such decree of dissolution or affirmation shall prejudice the rights of the party against whom it is passed, unless he was personally notified to answer to the libel, or appeared and answered to it.

SECT. 14. Upon dissolution of a marriage by divorce on sentence of nullity on account of consanguinity or affinity between the parties, or of any marriage between a white person and a negro, indian, or mulatto, the issue of the marriage shall be deemed illegitimate.

SECT. 15. If the dissolution of the marriage is on account of the nonage, insanity, or idiocy of either of the parties, the issue of the marriage shall be deemed the legitimate issue of the parent, who at the time of the marriage was capable of contracting marriage.

SECT. 16. When a marriage is dissolved on account of a prior marriage of either of the parties, and it appears, that the second marriage was contracted in good faith and in the full belief of the parties, that the former husband or wife was dead, that fact shall be stated in the sentence of divorce or nullity; and the issue of such second marriage begotten before the commencement of the suit, shall be deemed the legitimate issue of the parent, who at the time of marriage was capable of contracting; and such legitimacy shall be presumed on the same principles of evidence, as in a case where both parties were able to contract lawful marriage at the time of the solemnization of the supposed marriage.

SECT. 17. After a libel is filed for the dissolution of a marriage or for a divorce from the bond of matrimony, the court may in any county on the petition of the wife prohibit the husband from imposing any restraint on her personal liberty during the pendency of such libel.

SECT. 18. The court when decreeing the dissolution of a marriage or a divorce from the bond of matrimony may make such further decree, as they judge expedient, concerning the custody, care, and maintenance, of the minor children of the parties; and may determine with which of the parents any of the children shall remain; and may from time to time revise and alter such decree, as the circumstances of all concerned require or render expedient.

SECT. 19. The court in the execution of the powers given to them in this chapter may employ such compulsory process as they deem proper, by execution, attachment, or other effectual form.

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SECT. 20. When an inhabitant of this state goes into any other state or country in order to obtain a divorce for any cause, which occurred here and while the parties resided here, or for any cause which would not authorize a divorce by the laws of this state, a divorce so obtained shall be void in this state.

Decrees of other states, when void in this.

R. S., c. 89, § 29.

SECT. 21. In all other cases a divorce decreed in any other state or country according to the law of the place by a court having jurisdiction of the cause and of both the parties shall be valid in this state.

When valid.

R. S., c. 89, § 30.

SECT. 22. The justices of the supreme judicial court may at their discretion and on such conditions, as they may impose, within three years from the former decree grant a new trial in cases of divorce, when the parties have not lived together since the former trial, on application of the party aggrieved by the judgment then given.

Courts may grant a new trial within three years.

R. S., c. 89, § 32.

SECT. 23. Pending any libel for divorce the court may order the husband to pay the clerk for the use of the wife a reasonable sum of money to be expended by her in the defense or prosecution thereof, and to make reasonable provision for her separate support, and may enter such decree touching the care and custody of the minor children during the pendency of the libel, as they judge expedient, and enforce obedience by appropriate processes.

Provision and support of the wife pending a libel.

1853, c. 30.

SECT. 24. A divorce from bed and board may be decreed for extreme cruelty by either party, or when the husband cruelly neglects or refuses to provide suitable maintenance of his wife having sufficient ability. (a)

Divorce from bed and board, causes.

R. S., c. 89, § 6.

SECT. 25. Whenever such divorce is decreed, and there be no living issue, the wife is to be restored to her lands, and be allowed such alimony, as may be reasonable regard being had to the personal property acquired by the husband by the marriage and to his ability; if there be issue living, the court may exercise a discretion respecting the restoration of property and granting alimony. Its decree may be altered, as may be found to be just and reasonable. For these purposes the court may order the real estate of the husband, or any part of it, or of its rents and profits, to be set out to the wife during life.

Proceedings in such cases.

Idem, § 19.

SECT. 26. When such a divorce is decreed for cruelty of the wife, the court may decree to her a restoration in whole or a part of her land or alimony at discretion.

In case of cruelty by wife. Idem, § 20.

(a) The provisions of R. S., c. 89, respecting divorces from bed and board do not appear to have been repealed. *Motley vs. Motley*, 31, Me. 490. *Elevell vs. Elevell*, 32, Me. 337.

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Provisions of
§ 17 and 18,
applicable.
Idem, § 26, 27.

In cases of
collusion, &c.,
no divorce.
Idem, § 7.

SECT. 27. The provisions contained in the seventeenth
2 and eighteenth sections of this chapter are applicable to
3 cases of divorce from bed and board.

SECT. 28. When it appears, that there is collusion between
2 the parties to procure any divorce, or when both parties
3 have been guilty of adultery, no divorce is to be decreed.

Chapter 61.

RIGHTS OF MARRIED WOMEN.

- Sect.* 1. A married woman may acquire and dispose of property, exceptions.
2. Marriage does not vary her rights of property.
3. She may sue and be sued as a feme sole.
4. Her husband not liable for her debts contracted before marriage.
5. Wife dying intestate, her estate descends to her heirs, exception.
6. Husband and wife may make marriage settlement.
7. Wife, when husband absconds, or in state prison may contract.
8. Her contracts so made binding, she may sue and be sued on them.
9. Damages awarded for real estate of wife invested for her use.
10. Wife coming from another state without her husband, powers.
11. Wife's expenses for last sickness to be paid from her estate.

SECT. 1. A married woman of any age may own in her
2 own right real and personal estate acquired by descent, gift,
3 or purchase; and may manage, sell, convey, and devise the
4 same by will, as if sole and without the joinder or assent of
5 her husband; except real estate directly or indirectly con-
6 veyed to her by her husband or paid for by him, or given or
7 devised to her by his relatives, which cannot be conveyed by
8 her without the joinder of her husband in such conveyance.
9 When it appears, that payment was made for property con-
10 veyed to her from the property of her husband, or that it
11 was conveyed by him to her without a valuable consideration
12 paid therefor, it may be taken as the property of her hus-
13 band to pay his debts contracted before such purchase. (a)

SECT. 2. A woman having property is not deprived of any
2 part of it by her marriage since the act approved on March
3 twenty-two eighteen hundred and forty-four was in force;
4 and a husband by marriage since that time acquires no right
5 to any property of his wife. His rights acquired before that
6 time are not affected by the provisions of this chapter. A
7 married woman may release to her husband the right to con-
8 trol her property or any part of it and to dispose of the

A married
woman may
acquire, hold,
convey and
devise real and
personal estate,
as if unmarried,
&c.

1844, c. 117, § 1.
1847, c. 27, § 2.
1848, c. 73, § 3.
1856, c. 250.

A woman does
not lose, and a
husband does
not acquire
rights to her
her property by
marriage, &c.

9 income thereof for their mutual benefit, *and may in writing*
10 *revoke the same.*

1844, c. 117, § 2, 3.

SECT. 3. She may prosecute and defend suits at law or in
2 equity for the preservation and protection of her property
3 as if unmarried, or may do it jointly with her husband.
4 Neither of them are liable to arrest on any such writ or exe-
5 cution. The husband cannot alone maintain any action
6 respecting his wife's property.

She may sue and defend. Not liable to arrest, &c.

1848, c. 73.
1852, c. 227.
1855, c. 120.

SECT. 4. A husband married since April twenty-six eigh-
2 teen hundred and fifty-two is not liable for any debts of his
3 wife contracted before her marriage. The wife continues to
4 be liable for such debts, and a suit may be maintained
5 against her and her husband to obtain payment from her
6 estate, and it may be defended by them or by her alone.
7 Her property is liable to be taken to satisfy any execution
8 against her as if unmarried.

Husband not liable for wife's debts contracted before marriage. Wife continues liable as her property does.

1852, c. 291.

SECT. 5. When a married woman dies intestate, her prop-
2 erty descends to her heirs; and administration and dis-
3 tribution may take place, as if she had not been married.
4 *When she so dies leaving lineal descendants her husband is*
5 *entitled to the use of one third part, and when she leaves no*
6 *lineal descendants to the use of one half, of her real estate*
7 *during his life to be assigned or recovered in the same man-*
8 *ner and with the same rights as dower.*

Wife dying intestate her estate descends to her heirs. Husband to have one-third or one-half her real estate for life.
1852, c. 291.

New. R. 1.

SECT. 6. *Husband and wife by a marriage settlement*
2 *executed in the presence of two witnesses before marriage*
3 *may determine, what rights each shall have in the other's*
4 *estate during the marriage and after its dissolution by death;*
5 *and may bar each other of all rights in their respective*
6 *estates not so secured to them.*

Husband and wife may determine their rights in each other's estate by a marriage settlement.
Now.

SECT. 7. When a husband abandons his wife and leaves
2 the state without making sufficient provision for her mainte-
3 nance, and when he is confined in the state prison in exe-
4 cution of a sentence, the supreme judicial court on her
5 application may authorize his wife during such absence or
6 confinement to make contracts under seal or otherwise.
7 And may authorize any person holding personal property to,
8 which the husband is entitled in her right, to pay or deliver
9 the same to her, which she may dispose of, and for which she
10 may make a valid discharge. Such application is to be pre-
11 sented in any county and notice thereof given, as in case of a
12 libel for divorce, before such powers are given.

Wife authorized to make contracts and to receive her property when her husband has abandoned her or been confined in state prison.

R. S., c. 87,
§ 22, 25, 26,
28, 30.

SECT. 8. All contracts lawfully made by her by virtue of
2 such power are binding upon her and her husband, and

Her contracts so made binding, &c.

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3 during such absence or confinement she may sue and be sued
4 thereon and for all acts done by her, and execution may be
5 enforced against her, as if unmarried. No such suit is
6 abated by the return or release of the husband, but he may
7 on application be admitted to prosecute or defend jointly
8 with her.

R. S., c. 87,
§ 27, 28.

Damages
awarded to real
estate of wife
secured to her.

SECT. 9. When the real estate of a married woman is
2 taken or damaged for public use the amount awarded there-
3 for is to be so invested as to secure to her the same benefits,
4 as she would have had from the estate. The court may on
5 her application hear and decide upon the rights according
6 to the course of chancery proceedings.

Idem, § 31.

Wife coming
from another
state without
her husband;
powers.

SECT. 10. When a married woman comes from any other
2 state or country and remains in this state without living
3 with her husband, she may make contracts, dispose of prop-
4 erty, sue and be sued, as if unmarried. When her husband
5 comes and claims his marital rights, the effect upon her
6 contracts and suits is to be the same, as if they were then
7 first married.

Idem, § 32, 33.

Expenses of
wife's last
sickness paid
from her
estate.
1856, c. 251.

SECT. 11. The administrator of a deceased married woman,
2 whose husband survives, may pay all reasonable expenses
3 occasioned by her last sickness.

Chapter 62.

MASTERS, APPRENTICES AND SERVANTS.

- Sect.* 1. Binding of minors under fourteen years of age.
2. Binding of minors above the age of fourteen.
3. Indentures in such cases.
4. By whom indentures shall be kept.
5. Consideration, how secured.
6. Indentures to be binding.
7. Void on the death of the master.
8. Minor not to be transferred, nor transported from the state.
9. Remedies of parties same as provided in § 15, 18, 19, of chapter 24.

Binding of
minors under
14 years of age.

SECT. 1. Children under the age of fourteen years may
2 be bound as apprentices or servants until that age without
3 their consent by their father, if living; and if not, by their
4 mother or legal guardian; and if they have no parent or
5 guardian, they may bind themselves with the approbation of
6 the municipal officers of the town, where they reside.

R. S., c. 90, § 1.

Binding of
minors above the
age of 14.

SECT. 2. Minors above the age of fourteen years may be
2 bound in the same manner with their consent, which shall
3 be distinctly expressed in the indenture signed by them;

4 females to the age of eighteen years, or to the time of their
5 marriage within that age, and males to the age of twenty-
6 one years.

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R. S., c. 90, § 2.

SECT. 3. No minor of any age shall be bound as afore-
2 said, unless by an indenture of two parts signed sealed and
3 delivered by both parties; and when the minor binds him-
4 self as aforesaid by the consent of the municipal officers,
5 such consent shall be certified in writing signed by them on
6 each part of the indenture.

Indentures in
such cases.

R. S., c. 90, § 3.

SECT. 4. One part of the indenture shall be kept by the
2 master or mistress, to whom the minor is bound, and the
3 other part by the parent or guardian for the use of the
4 minor; and when made by the consent of the municipal offi-
5 cers as aforesaid, it shall be deposited with the town clerk.

By whom inden-
tures shall be
kept.

R. S., c. 90, § 4.

SECT. 5. All considerations allowed by the master or mis-
2 tress in any contract of service or apprenticeship shall be
3 secured by the indenture to the sole use of the minor; and
4 paid to such minor without any control on the part of the
5 parent or guardian at any time.

Consideration,
how secured.

R. S., c. 90, § 5.

SECT. 6. All indentures made in the manner and form
2 prescribed in this chapter shall be binding and effectual in
3 law against all parties thereto.

Indentures to be
binding.
R. S., c. 90, § 6.

SECT. 7. No indenture between any minor, his parent or
2 guardian, and any master or mistress, or their executors
3 and administrators, shall be binding on such minor, parent,
4 or guardian, after the death of such master or mistress; but
5 the indenture shall be deemed void from that time, and the
6 minor may be bound out anew as aforesaid.

Void on the
death of the
master.

R. S., c. 90, § 7.

SECT. 8. A minor thus bound shall not be transferable to
2 another person, nor transported out of the state, by his mas-
3 ter or mistress.

Minor not to be
transferred, &c.
R. S., c. 90, § 8.

SECT. 9. Parents and guardians parties to such indenture
2 and municipal officers, who have given their assent thereto,
3 may have the remedies, and the like proceedings may be
4 had, as is provided for overseers of the poor in behalf of
5 minors by section fifteen of chapter twenty-four, the master
6 or mistress have the like remedies and the proceedings may
7 be had as provided in the eighteenth and nineteenth sec-
8 tions of the same chapter.

Remedies of
parties same as
provided in § 15,
18, 19, of c. 24.R. S., c. 90,
§ 9, 10, 11.

