

# MAINE STATE LEGISLATURE

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THE  
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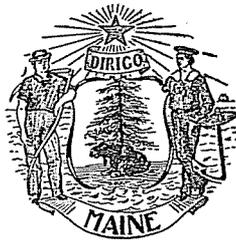
OF THE

STATE OF MAINE,

PASSED SEPTEMBER 1, 1903, AND TAKING EFFECT JANUARY 1, 1904.

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BY THE AUTHORITY OF THE LEGISLATURE.



AUGUSTA :  
KENNEBEC JOURNAL PRINT,  
1904.

under this chapter, and may at any time make such further order in relation to their care, custody, support and education as justice demands.

SEC. 48. Whenever the municipal officers of a town have reason to believe that any child will be removed beyond the limits of the state before a hearing can be had, as provided in this chapter, they may at any time until after filing the petition, take the child into their custody and keep it until the hearing before the magistrate, as hereinbefore provided.

SEC. 49. 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 institution 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. 50. Any town incurring expenses under the five 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. 51. Any town may make proper provision for the support of children mentioned in the six preceding sections, and such support shall not make such children or their parents, paupers.

When town officers may take temporary custody of child.  
R. S., c. 59, § 28.

Parents of child in an institution may make application to have its custody restored to them.  
R. S., c. 59, § 29.

—notice, hearing and order.

Expenses may be recovered of parents.  
R. S., c. 59, § 30.

Towns may provide for children.  
R. S., c. 59, § 31.

## CHAPTER 62.

### DIVORCE AND ANNULING ILLEGAL MARRIAGES.

SEC. 1. Marriages prohibited in sections one, two and three, of chapter sixty-one, 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. 60, § 1.  
31 Me., 491.  
32 Me., 539.  
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 or 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 commence-

In what cases divorce may be granted.  
R. S., c. 60, § 2.  
1897, c. 207.  
1899, c. 79.  
1903, c. 29.

## CHAP. 62.

ment 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)

Libel filed with clerk, or inserted in writ and served by summons and copy.  
R. S., c. 60, § 3.  
1887, c. 106.  
69 Me., 338.

SEC. 3. The libellant 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.

Libellee's residence to be named in libel, when known.  
R. S., c. 60, § 4.  
87 Me., 492.

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 libellant, and cannot be ascertained by reasonable diligence, the libellant shall so allege under oath in the libel.

Perjury, penalty for.  
R. S., c. 60, § 5.

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.

Pending libel, wife's expenses to be paid by husband.  
R. S., c. 60, § 6.

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. (c)

Court may free wife from restraint pending libel.  
R. S., c. 60, § 7.

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.

Jury trial.  
R. S., c. 60, § 8.  
1899 c. 121.  
58 Me., 162.

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.

Alimony, and other provisions for wife in case of divorce for husband's fault.  
R. S., c. 60, § 9.  
1895, c. 157, § 11.  
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.

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.

(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.

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

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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 libellant shall be barred by the decree.

Provisions for husband in case of divorce for fault of wife. R. S., c. 60, § 10. 1903, c. 209. 69 Me., 533.

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 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.

New trial within three years, when granted. R. S., c. 60, § 14. 55 Me., 375. 63 Me., 424. 66 Me., 270. —alimony. 64 Me., 420. 66 Me., 537.

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. 60, § 15. 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. 60, § 16.

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. 60, § 17. 1901, c. 151.

—compulsory powers of court.

ANNULING 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 marriages, how annulled. R. S., c. 60, § 18. 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. 60, § 19. See c. 61, § 2. 1883, c. 203. 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 second marriage, when legitimate. R. S., c. 60, § 20.

Note. Clerks of courts shall make return of libels for divorce to state registrar of vital statistics, c. 61, § 33.

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