

MAINE STATE LEGISLATURE

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THE
REVISED STATUTES

OF THE

STATE OF MAINE,

PASSED APRIL 17, 1857;

TO WHICH ARE PREFIXED

THE CONSTITUTIONS

OF THE

UNITED STATES AND OF THE STATE OF MAINE:

WITH AN

APPENDIX.

PUBLISHED BY AUTHORITY OF THE LEGISLATURE.

BANGOR:
WHEELER & LYNDE.

1857.

CHAP. 59. poses, the child of his adopters, as if they had been his natural parents.

Appeal from the decree of the probate court. 1855, c. 189, § 10.

SEC. 30. Any petitioner, or any such child by any next friend, may appeal to the supreme court of probate from any such decree, in the same manner and with the same effect, as in other cases, but no bond to prosecute his appeal shall be required of such child or next friend, nor any costs be awarded against either.

CHAPTER 60.

DIVORCE AND ANNULING OF MARRIAGES.

WHAT MARRIAGES VOID WITHOUT PROCESS.

SEC. 1. Certain marriages void without process.

DIVORCE FROM BONDS OF MATRIMONY.

2. In what cases a divorce may be granted by supreme court.
3. Libel, manner of filing, and service. Notice returnable in county where libellant resides.
4. To be tried by a jury when either party requests or court orders.
5. Pending libel, court may order husband to pay for wife's defence or prosecution thereof, and provide for her support. Care of minor children.
6. Dower, alimony, and other provisions for wife in case of divorce.
7. Provisions for husband in case of divorce for adultery of wife. Exceptions.
8. New trial may be had within three years, except in certain cases.
9. Divorce decreed out of the state, when void and when valid.
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DIVORCE FROM BED AND BOARD.

11. Causes of divorce from bed and board. Libel, how filed.
12. Lien on the lands of the husband in case of wife filing libel.
13. Provisions for the wife from the husband's estate. Court to allow alimony.

ANNULING ILLEGAL MARRIAGES.

14. Illegal marriages, how annulled.
15. Issue, when legitimate and when not, after divorce.
16. Issue of second marriage, when legitimate.

GENERAL PROVISIONS.

17. Court may free wife from restraint pending a libel.
18. Both parties guilty of adultery or collusion, divorce not to be granted.
19. Disposal of minor children on divorce, and compulsory powers of court.

WHAT MARRIAGES VOID WITHOUT PROCESS.

Certain marriages void without process.

R. S., c. 89, § 1. 31 Maine, 342, 490, 493. 32 Maine, 589.

SEC. 1. All marriages prohibited by law as specified in sections one, two, three, and four, of chapter fifty-nine, if solemnized in this state, are absolutely void; and the sentence of either party to imprisonment for life and confinement under it, dissolve the bonds of matrimony, without any legal process in either case.

DIVORCE FROM THE BONDS OF MATRIMONY.

Divorce may be decreed by supreme court

SEC. 2. A divorce from the bonds of matrimony may be decreed by any justice of the supreme judicial court, at any term

thereof in the county where either party resides at the time of filing the libel, when in the exercise of a sound discretion, he deems it reasonable and proper, conducive to domestic harmony, and consistent with the peace and morality of society, if the parties were married in this state, or cohabited here after marriage.

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in certain cases.
1849, c. 116, § 1.
1850, c. 171, § 1, 2.

SEC. 3. The libelant may file the libel signed by him, alleging particularly the causes of divorce, in the office of the clerk of the courts, and cause the other party, if in the state, to be served with an attested copy thereof and a summons, at least fourteen days before the session of the court to which it is returnable; or present it to the court in session in any county, and the court shall order notice returnable in the county where the libelant resides.

Libel, manner of filing, and service.
Notice returnable in county where libelant resides.
R. S., c. 89, § 3, 9.
1849, c. 116, § 2.
1850, c. 171, § 3.

SEC. 4. If either party requests, or the court orders it, the case shall be submitted to a jury; and if they find that the allegations are true, and that a divorce ought to be granted according to section two, the court shall so decree.

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

SEC. 5. Pending a libel, the court may order the husband to pay the clerk, for the wife, a suitable sum of money for her defence, 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.

Pending libel, wife's expenses, to be paid by husband.
Care of minor children.
1853, c. 30.

SEC. 6. 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 received by him by the marriage, or its value in money, as they think reasonable; and may compel him to disclose, on oath, what personal estate he so received, how it was disposed of, and what then remained. When a divorce is decreed to the wife for the fault of the husband for any other cause, she shall have dower in his real estate, to be recovered and assigned to her as if he was 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 effectuate 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 their decrees into effect.

Dower, alimony, and other provisions for wife in case of divorce.
R. S., c. 89, § 15, 16, 17, 19.
1854, c. 100.

SEC. 7. When a divorce is decreed to the husband for the adultery of the wife, he may hold her personal estate forever, and her real estate, of which she was seized during coverture, during his life, if they had a child born alive during marriage, otherwise, during her life only, if he survives her; but the court may allow her so much of her real or personal estate as is necessary for her subsistence. This section shall not apply to the wife's property held under the provisions of chapter sixty-one.

Provisions for husband in case of divorce for adultery of wife.
Exceptions.
R. S., c. 89, § 18.

SEC. 8. Within three years after a judgment on a libel for divorce, the court, on petition of the party aggrieved, may grant

New trial may be had within

CHAP. 60.

three years;
proviso.
R. S., c. 89,
§ 32.

Divorce de-
creed out of
the state,
when to be
void and when
valid.

9 Greenl. 140.
R. S., c. 89,
§ 29, 30.

Issue not
barred from
inheriting, by
divorce.

a new trial, on such conditions as they impose, when the parties have not cohabited since the former trial, nor either of them contracted a new marriage.

SEC. 9. When residents of this 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.

SEC. 10. A divorce from the bonds of matrimony shall not bar the issue of the marriage from inheriting, or affect their rights.

DIVORCE FROM BED AND BOARD.

Causes of
divorce.
Libel, how
filed.

32 Maine, 337.
R. S., c. 89, § 6.

Wife filing
libel, estate of
husband
answerable.
R. S., c. 89,
§ 10.

Divorce
decreed, wife's
property to be
restored, and
alimony
allowed from
husband's
estate.

Powers of
court in such
case.

R. S., c. 89,
§ 19, 20.

SEC. 11. A divorce from bed and board may be decreed for extreme cruelty in either party, or when the husband is of sufficient ability, and cruelly neglects or refuses suitably to provide for his wife's support; and the libel may be filed, notice ordered, and the proceedings had as in sections three and four.

SEC. 12. When such libel is filed by the wife, therein praying for a lien on the real estate of the husband, and legal notice is served on him, such estate shall thereby be held to answer the judgment of court, if a divorce is decreed.

SEC. 13. When such divorce is decreed, and there is no issue living, the wife's real estate shall be restored to her, and reasonable alimony be allowed her, according to the husband's ability, and the personal property that he received by the marriage; if there is issue living, or the divorce is decreed for the cruelty of the wife, the court may exercise a discretion as to the restoration of property, or granting alimony; and its decree may be altered, as may be found 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.

ANNULLING ILLEGAL MARRIAGES.

Illegal mar-
riages, how
annulled.

R. S., c. 89,
§ 21, 22.

Issue, when
legitimate and
when not,
after divorce.

R. S., c. 89,
§ 23, 24.

SEC. 14. 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 shall affect the rights of the libelee, unless he was personally notified to answer, or did answer to the libel.

SEC. 15. When a marriage is annulled on account of the consanguinity or affinity of the parties, or because it is between a white person and a negro, mulatto or indian, 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.

SEC. 16. When a marriage is annulled on account of a prior marriage, and the parties contracted the second marriage in good faith, believing a prior husband or wife was dead, that fact shall

Issue of
second mar-
riage, when
legitimate.

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.

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R. S., c. 89,
§ 25.

GENERAL PROVISIONS.

SEC. 17. After a libel is filed in either class of cases herein described, the court, in any county, on the petition of the wife, may prohibit the husband from imposing any restraint on her personal liberty during its pendency.

Court may free wife from restraint pending libel. R. S., c. 89, § 26.

SEC. 18. When both parties have been guilty of adultery, or there is collusion between them to procure a divorce of either kind, a divorce shall not be granted.

Both parties guilty of adultery or collusion, divorce not granted. R. S., c. 89, § 7.

SEC. 19. The court making a decree of nullity, or of divorce of either kind, 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 their decree from time to time as circumstances require; and in execution of the powers given them in this chapter, may employ any compulsory process, they deem proper, by execution, attachment, or other effectual form.

Disposal of minor children. Compulsory powers of court. R. S., c. 89, § 27, 28.

CHAPTER 61.

RIGHTS OF MARRIED WOMEN.

- SEC. 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. Not liable to arrest. May receive wages of her labor.
 4. Her husband not liable for her debts contracted before marriage.
 5. Wife dying intestate her estate descends to her heirs.
 6. Husband and wife may make marriage settlement.
 7. Wife, when husband absconds, or is in state prison, may make contracts under authority from court.
 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.

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, as if sole, and without the joinder or assent of her husband; but real estate directly or indirectly conveyed to her by her husband, or paid for by him, or given or devised to her by his relatives, cannot be conveyed by her without the joinder of her husband in such conveyance. 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 paid therefor, it may be taken as the property of her husband to pay his debts contracted before such purchase.

Rights of married women to hold property. 27 Maine, 129. 31 Maine, 562. 32 Maine, 32. 34 Maine, 148, 540, 566. 35 Maine, 427. 36 Maine, 64, 84. 37 Maine, 394, 397. 1844, c. 117, § 1. 1847, c. 27, § 2. 1848, c. 73, § 3. 1856, c. 250.

SEC. 2. A woman, having property, is not deprived of any part of it by her marriage, since the act approved March twenty-

A woman does not lose, and a husband does