

MAINE STATE LEGISLATURE

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REPORT
OF
THE COMMISSIONER
ON THE
REVISION AND CONSOLIDATION
OF THE
PUBLIC LAWS
OF THE
STATE OF MAINE
UNDER
Resolve of April 4, 1913

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TITLE FIVE.

Domestic Relations.

- CHAP. 62. Marriage and its solemnization; registration of vital statistics. Parents and children. Protection of neglected children.
- 63. Divorce and the annulling of marriages.
- 64. The rights of married women.
- 65. Masters, apprentices and servants.

CHAPTER 62.

MARRIAGE AND ITS SOLEMNIZATION. REGISTRATION OF VITAL STATISTICS. PARENTS AND CHILDREN. PROTECTION OF NEGLECTED CHILDREN. MARRIAGE AND ITS SOLEMNIZATION.

Marriages prohibited within certain degrees. R. S., c. 61, § 1.

SEC. 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 grandmother, wife's daughter, wife's granddaughter, sister, brother's daughter, sister's daughter, father's sister, or mother's sister; and no woman shall marry her father, grandfather, son, grandson, stepfather, grandmother's husband, daughter's husband, granddaughter's husband, husband's father, husband's grandfather, husband's son, husband's grandson, brother, brother's son, sister's son, father's son, father's brother, or mother's brother.

Void marriages. R. S., c. 61, § 2.

SEC. 2. No insane person or idiot is capable of contracting marriage. (a)

Polygamy. R. S., c. 61, § 3.

SEC. 3. Marriages, contracted while either of the parties has a former wife or husband not divorced, living, are void.

Intentions of marriage to be recorded. R. S., c. 61, § 4. 1909, c. 75, § 1. 1913, c. 165.

SEC. 4. Residents of the state intending to be joined in marriage shall cause notice of their intentions to be recorded in the office of the clerk of the town in which each resides, at least five days before a certificate of such intentions is granted; and if one only of the parties resides in the state, they shall cause notice of their intentions to be recorded in the office of the clerk of the town in which such party resides, at least five days before such certificate is granted; 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; and if both parties reside out of the state they shall cause notice of their intentions to be recorded in the office of the clerk of the town in which such parties propose to have the marriage solemnized, at least five days before such certificate is granted; and the book in which such record is made, shall be labeled on the outside of its cover, "Record of intentions of marriage," and be kept open to public inspection in the office of the clerk.

—non-resident

Clerk to give certificate to parties, but not to minors without written

SEC. 5. The clerk shall deliver to the parties a certificate specifying the time when such intentions were entered with him; and it shall be delivered to the minister or magistrate before he begins to solemnize the marriage; but no such certificate shall be issued to a male under twenty-

(a) See c. 63, § 16; 46 Me., 510; 76 Me., 421, 595; 97 Me., 133.

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one, or to a female under eighteen years of age, without the written consent of their parents or guardians first presented, if they have any living in the state; nor to a town pauper when the overseers of such town deposit a list of their paupers with the clerk; and for an intentional violation of the foregoing prohibitions, or for falsely stating the residence of either party named in such certificate, such clerk forfeits twenty dollars.

SEC. 6. All (such) certificates of record of intentions of marriage, issued by the clerks of cities, towns or plantations, shall have conspicuously printed thereon the following words: "The laws of Maine provide for a fine not exceeding one thousand dollars or imprisonment not exceeding five years to be the punishment of any clergyman or other person, who shall solemnize a marriage within this state unless *commissioned or authorized by the governor of Maine*, to solemnize marriages (therein)." Following the above words, said certificate shall contain the blank form for the return to the clerk of the city, town or plantation, which blank shall contain (with) a space prepared for the entry of the date of the commission (or license issued) from the governor of Maine to the person solemnizing such marriage.

Note. This section as originally enacted is not in harmony with the law as enacted in P. L. 1909, c. 161, § 1. See § 12 of this chapter.

SEC. 7. Whoever contracts a marriage, or makes false representations to procure such certificate or the solemnization of marriage contrary to this chapter, forfeits one hundred dollars.

SEC. 8. When residents of this state go into another state for the purpose of marriage, and it is there solemnized, and they return to dwell here, they shall, on the blank prepared by the state registrar for that purpose, fill out and file a certificate of their marriage with the clerk of the town in which each of them lived, within seven days after their return. The clerk shall then record such marriage. Any person who fails to make the report of his marriage to the town clerk as is herein provided shall forfeit twenty dollars, half to the prosecutor, and half to the town where the forfeiture is incurred.

SEC. 9. Any person, believing that parties are about to contract marriage when either of them cannot lawfully do so, may file a caution and the reasons therefor, in the office of the clerk where notice of their intentions should be filed. Then if either party applies to enter such notice, the clerk shall withhold the certificate, until a decision is made by two justices of the peace, approving the marriage, after due notice to, and hearing all concerned; provided, that the person filing the caution, shall, within seven days thereafter, procure the decision of such justices, unless they certify that further time is necessary for the purpose. In which case a certificate shall be withheld until the expiration of the certified time. He shall, finally, deliver or withhold the certificate in accordance with the final decision of said justices. If the decision is against the sufficiency, the justices shall enter judgment against the applicant for costs, and issue execution therefor.

SEC. 10. When residents of this state, with intent to evade the provisions of sections one, two and three of this chapter, or of chapter sixty-three, and to return and reside here, go into another state or country, and there have their marriage solemnized, and afterwards return and reside here, such marriage is void in this state.

Note. The phrase "or of chapter sixty-three," was introduced into this section by P. L. 1883, c. 227, when the law provided for decrees nisi in divorce matters and contained restrictions upon remarriage. The words seem to be without force at the present time.

SEC. 11. Marriages solemnized among Quakers or Friends, in the form heretofore practiced in their meeting, are valid, and not affected by the foregoing provisions; and the clerk or the keeper of the records

consent of parents, or to paupers. R. S., c. 61, § 5.

—penalty.

Certificate of record of intentions of marriage, how printed. 1907, c. 65. See § 14.

Penalty for marrying unlawfully. R. S., c. 61, § 6.

Certificate of marriage out of the state to be filed. R. S., c. 61, § 7. 1909, c. 75, § 2.

—penalty.

Proceedings when marriage is forbidden. R. S., c. 61, § 8. 88 Me., 252.

Marriage in another state in evasion of law, void here. R. S., c. 61, § 9.

Marriage among Quakers. R. S., c. 61, § 10.

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Who may solemnize marriages.
R. S., c. 61, § 11.
1909, c. 161, § 1.
1911, c. 83.
18 Me., 310.
42 Me., 288.
72 Me., 548.
62 Me., 596.
See c. 2, § 40.

—application for license.

—secretary of state shall issue license.

—license or certified copy shall be received as evidence.

—revocation of license.

Penalty for joining persons in marriage in violation of law.
R. S., c. 61, § 13.
1909, c. 161, § 2.

Penalty for unauthorized solemnization of marriage.
R. S., c. 61, § 14.

Copy of record, legal evidence.
R. S., c. 61, § 15.
19 Me., 158.

Marriage valid, if consummated in good faith by either party.
R. S., c. 61, § 16.
6 Me., 149.
36 Me., 454.
61 Me., 177.
75 Me., 131.

Penalty for false certificate of intention.
R. S., c. 61, § 17.

Registrar of vital statistics.
R. S., c. 61, § 18.

of the meeting in which they are solemnized, shall make return thereof as provided in section twenty.

SEC. 12. Every justice of the peace *or* (and every) notary public residing in this state may solemnize marriages therein. The governor, with the advice and consent of the council, may appoint women, otherwise eligible under the constitution, to solemnize marriages, and women so appointed shall have the same rights and obligations in the solemnization of marriages as justices of the peace. Every ordained minister of the gospel, clergyman engaged in the service of the religious body to which he belongs, or person licensed to preach by an association of ministers, religious seminary or ecclesiastical body, whether a resident or non-resident of this state, and of either sex, may solemnize marriages therein after being licensed for that purpose, upon application duly filed with the secretary of state, as herein provided. Such application shall be made upon blanks furnished by the secretary of state which shall be signed by the applicant and set forth the necessary facts in the premises, which facts shall be certified to by the clerk, treasurer, or any of the municipal officers of the town wherein the applicant resides, or wherein the ceremony is to be performed. Upon receipt of such application the secretary of state shall issue to the applicant a license under the seal of the state to the effect that he is authorized to solemnize marriages in this state. Such license, or a certified copy thereof shall be received as evidence in all courts of his authority in the premises, and a copy of the record of any marriage solemnized by such licensee duly made and kept, attested or sworn to by the clerk of the town in which the marriage intention was recorded or in which the marriage was solemnized shall be received in all courts as evidence of the fact of marriage. Such license shall continue until revoked by the governor for cause, after notice and an opportunity to be heard thereon.

SEC. 13. Whoever knowingly and willingly joins persons in marriage contrary to this chapter, forfeits one hundred dollars, two-thirds thereof to the county where the offense is committed, and one-third to the prosecutor, to be 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 such offender is forbidden to join any persons in marriage thereafter.

SEC. 14. If any person thus forbidden, or any minister or other person not authorized to solemnize marriages, joins any persons in marriage, he shall be confined to hard labor in the state prison for not more than five years, or fined not exceeding one thousand dollars.

SEC. 15. A copy of a record of marriage duly made and kept, attested or sworn to by a justice of the peace, commissioned minister, or town clerk, shall be received in all courts as evidence of the fact of marriage.

SEC. 16. No marriage, solemnized before any known inhabitant of the state professing to be a justice of the peace, or an ordained or licensed minister of the gospel duly appointed and commissioned, is void, nor is its validity affected by any want of jurisdiction or authority in the justice or minister, or by any omission or informality in entering the intention of marriage, if the marriage is in other respects lawful, and consummated with a full belief, on the part of either of the persons married, that they are lawfully married.

SEC. 17. A town clerk who makes out and delivers to any person a false certificate of the entry of the intention of marriage, knowing it to be false in any particular, shall be fined one hundred dollars or imprisoned six months.

REGISTRATION OF VITAL STATISTICS.

SEC. 18. The secretary of the state board of health shall be the registrar of vital statistics for the state, and shall furnish to clergymen, and

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others authorized to marry, to sextons, to physicians, town clerks, clerks of the society of Friends, and clerks of courts, a copy of the provisions of this chapter relating to the registration of vital statistics, and suitable blanks for recording births, marriages, deaths and divorces, so printed, with appropriate headings, as readily to show the following facts and such others as may be deemed necessary to secure an accurate registration.

—shall furnish blanks, for record of birth, marriages, deaths and divorces.

I. The record of birth shall state its date and place of occurrence, full christian and surname, if named, color and sex of child, whether living or still-born, and the full christian and surnames, color, occupation, residence and birthplace of parents.

Record of birth.

II. The record of marriage shall state its date and place of occurrence, the name, residence, and official character of the person by whom solemnized, the full christian and surnames of the parties, the age, color, birthplace, occupation and residence of each, the condition, whether single or widowed, whether first, second or other marriage; and the full christian and surnames, residence, color, occupation and birthplace of their parents.

Record of marriage.

III. The record of death shall state its date, the full christian and surname of the deceased, the sex, color, condition, whether single or married, age, occupation, place of birth, place of death, the full christian and surnames and birthplaces of parents, and the disease or other cause of death, so far as known.

Record of death.

SEC. 19. The attending physician, accoucheur, midwife or other person in charge, who shall attend at the birth of any child, living or still-born, within the limits of any town or city in this state, shall report to the clerk of such town or city within six days thereafter, all the facts regarding such birth, as required in section eighteen.

Report of birth to town clerk.
R. S., c. 61, § 19.

SEC. 20. Every person authorized to unite persons in marriage shall make a record of every marriage solemnized before him, in conformity with the requisitions prescribed for blank records of marriages in section eighteen, and shall within six days thereafter, deliver or forward to the clerk of each town in which the marriage intention was recorded, and to the clerk of the town in which the marriage was solemnized, a copy of such record of marriage.

Copy of record of marriages, forwarded to town clerks.
R. S., c. 61, § 20.

SEC. 21. A physician who has attended a person during his last illness shall within twenty-four hours after the death of said person make a certificate stating, to the best of his knowledge and belief, the name of the deceased, his age, the disease of which he died, and the date of his death, and shall either deliver it to the person superintending the burial or leave it with the family of the deceased or at the said physician's office where it may be obtained when called for; and a physician or midwife who has attended at the birth of a child dying immediately thereafter, or at the birth of a still-born child, shall, when requested, forthwith furnish for registration a certificate, stating to the best of his knowledge and belief the fact that such child died after birth or was born dead. It shall be a misdemeanor for any person to make a false return in regard to any birth or death.

Physicians in attendance shall furnish certificate of name, age, disease and date of birth of deceased.
R. S., c. 61, § 21.

SEC. 22. Whenever any person shall die, or any still-born child be brought forth in this state, the undertaker, town clerk or other person superintending the burial of said deceased person, shall obtain from the physician attending such bringing forth or last sickness, a certificate, duly signed, setting forth as far as may be, the facts required by section twenty-one; and the undertaker or other person having charge of the burial of said deceased person, shall add to said certificate the other facts required by section eighteen; and having duly signed the same, shall forward it to the clerk of the town or city where said person died and obtain a permit for burial; and in case of any contagious or infectious disease, said certificate shall be made and forwarded immediately.

Town clerk shall be furnished with record of any death in town.
R. S., c. 61, § 22.
91 Me., 75.

—permit for burial.

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Notice of death from tuberculosis. 1909, c. 75, § 9.

If no attending physician in last sickness, clerk may issue certificate, upon such facts as can be obtained. R. S., c. 61, § 23.

Bodies of persons dying of cholera, etc. R. S., c. 61, § 24.

—certificate of cause of death.

—heart failure not deemed sufficient cause for a burial permit.

—permit, when body is brought into this state for burial.

Reports to clerk of births and deaths. R. S., c. 61, § 25. 1909, c. 75, § 3.

Birth, marriage or death, in unincorporated place. R. S., c. 61, § 26.

Clerk shall make certified copy of record on first Monday of each month. R. S., c. 61, § 27.

SEC. 23. When a town or city clerk receives a certificate of the death of any person who has died of tuberculosis in his town, he shall forthwith send a copy of said certificate to the health officer of his town or city, or where there is no health officer, to the secretary of the local board of health.

SEC. 24. In case of any deceased person not having had the attendance of a physician in his or her last sickness, the town clerk may issue and sign the certificate of death, upon presentation of such facts as may be obtained of relatives, persons in attendance upon said deceased person during said last sickness or present at the time of death, or from any other source, and the permit for burial shall be issued upon such information. Said certificate and permit shall not be required before burial in cases where it is impracticable to obtain the same within a reasonable time after death, but in all such cases said certificate shall be obtained as soon as practicable after death.

SEC. 25. No body of a deceased person whose death was caused by cholera, yellow fever, diphtheria, scarlet fever, typhus fever, typhoid fever, smallpox or other pestilential disease, shall be removed from place to place in this state by any railroad, steamboat or other common carrier, unless there shall be attached to the outer case in which said body is enclosed, a certificate from the board of health where such person died, stating the disease causing such death, and that necessary precautions against infection satisfactory to said board have been observed. A certificate of death giving heart failure as the only cause of death shall not be deemed sufficient upon which to issue a burial permit, and such certificate must be returned to the physician who made it for the proper correction and definition. If the body of a deceased person is brought into this state from without for burial, and if it is accompanied by a permit issued by the legally constituted authorities of the state from which it was brought, such permit shall be received as sufficient authority upon which the clerk of the town in which said body is to be buried shall issue a permit for burial; but if it is not accompanied by such permit, then the person or persons in charge of it shall apply for a burial permit to the clerk of the town in which it is to be buried, and the clerk of the town shall issue such permit when furnished with satisfactory information.

SEC. 26. Within six days following such events, parents shall report to the clerk of their city or town the births or deaths of their children; householders shall report every birth or death happening in their houses; the eldest person, next of kin, shall report the death of his kindred; the keeper of a workhouse, house of correction, prison, hospital, almshouse, or other institution, and the master or other commanding officer of a ship, shall report every birth or death happening among the persons under his charge; and parents and other persons enumerated in this section shall not be absolved from the duty of reporting births until the names of the children have been given to the clerk of the city or town in which the births occur.

SEC. 27. When a birth, marriage or death occurs in an unincorporated place, it shall be reported to the town clerk in the town which is nearest to the place at which the birth, marriage or death took place, and shall be recorded by the town clerk to whom the report is made; and all such reports and records shall be made and recorded and returned to the state registrar as is provided herein.

SEC. 28. The clerk of each town shall, on the first Monday of each month, made a certified copy of the record of all deaths and births recorded in the books of said town during the previous month, whenever the deceased person, or the parents of the child born were resident in any other town in this state at the time of said death or birth, or whenever they were recently resident in any other town, or whenever the remains

of any deceased person have been carried to any other town for burial and shall transmit said certified copies to the clerk of the town in which said deceased person or parents were resident at or near the time of said birth or death, or to which the remains of such deceased person have been carried for burial, stating in addition the name of the street and the number of the house, if any, where such deceased person or parents so resided, whenever the same can be ascertained; and the clerk so receiving such certified copies shall record the same in the books kept for recording deaths or births. Such certified copies shall be made upon blanks to be furnished for that purpose by the registrar of vital statistics.

—transmit to clerk of town where person or parents were resident at time of death.

—blanks.

SEC. 29. Except as provided in section twenty-four, no interment or disinterment of the dead body of any human being, or disposition thereof in any tomb, vault or cemetery, shall be made without a permit as aforesaid, from the clerk of the town or city where said person died, or in case of disinterment, is buried, nor otherwise than in accordance with such permit. No undertaker or other person shall assist in, assent to, or allow any such interment or disinterment to be made, except as provided in section twenty-four, until such permit has been given as aforesaid; and every undertaker or other person having charge of any burial place as aforesaid, who shall receive such permit, shall preserve and return the same to the clerk of the town in which the death occurred within six days after the day of burial.

No interment, or disinterment, shall be made without permit. R. S., c. 61, § 28. 1909, c. 75, § 4. See c. 126, § 42.

SEC. 30. The town or city clerk may appoint two suitable and proper persons, in each town or city, as sub-registrars, who shall be authorized to issue burial permits based upon a death certificate, as hereinbefore provided, in the same manner as is required of the town or city clerk; and the said death certificate upon which the permit is issued shall be forwarded to the town clerk within six days after receiving the same, and all permits by whomsoever issued shall be returned to the town clerk as required by section twenty-nine. The appointment of sub-registrars shall be made with reference to locality, so as to best suit the convenience of the inhabitants of the town, and such appointment shall be in writing and recorded in the office of the town or city clerk; the sub-registrars in any town shall hold office at the pleasure of the town clerk.

Sub-registrars may be appointed who may issue burial permits. R. S., c. 61, § 29. 1909, c. 75, § 5.

—how appointed.

SEC. 31. Town clerks and sub-registrars may issue burial permits to persons in contiguous towns, when by so doing it would be more convenient for those seeking a permit, but in all cases the permit shall be made returnable to the town clerk of the town in which the death occurred.

Clerks and sub-registrars may issue burial permits in contiguous towns. R. S., c. 61, § 30.

SEC. 32. The assessors shall, when taking the annual inventory, collect and return to the town clerk, before the first day of June, the births which have occurred within their respective jurisdictions during the year ending December thirty-first next preceding, together with the names of such children.

Assessors shall make return of all births. R. S., c. 61, § 31.

SEC. 33. The clerk of every town shall keep a chronological record of all births, marriages and deaths reported to him, or known to him, and shall, between the tenth and the fifteenth of every month, transmit to the state registrar a copy of the record of all births, marriages, and deaths which have occurred within the month next preceding, together with the names, residences, and official stations of all persons who have neglected to make returns to him in relation to the subject matters of such records, which the law required them to make, all to be made upon blanks to be prepared and furnished by the state registrar; and if no births, marriages, or deaths have occurred in the aforementioned period of time or month, for which returns are to be made, the town clerk shall send the state registrar a statement to that effect. Whenever a birth, marriage, or death, required by law to be returned to such clerk, is reported to him, or he learns of it, too late for inclusion in his returns as provided hereunder to the state registrar, he shall, after it is reported to him, or after

Town clerks required to make returns to state registrar, monthly. R. S., c. 61, § 32. 1907, c. 56.

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—copies shall be typewritten, or in legible hand.
1909, c. 75, § 10.

Clerks of courts required to make return of divorces, annually.
R. S., c. 61, § 33.

Duty of state registrar.
R. S., c. 61, § 34.

Appropriation.
R. S., c. 61, § 35.
1909, c. 75, § 6.

Clerk's record or certified copy, prima facie evidence.
R. S., c. 61, § 36.
Defective and erroneous records, how perfected.
1913, c. 157.

—town clerk shall file affidavit in a separate book.

—further proceedings.

he has knowledge of it, make due returns thereof to the state registrar forthwith. The registrar of vital statistics shall require all copies which are transmitted under the provisions of this section to be typewritten or written with black durable ink in a fair or legible hand, and any city or town clerk who neglects or refuses to make or cause to be made typewritten or fair and legible copies as required shall forfeit not less than twenty dollars, nor more than one hundred dollars, to the use of the state. (a)

SEC. 34. The clerks of courts for the several counties shall, annually, during the month of February, make returns to the registrar of vital statistics relating to libels for divorce in their respective counties for the calendar year next preceding. Such returns shall specify the following details; the number of divorces granted; and the names of the parties including the maiden name and any other former name of female, if any, when ascertainable.

SEC. 35. The state registrar shall cause the returns made to him in pursuance of the two preceding sections to be arranged alphabetically for convenient reference, and carefully preserved in his office. He shall annually make and publish a general abstract and report of the returns of the preceding year in such form as will render them of practical utility, not more than two thousand five hundred copies of which shall be printed and bound in cloth, one copy of which shall be forwarded to every town, one copy to each senator and representative, one copy to each state and territory in the union, and the remainder to such departments, libraries and persons as the state registrar shall direct.

SEC. 36. The sum of three thousand dollars a year, is hereby appropriated for printing and binding the circulars and blanks, for postage and expressage, and to defray the expenses of clerical work and the necessary traveling expenses of the state registrar in carrying out the provisions of this chapter relating to the registration of vital statistics.

SEC. 37. The town clerk's record of any birth, marriage or death, or a duly certified copy thereof, shall be prima facie evidence of such birth, marriage or death, in any judicial proceeding.

SEC. 38. If the record relating to a birth, marriage or death does not contain all the required facts, or if it is alleged that the facts are not correctly stated therein, the town clerk shall receive an affidavit containing the facts required for record, if made by a person who was required by law to furnish information for the original record, or, at the discretion of the town clerk, by one or more credible persons having knowledge of the case. The town clerk shall file such affidavit and record it in a separate book to be kept for that purpose, with the name and residence of any deponent and the date of such record, and shall thereupon draw a line through the incorrect statements in the original record without erasing them, and shall then enter the facts required to amend the record; and forthwith, if a copy of the record has been sent to the state registrar of vital statistics, shall forward to the registrar a certified copy of the corrected record upon blanks to be provided by said registrar; and the registrar shall thereupon amend the record in his office and state in the margin thereof his authority therefor. Reference to the record of the affidavit shall be made by the clerk on the margin of the original record. If the clerk furnishes a copy of such record, he shall certify to the facts contained therein as amended, and shall state in addition that the certificate is issued under the provisions of this section, a copy of which shall be printed on every such certificate. Such affidavit, or a certified copy of the record of any other city or town or of a written statement

(a) Clerks of cities shall transmit to the board of registration list of male persons over twenty-one years of age deceased since the preceding election; c. 5, § 26.

Clerks of cities and towns shall report to treasurer of state names of persons dying, and next of kin, c. 8, § 92.

made at the time by any person since deceased who was required by law to furnish evidence thereof, may, at the discretion of the clerk, be made the basis for the record of a birth, marriage or death not previously recorded, and such copy of a record may also be made the basis for completing the record of a birth, marriage, or death which does not contain all the required facts. Any oath which is required by the provisions of this section may be administered by the clerk or *assistant* (deputy) clerk of a city or town; they shall receive no fee therefor. *The clerk shall receive from his town for receiving and recording an affidavit and forwarding a copy thereof under the provisions of section one a fee of fifty cents.*

—oath may be administered by town clerk or assistant.
See c. 118, § 24.

[The commissioner has been unable to find authority for an "assistant clerk" for a city or town.]

SEC. 39. If any person shall wilfully neglect or refuse to perform any duty imposed upon him by the provisions of section eleven or of the twenty-one last preceding sections, it shall be a misdemeanor, and he shall be fined not more than one hundred dollars for each offense, for the use of the town in which the offense occurred, and the state registrar shall enforce this section as far as comes within his power; when the state registrar knows, or has good reason to believe, that any penalty or forfeiture hereunder has been incurred, he shall forthwith give notice thereof, in writing to the county attorney of the county in which said penalty or forfeiture has occurred, which notice shall state as near as may be, the time of such neglect, the name of the person or persons incurring the penalty or forfeiture, and such other facts relating to the default of duty as said state registrar may have been able to learn, and upon receipt of such notice the county attorney shall prosecute the defaulting person or persons.

Penalty for neglect of duty.
R. S., c. 61, § 37.

—state registrar shall enforce this section.

SEC. 40. The clerk of each city or town shall enforce, so far as comes within his power, sections eleven, nineteen, twenty, twenty-one, twenty-two, twenty-six, twenty-nine and thirty-two of this chapter, and when he knows of any birth, marriage or death, which is not reported to his office in accordance with the provisions of this chapter, he shall collect so far as he is able to do so, the facts called for in the blank certificates of birth, of marriage, or of death, as furnished by the state registrar, and shall record them as is herein prescribed; for each birth or death or marriage duly reported to the town clerk, physicians or *justices of the peace and ministers of the gospel* [persons solemnizing marriages] shall receive twenty-five cents from the town in which the birth or death or marriage has occurred.

Duties of clerks.
R. S., c. 61, § 38.
1909, c. 28.
1909, c. 75, § 7.
See c. 118, § 24.

—fees.

SEC. 41. When the state registrar of vital statistics believes that, in any place in this state, the records of births, marriages, or deaths are not made as is provided by law, or that any person neglects or fails to perform any duty provided in the law relating to the registration of vital statistics, the said registrar may visit such places and make such investigations as he may deem necessary, and all records, blanks and papers of town clerks relating to births, marriages or deaths shall be open to his examination; any person who refuses (to permit) such examination or hinders such investigation shall be punished by fine of not less than five, nor more than twenty dollars. All actual traveling and other necessary expenses thus incurred by the state registrar, or incurred in attending the prosecution of cases brought by county attorneys, under the provision of section thirty-nine, shall be paid by the state from the appropriation provided in section thirty-six, but not more than two hundred dollars shall thus be paid to the state registrar for such expenses in one year.

Duty of state registrar of vital statistics, in certain cases.
1909, c. 75, § 8.

—expenses, how paid.

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PARENTS AND CHILDREN.

Care and custody of children.
R. S., c. 61, § 39.
When parents live apart, judge of probate may decree as to care and custody.
R. S., c. 61, § 40.
See c. 70, § 3.
94 Me., 471.
—appeals.

S. J. Court not deprived of jurisdiction under c. 63.
R. S., c. 61, § 41.
94 Me., 471.

Mother may bind illegitimate child.
R. S., c. 61, § 42.

SEC. 42. Fathers and mothers shall jointly have the care and custody of the person of their minor children. (a)

SEC. 43. If the father and mother of a minor child are living apart from each other, the judge of probate in the county where either resides, on petition of either, and after such notice to the other as he may order, may decree which parent shall have the care and custody of the person of such minor as the good of the child may require; which decree shall be in force until further order of the judge of probate. An appeal shall lie from such decree to the supreme court of probate, which appeal shall be heard and determined by the justice presiding, but the decree of the judge of probate shall be in force until reversed.

SEC. 44. The two preceding sections shall not be construed to deprive the supreme judicial court of its jurisdiction over the care and custody of minor children, under the provisions of sections six and fourteen of chapter sixty-three relating to divorce proceedings.

SEC. 45. The unmarried mother of an illegitimate child may bind him during minority; but her right to bind legitimate or illegitimate children ceases at her marriage, and cannot be exercised by her or her husband while it continues.

[If c. 65 is repealed in accordance with the suggestion of the commissioner, this section should also be repealed.]

Widowed mothers, rights touching minors.
R. S., c. 61, § 43.
Administrators, etc., may pay funds to a minor not having a guardian.
1913, c. 161.
—payment not to exceed \$100.

SEC. 46. Widowed mothers have the same right to the custody and earnings of minor children without guardians, as a father has.

SEC. 47. Whenever, under any decree or order of the supreme judicial court of this state, or of any justice thereof, in term time or in vacation, or of any judge of any probate court in this state, any receiver, master, executor, administrator, trustee, guardian, or other person acting under authority of either of said courts, or any justice or judge thereof, shall have in his hands any funds not exceeding one hundred dollars to be distributed or paid to any person under the age of twenty-one years, not having a guardian legally appointed in this state, payment may be made directly to such minor, if such minor be ten years of age and such minor's receipt therefor shall be a sufficient voucher for such payment in the settlement in court of any account by the party who makes such payment, and shall discharge and release him from any and all further liability on account of the same. When said minor is under ten years of age the payment may be made to either parent at the discretion of said person paying said money; *provided, however*, that where the money is paid directly to said minor the person paying the same may, in his discretion, require on such receipt the counter signature of one or both of the parents of such minor, and when the minor is under ten years of age the person paying the same shall receive the receipt of either or both parents, or if neither parent is living may withhold payment until further order of court, or until the appointment of a guardian.

—when payment may be made to either parent.

PROTECTION OF NEGLECTED CHILDREN.

R. S., c. 61, § 44, providing a penalty for cruelty to children, has been transferred to chapter one hundred twenty, under the sub-title "Crimes Against Children."

Appointment of agent for protection of children.
1905, c. 123, § 1.
1907, c. 43, § 1.

SEC. 48. Upon application by the mayor and aldermen of any city, the selectmen of any town, or the president and a majority of the directors of any society for the protection of children, or prevention of cruelty to the same, the governor and council shall issue a badge and a commission

(a) Liability of parent for injury by minor to schoolhouse and school furnishings, c. 15, § 148; 90 Me., 312; 94 Me., 471.

to any suitable person designated in said application, appointing such person an "Agent for the protection of children," to serve within and for the county for which he or she shall be appointed and within which he or she shall reside, authorizing such agent to arrest persons charged with violating any law concerning the protection of children or the prevention of cruelty to the same, and to serve any process, civil or criminal, for the enforcement thereof, in the same manner and with the same powers in the premises as any sheriff, deputy sheriff, police officer or constable, and to perform such other duties as may be provided for by the six following sections; *provided* that the powers and duties of such agent shall be confined to the limits of the county for which he or she is appointed.

—jurisdiction.

—proviso.

SEC. 49. Any agent for the protection of children appointed as aforesaid and all sheriffs, deputy sheriffs, police officers and constables shall investigate all cases of cruel or injurious treatment of children coming to their knowledge, and shall cause offenders against any law concerning the protection of children or the prevention of cruelty to the same to be prosecuted. For their services in conducting such investigations said agents and officers shall be paid their actual expenses, and compensation at the rate of two dollars and fifty cents a day, for every day, and at the same ratio for every part of a day, in which they are actually engaged in making such investigation, by the county in which such services are rendered; and for the service of any process, civil or criminal which they may be authorized to serve, they shall be allowed the same fees as are now allowed officers by law for the service of any similar process; *provided, however*, that all claims of such agents or officers for such travel and services, expenses and fees shall first be audited and approved by the county commissioners of the county liable to pay for the same. All fines imposed for the punishment of such offenses shall be paid over to the county treasurer of the county in which the offense may have been committed.

Officers shall investigate cases of cruel or injurious treatment of children. 1905, c. 123, § 2. 1907, c. 43, § 2.

—compensation of officers.

—claims for compensation shall be audited by county commissioners.

SEC. 50. Any agent so appointed as aforesaid may arrest and bring before any court or magistrate having jurisdiction, any person offending against any law concerning the protection of children or the prevention of cruelty to the same. Such agent, or any sheriff, deputy sheriff, police officer or constable, may lawfully interfere to prevent the perpetration in his presence of any such offense or act prohibited by any law concerning the protection of children or the prevention of cruelty to the same, and whoever interferes with or obstructs such agent or any sheriff, deputy sheriff, police officer or constable in the discharge of his duty, is guilty of a misdemeanor, and shall be punished by fine not exceeding five hundred dollars or by imprisonment not exceeding six months.

Authority of agent and officers. 1905, c. 123, § 3. 1907, c. 43, § 3.

—punishment for obstructing officer. See c. 124, § 22.

SEC. 51. When complaint in writing, signed by any such agent so appointed, or any officer or agent of any society for the protection of children or the prevention of cruelty to the same, or by three or more citizens of any town or city, is made under oath to the judge of any (municipal or police) court, (probate court) or trial justice in the county in which said town or city is located, alleging that *such* (any) child in said town or city is cruelly treated or wilfully neglected by its parents or parent, or by the wilful failure of such parents or parent, is not provided with suitable food, clothing or the privileges of education, or is kept at or allowed to frequent any disorderly house, house of ill fame, gambling place or place where intoxicating liquors are sold, or other place injurious to health or morals, or that such child is an orphan without means of support or kindred of sufficient ability who will furnish such support, and praying that suitable and proper provision may be made for the care, custody, support and education of the child named in such complaint, the magistrate or judge to whom such complaint is made shall issue his war-

Complaint and hearing on cases of alleged abuse of children. R. S., c. 61, § 45. 1905, c. 123, § 4. 1907, c. 43, § 4. 1909, c. 109.

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rant and cause such child to be brought before him, and notice to be given to its parents or parent, if any, for such length of time as the judge or magistrate may see fit, either by service in hand or publication in such manner as the judge or magistrate may direct; the judge or magistrate may, if he deems it necessary, in his discretion, continue the case for hearing. If upon hearing it appears that the allegations of said complaint are true, and that it is suitable and proper that such child shall be supported and educated away from its parents or parent, he shall order it into the care and custody of such place or institution as is provided therefor by such town or city, or to such charitable institution or private person as he deems suitable, *provided* that such institution or person consents to receive, support and educate said child; but such order shall not extend beyond the time when such child arrives at the age of twenty-one years, if a male, or at the age of eighteen years, if a female; and pending any such continuance of the case before hearing and after hearing and until such institution or person can be found, the magistrate or judge may in his discretion if the circumstances appear to require it, order said child temporarily into the custody of any such agent so appointed, or of any such institution or suitable person consenting to receive said child, and the expense of the support of said child during such period until permanent provision can be made therefor, in the manner above specified, shall be paid by the town in which said child resides, and said town may recover the amount thereof from the parents or parent of said child, if any, as provided in section fifty-five of this chapter. An appeal by the parents or parent, or the guardian or lawful custodian of said child or children shall be allowed as in other civil cases in the same court, and when the case is in the probate court no appeal bond shall be required of the appellant. In all cases where an appeal is taken the order or decree which is appealed from shall be in force until reversed.

—judge or magistrate may order child into care of suitable person, or institution.

—support of child, how paid for.

—appeal. 1909, c. 79.

Petition by institution. R. S., c. 61, § 46. 1905, c. 123, § 4. 1907, c. 45, § 5.

SEC. 52. Upon petition of the superintendent of any such public or charitable institution asking for the care and custody of any such child, an order to the same effect, as provided for in the preceding section may be made by the judge of the probate court in any county where either of the parents or the parent of such child resides, if written consent be given as provided in section thirty-six of chapter seventy. Such orders and decrees provided for in this and the preceding section shall have the same effect to divest the parents or parent of all legal rights in respect to such child as specified in section thirty-eight of said chapter seventy, and said institution shall have full custody and control over said child thereafter for said time, and have authority alone to give the consent required in said section thirty-six.

Magistrate shall require such private person, to give bond. R. S., c. 61, § 47.

SEC. 53. Whenever the magistrate deems it suitable and conducive to the public welfare, that such child be placed under the control of a private person, he shall first take a bond from such person, running to the town where the child resides, in such sum and with such sureties as he approves, conditioned that such person shall humanely treat and properly support, clothe and educate the child, and in case of the non-performance of said bond, a suit may be commenced thereon, and the sum recovered upon such bond shall be paid into the treasury of the town to which the bond is given. Upon application to any magistrate, he shall examine into the condition and welfare of the children who have been provided for under this chapter, and may at any time make such further order in relation to their care, custody, support and education as justice demands.

—magistrate may examine into condition of such children.

SEC. 54. Whenever a child is in the custody of any public or charitable institution, the parents or either of them may make application in writing to any justice of the supreme judicial court to have its custody restored to them. Such notice of the application and the time and place of the hearing thereon as the court orders, shall be given to such institu-

Parents may make application to have custody restored to them. R. S., c. 61, § 49.

tion and to the municipal officers of the town where the proceedings herein provided were commenced, and if, upon such hearing, it appears that the applicant is of sufficient ability and inclination suitably to provide for its support and education, and that justice requires that its custody be restored to such applicant, the judge shall so order, and the custody and control of said child shall thereupon be given to such applicant until the further order of the court.

SEC. 55. Any town incurring expenses under the four preceding sections, through the fault of parents who are able properly to support and educate their children, but wrongfully neglect and refuse to do so, may recover of them, in an action of debt, the amount so expended.

SEC. 56. Any town may make proper provision for the support of children mentioned in the five preceding sections, and such support shall not make such children or their parents, paupers.

Note. Crimes against children, c. 120, §§ 27-37.
Criminal proceedings for desertion of families, c. 120, §§ 38-40.
Proceedings when child under age of sixteen years is arrested and charged with crime, c. 137, § 12.
Children in charge of state board of charities and corrections, c. 146, § 5.

—notice, hearing and order.

Expenses may be recovered of parents. R. S., c. 61, § 50.

Towns may provide for children. R. S., c. 61, § 51.

CHAPTER 63.

DIVORCE AND ANNULLING ILLLEGAL MARRIAGES.

SEC. 1. Marriages prohibited in sections one, two and three, of chapter sixty-two, if solemnized in this state, are absolutely void; and the sentence of either party to imprisonment for life and confinement under it, dissolves the bonds of matrimony, without legal process in either case.

Certain marriages void, without process. R. S., c. 62, § 1. 31 Me., 491. 32 Me., 589. 76 Me., 421. 97 Me., 133.

DIVORCE FROM BONDS OF MATRIMONY.

SEC. 2. A divorce from the bonds of matrimony may be decreed by the supreme judicial court in the county where either party resides at the commencement of proceedings, for causes of adultery, impotence, extreme cruelty, utter desertion continued for three consecutive years next prior to the filing of the libel, gross and confirmed habits of intoxication from the use of intoxicating liquors, opium or other drugs, cruel and abusive treatment, or on the libel of the wife, where the husband being of sufficient ability or being able to labor and provide for her, grossly and wantonly and cruelly refuses or neglects to provide suitable maintenance for her; *provided*, that the parties were married in this state or cohabited here after marriage, or if the libellant resided here when the cause of divorce accrued, or had resided here in good faith for one year prior to the commencement of proceedings, or if the libellee is a resident of this state. (a) But when both parties have been guilty of adultery, or there is collusion between them to procure a divorce, it shall not be granted. Either party may be a witness. (b) (The supreme judicial court has jurisdiction of libels for divorce in all counties except the county of Cumberland.)

In what cases divorce may be granted. R. S., c. 62, § 2. 1907, c. 148. 1913, c. 8.

(a) 32 Me, 338; 43 Me., 261; 45 Me., 379; 51 Me., 481; 54 Me., 366; 58 Me., 162, 514; 60 Me., 452; 61 Me., 377; 78 Me., 409; 88 Me., 120.

(b) 61 Me., 397; 69 Me., 535.

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Libel filed with clerk, or inserted in writ and served by summons and copy.
R. S., c. 62, § 3.
69 Me., 338.

Libellee's residence to be named in libel, when known.
R. S., c. 62, § 4.
87 Me., 492.
108 Me., 99.

Perjury, penalty for.
R. S., c. 62, § 5.

Pending libel, wife's expenses to be paid by husband.
R. S., c. 62, § 6.

Court may free wife from restraint pending libel.
R. S., c. 62, § 7.
Jury trial.
R. S., c. 62, § 8.
68 Me., 162.

Alimony, and other provisions for wife in case of divorce for husband's fault.
R. S., c. 62, § 9.
27 Me., 220.
41 Me., 230.
55 Me., 21.
59 Me., 150, 153.
60 Me., 452.
61 Me., 377, 398.
62 Me., 123.
65 Me., 409.
69 Me., 533.
107 Me., 35.

Provisions for husband in case of divorce for fault of wife.
R. S., c. 62, § 10.
69 Me., 533.

New trial within three years, when granted.
R. S., c. 62, § 11.
55 Me., 375.
63 Me., 424.
66 Me., 270.
—alimony.
64 Me., 420.
66 Me., 537.

SEC. 3. The libelant may file in the clerk's office a libel, signed by him, or insert it in a writ of attachment with power to attach real and personal property, to respond to the decrees of the court as in other suits; and service thereon shall be made by summons and copy, fourteen days before it is returnable; the court in any county or a justice thereof in vacation, may order notice as in other suits.

SEC. 4. When the residence of the libellee can be ascertained, it shall be named in the libel and actual notice shall be obtained; if the libellee is out of the state, notice shall be given in such manner and by such means as the court may order. When the residence of the libellee is not known to the libelant, and cannot be ascertained by reasonable diligence, the libellant shall so allege under oath in the libel.

SEC. 5. Whoever falsely and corruptly swears or affirms to any facts required as aforesaid, is guilty of perjury, and shall be, punished by imprisonment not less than two, nor more than ten years.

SEC. 6. Pending a libel, the court, or any justice thereof in vacation, may order the husband to pay to the clerk, for the wife, sufficient money for her defense or prosecution thereof, and to make reasonable provision for her separate support; enter such decree for the care and custody of the minor children as they think right; and enforce obedience by appropriate processes. (a)

SEC. 7. After a libel is so filed in any county, the court, on the petition of the wife, may prohibit the husband from imposing any restraint on her personal liberty during its pendency.

SEC. 8. If either party requests in writing filed with the clerk on or before the return day of the libel, or the court orders it, the case shall be submitted to a jury; and if they find the allegations are true, and that a divorce ought to be granted according to section two, the court shall so decree.

SEC. 9. When a divorce is decreed for impotence, the wife's real estate shall be restored to her, and the court may enter judgment for her against her husband for so much of her personal property as came to him by the marriage, or its value in money, as it thinks reasonable; and may compel him to disclose, on oath, what personal estate he so received, how it has been disposed of, and what then remains. When a divorce is decreed to the wife for the fault of the husband for any other cause, she shall be entitled to one-third, in common and undivided of all his real estate, except wild lands, which shall descend to her as if he were dead; and the same right to a restoration of her real and personal estate, as in case of divorce for impotence. The court may also decree to her reasonable alimony out of his estate, having regard to his ability; and to effect the purposes aforesaid, may order so much of his real estate, or the rents and profits thereof, as is necessary, to be assigned and set out to her for life; or instead of alimony, may decree a specific sum to be paid by him to her; and use all necessary legal processes to carry its decrees into effect.

SEC. 10. When a divorce is decreed to the husband for the fault of the wife, he shall be entitled to one-third, in common and undivided of all her real estate, except wild lands, which shall descend to him as if she were dead; and the court may allow him so much of her personal estate as seems reasonable. In all cases the right, title and interest of the libellee in the real estate of the libelant shall be barred by the decree.

SEC. 11. Within three years after judgment on a libel for divorce, a new trial may be granted as to the divorce when the parties have not cohabited, nor either contracted a new marriage since the former trial; and when either of the parties has contracted a new marriage since the former trial, a new trial may be granted as to alimony or specific sum

(a) 46 Me., 381; 65 Me., 409; 69 Me., 338.

decreed, on such terms as the court may impose and justice require, when it appears that justice has not been done through fraud, accident, mistake or misfortune.

SEC. 12. When residents of the state go out of it for the purpose of obtaining a divorce for causes which occurred here while the parties lived here, or which do not authorize a divorce here, and a divorce is thus obtained, it shall be void in this state; but in all other cases, a divorce decreed out of the state according to the law of the place, by a court having jurisdiction of the cause and of both parties, shall be valid here.

Divorces
decreed out
of the state.
R. S., c. 62, § 12.
9 Me., 146.
76 Me., 536.
78 Me., 189.

SEC. 13. A divorce does not bar the issue of the marriage from inheriting, or affect their rights.

Issue inherit.
R. S., c. 62, § 13.

SEC. 14. The court making a decree of nullity, or of divorce, or any justice thereof in vacation, may also decree concerning the care, custody and support of the minor children of the parties and with which parent any of them shall live, alter its decree from time to time as circumstances require; change the name of the wife, at her request; and in execution of the powers given it in this chapter may employ any compulsory process which it deems proper, by execution, attachment or other effectual form. (a)

Disposal of
minor children
and change of
name.
R. S., c. 62, § 14.
—compulsory
powers of
court.

ANNULLING ILLEGAL MARRIAGES.

SEC. 15. When the validity of a marriage is doubted, either party may file a libel as for divorce; and the court shall decree it annulled or affirmed, according to the proof; but no such decree affects the rights of the libellee, unless he was personally notified to answer, or did answer to the libel.

Illegal mar-
riages, how
annulled.
R. S., c. 62, § 15.
55 Me., 362.
76 Me., 422.
97 Me., 132.

SEC. 16. When a marriage is annulled on account of the consanguinity or affinity of the parties, the issue is illegitimate; but when on account of nonage, insanity or idiocy, the issue is the legitimate issue of the parent capable of contracting marriage.

Issue, when
legitimate,
and when not.
R. S., c. 62, § 16.
See c. 62, § 2.
76 Me., 422.

SEC. 17. When a marriage is annulled on account of a prior marriage, and the parties contracted the second marriage in good faith, believing that a prior husband or wife was dead, that fact shall be stated in the decree of nullity; and the issue of such second marriage, begotten before the commencement of the suit, is the legitimate issue of the parent capable of contracting.

Issue of sec-
ond marriage,
when
legitimate.
R. S., c. 62, § 17.

(a) 64 Me., 488; 65 Me., 409; 66 Me., 537; 80 Me., 483.

Note. Clerks of courts shall make return of libels for divorce to state registrar of vital statistics, c. 62, § 34.

CHAPTER 64.

RIGHTS OF MARRIED WOMEN.

Rights of married women to hold and dispose of property; exceptions. R. S., c. 63, § 1.

A woman does not lose, and a husband does not acquire, rights to her property by marriage. R. S., c. 63, § 2. 71 Me., 134.

May be paid for her labor, not done for her family. R. S., c. 63, § 3.

Husband not liable for wife's debts or torts; her property, but not her body, liable as if sole. R. S., c. 63, § 4.

SEC. 1. A married woman, of any age, may own in her own right real and personal estate acquired by descent, gift or purchase; and may manage, sell, convey, and devise the same by will, without the joinder or assent of her husband; but such conveyance without the joinder or assent of the husband, shall not bar his right and interest by descent in the estate so conveyed. Real estate directly conveyed to her by her husband, cannot be conveyed by her without the joinder of her husband, except real estate conveyed to her as security or in payment of a bona fide debt actually due to her from her husband. When payment was made for property conveyed to her from the property of her husband, or it was conveyed by him to her without a valuable consideration, it may be taken as the property of her husband to pay his debts contracted before such purchase. (a)

SEC. 2. A woman, having property, is not deprived of any part of the same by her marriage, since the twenty-first day of April, eighteen hundred and forty-four; and a husband, by marriage since that time, acquires no right to any property of his wife. His rights acquired before that time are not affected by this chapter. A married woman may release to her husband the right to control her property, or any part of it, and to dispose of the income thereof for their mutual benefit, and may in writing revoke the same. (b)

SEC. 3. She may receive the wages of her personal labor, not performed for her own family, maintain an action therefor in her own name, and hold them in her own right against her husband or any other person. (c)

SEC. 4. A husband married since April twenty-six, eighteen hundred and fifty-two, is not liable for the debts of his wife contracted before marriage, nor for those contracted afterward in her own name, for any lawful purpose; nor is he liable for her torts committed after April twenty-six, eighteen hundred and eighty-three, in which he takes no part; but she is liable in all such cases; a suit may be maintained against her therefor, and her property may be attached and taken on execution for such debts and for damages for such torts, as if she were sole; but she cannot be arrested. (d)

(a) 27 Me., 130; 31 Me., 564; 32 Me., 33; 34 Me., 151, 542, 572; 35 Me., 428; 36 Me., 70, 85; 37 Me., 396, 399; 41 Me., 573; 42 Me., 116; 43 Me., 189; 45 Me., 445, 480; 47 Me., 134, 335; 48 Me., 180, 346; 49 Me., 482; 50 Me., 93, 374; 51 Me., 50, 252, 348, 357, 519; 53 Me., 47; 55 Me., 189, 247; 57 Me., 301, 562; 58 Me., 141; 60 Me., 229; 62 Me., 271; 63 Me., 319, 321; 64 Me., 181; 65 Me., 444-5; 67 Me., 195; 69 Me., 252; 71 Me., 157; 75 Me., 474, 260; 76 Me., 494; 77 Me., 524; 78 Me., 18; 80 Me., 279, 478; 81 Me., 23, 376; 82 Me., 264; 84 Me., 362, 541; 88 Me., 22; 91 Me., 553; 96 Me., 530; 97 Me., 494; 100 Me., 511; 107 Me., 445.

(b) 48 Me., 268; 63 Me., 521; 64 Me., 181; 68 Me., 104, 277; 69 Me., 252; 71 Me., 134; 72 Me., 116; 81 Me., 376; 91 Me., 553.

(c) 58 Me., 55; 64 Me., 181; 66 Me., 184; 76 Me., 524; 80 Me., 348; 88 Me., 22; 91 Me., 553; 107 Me., 483.

(d) 41 Me., 245; 42 Me., 116; 55 Me., 516; 57 Me., 547; 63 Me., 409; 64 Me., 181; 65 Me., 222; 69 Me., 110, 252; 76 Me., 426; 80 Me., 537; 82 Me., 260; 91 Me., 546; 95 Me., 107; 96 Me., 533.

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SEC. 5. She may prosecute and defend suits at law or in equity, either of tort or contract, in her own name, without the joinder of her husband, for the preservation and protection of her property and personal rights, or for the redress of her injuries, as if unmarried, or may prosecute such suits jointly with her husband, and the husband shall not settle or discharge any such action or cause of action without the written consent of the wife. Neither of them can be arrested on such writ or execution, nor can he alone maintain an action respecting his wife's property. (a)

SEC. 6. A wife may bring a bill in equity against her husband for the recovery, conveyance, transfer, payment or delivery to her of any property, real or personal or both, exceeding one hundred dollars in value, standing in his name, or to which he has the legal title, or which is in his possession, or under his control, which in equity and good conscience belongs to her and which he neglects or refuses to convey, transfer, pay over or deliver to her, and, upon proper proof, may maintain such bill. And a husband shall have the same right to bring and maintain a bill in equity against his wife for the purposes aforesaid, subject to the limitations aforesaid. Marriage shall be no bar to the maintenance of a bill in equity by a wife against her husband, or by a husband against his wife, brought for the purposes aforesaid. No costs shall be awarded against either party in any such proceedings. If it satisfactorily appears to the court on hearing that the party bringing the bill has conveyed or transferred any of her or of his property, real or personal, to the other party to the bill for the purpose of cheating, defrauding, hindering or delaying her or his creditors, the bill shall be dismissed. An appeal from any final decree may be taken as in other equity causes. There shall be no survival of the right to institute proceedings under this section, and if a wife or husband dies after the commencement of proceedings hereunder and before the final determination and disposition of the same, such proceedings shall abate.

SEC. 7. Whoever, being a female person more than eighteen years of age, debauches and carnally knows, carries on criminal conversation with, alienates the affections of, the husband of any married woman, or by any arts, enticements, and inducements deprives any married woman of the aid, comfort and society of her husband, shall be liable in damages to said married woman in an action on the case brought by her within three years after the discovery of such offense.

SEC. 8. When a married woman dies intestate, her property, real and personal, descends as provided in chapter seventy-eight; and administration and distribution may take place accordingly; but a husband and wife, by a marriage settlement executed in presence of two witnesses before marriage, may determine what rights each shall have in the other's estate during the marriage, and after its dissolution by death, and may bar each other of all rights in their respective estates not so secured to them. (b)

SEC. 9. Whenever a man, having a wife, a minor child, or children, residing in this state, and being of sufficient ability, or being able to labor and provide for them, wilfully and without reasonable cause, refuses or neglects to provide suitable maintenance for them, the supreme judicial court, the superior courts, the probate courts and any municipal court, in term time or vacation, in the county where the wife or such minor child or children reside, on petition of the wife for herself and for

She may sue and be sued relative to her property, as if sole, or may join with husband, but neither is liable to arrest. R. S., c. 63, § 5.

Proceedings in equity between husband and wife. 1913, c. 48, § 2. See c. 80, § 6, ¶ 1x.

—marriage no bar.

—appeal, how taken.

Action by married woman, for alienation of affections of husband. 1913, c. 33.

How property of married woman, dying intestate, shall descend. R. S., c. 63, § 6. —husband and wife may dispose of it by settlement.

Husband and father compelled to contribute to support of wife or minor children. R. S., c. 63, § 7. 1905, c. 123, § 6. 103 Me., 211. 104 Me., 354.

(a) 33 Me., 197; 35 Me., 339; 46 Me., 298; 51 Me., 79; 54 Me., 159; 55 Me., 247, 359; 58 Me., 55; 67 Me., 309; 68 Me., 104, 277; 70 Me., 382; 76 Me., 423; 80 Me., 537; 84 Me., 82; 88 Me., 22; 91 Me., 553; 110 Me., 305.

(b) See c. 78, §§ 9-12; 45 Me., 262; 69 Me., 251; 82 Me., 237; 95 Me., 77; 96 Me., 533; 105 Me., 63.

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—execution.

such child or children, or of such child or children by their guardian, after such notice to the husband or father as it may order, and hearing, may order him to contribute to the support of his wife and such minor child or children or either of them such sums payable weekly, monthly or quarterly, as are deemed reasonable and just, and may enforce obedience by appropriate decrees. Execution may also issue for said sums, when payable and for costs.

Note. Criminal proceedings for desertion of families, c. 120, §§ 38-40.

CHAPTER 65.

MASTERS, APPRENTICES AND SERVANTS.

Binding of minors, under age of fourteen.
R. S., c. 64, § 1.
43 Me., 458.

SEC. 1. In all cases where the care of the person, and the education of minors under fourteen years of age, have been entrusted to the parents, or to either of them, or to a legal guardian, under the provisions of section three of chapter seventy, such children may be bound as apprentices or servants, until that age, without their consent, by the parents or parent so entrusted, or by the guardian so entrusted with the approval of the judge of probate, and in all other cases such children may be bound as apprentices or servants, until that age, without their consent, by their father and mother, if living, if either has deceased, by the survivor, if both have deceased, by the legal guardian with the approval of the judge of probate as aforesaid, and if they have no parent or guardian, they may bind themselves with the approbation of the municipal officers of the town where they reside. The indenture shall, on the part of such parents or guardians, continue in force for the time mentioned in the following section, *provided*, that the children, on reaching the age of fourteen, give their consent, as provided in said section.

Binding of minors above fourteen.
R. S., c. 64, § 2.
43 Me., 459.

SEC. 2. Minors, above the age of fourteen, may be bound in the same manner, with their consent, which shall be distinctly expressed in the indenture signed by them; females to the age of eighteen, or to the time of their marriage within that age, and males to the age of twenty-one years.

Indentures in such cases.
R. S., c. 64, § 3.
13 Me., 153.

SEC. 3. No minor of any age shall be thus bound, unless by an indenture of two parts, signed, sealed and delivered by both parties; and when the minor binds himself, by the consent of the municipal officers, such consent shall be in writing, signed by them on each part of the indenture.

By whom indentures shall be kept or deposited.
R. S., c. 64, § 4.

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

Consideration, how secured.
R. S., c. 64, § 5.
56 Me., 530.

SEC. 5. All considerations, allowed by the master or mistress in any contract of service or apprenticeship, shall be secured by the indenture, to the sole use of the minor; and paid to him without any control on the part of the parent or guardian at any time.

Not binding after death of master.—no transfer or removal from state.
R. S., c. 64, § 6

SEC. 6. All indentures made as aforesaid shall, in law, bind all parties thereto; but not the minors, parents or guardians, after the death of the master or mistress; nor shall such minors be transferred to another person, or carried out of the state.

SEC. 7. *Parents and guardians, municipal officers, and masters and mistresses, joining in such indentures, have the like remedies and proceedings thereon, as are provided for corresponding parties in chapter twenty-seven.*

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Remedies of parties the same as in chapter 27. R. S., c. 64, § 7.

Note. Overseers may bind to service persons of age without apparent means of support, c. 28, § 23.

By P. L. 1909, c. 216, the right of overseers of the poor to bind the minor children of parents chargeable or unable to maintain them, as provided in R. S., c. 27, § 22, was repealed and accordingly the provisions of that chapter providing for remedies and proceedings upon the indentures became inoperative, and the commissioner has recommended that they be omitted from this revision.

The commissioner is inclined to think that chapter sixty-five may well be repealed. The practice of binding out children as apprentices and servants has fortunately fallen into disuse, and is inconsistent with existing ideas of society as to the treatment of children. No matter what remedies may be provided for the enforcement of the indentures, much hardship invariably results from the practice.

If, however, the legislature decides to retain the chapter, section seven should be modified so as to include the provisions of R. S., c. 27, §§ 23, 24, 25, 26 and 27, with such changes as will make them consistent with this chapter.