

MAINE STATE LEGISLATURE

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SEVENTH REVISION

THE
REVISED STATUTES

OF THE
STATE OF MAINE

PASSED AUGUST 5, 1930, AND TAKING
EFFECT NOVEMBER 10, 1930



By the Authority of the Legislature

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seven trustees, four of whom shall be appointed by the governor with the advice and consent of the council and three to be chosen at the annual meeting of the association provided for by the original act of incorporation, provided, however, that trustees now holding office shall continue therein until their respective terms shall have expired. The trustees shall have charge of the affairs of said home and shall annually select one of their number to be president of the board. Said trustees shall appoint a superintendent and other officers and employees of said institution. The president and superintendent shall act as a board of guardians of all the children who are members of said home and shall have all the power and authority granted by law to guardians.

Sec. 62. Trust funds to be invested by treasurer of state; income appropriated for expenses of institution. 1929, c. 254, § 3. The trustees shall pay over to the treasurer of state all trust funds of said institution and the treasurer shall invest same as provided by section ninety-three of chapter five and section eighty-six of chapter two. The income earned by said fund shall be available for the expenses of said institution and the same is hereby appropriated for said purpose.

CHAPTER 73.

Divorce and Annulling Illegal Marriages.

Sec. 1. Certain marriages void, without process. R. S. c. 65, § 1. Marriages prohibited in sections one, two and three of chapter seventy-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.

31 Me. 491; 32 Me. 589; *76 Me. 421; *97 Me. 133.

Divorce from Bonds of Matrimony.

Sec. 2. Causes for which divorce may be granted. R. S. c. 65, § 2. A divorce from the bonds of matrimony may be decreed 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 libelant 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 libelee is a resident of this state. 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. The superior court has jurisdiction of libels for divorce in all counties.

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, 397; 69 Me. 535; *78 Me. 409; 88 Me. 120; 111 Me. 406; 114 Me. 60; *118 Me. 454; 119 Me. 81; *120 Me. 395; 121 Me. 104; 123 Me. 448; 125 Me. 397, 506; *126 Me. 342; 127 Me. 126.

Sec. 3. Commencement of proceedings; service. R. S. c. 65, § 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.

69 Me. 338; 119 Me. 81; *120 Me. 379; 123 Me. 148.

Sec. 4. Libelee's residence to be named in libel, when known. R. S. c. 65, § 4. 1927, c. 118. When the residence of the libelee can be ascertained, it shall be named in the libel and actual notice shall be obtained; if the libelee 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 libelee is not known to the libelant, and cannot be ascertained by reasonable diligence, the libelant shall so allege under oath in the libel. Where notice by publications is ordered upon any libel which sets out adultery as a ground for divorce the name of any alleged paramour of the libelee, if set out in the libel, shall be omitted from the published notice and a copy of such libel wherein are inserted, in place of such names, the words, "(a certain man named in the libel)" or "(a certain woman named in the libel)," as the case may be, shall, if otherwise correct, be considered and held to be for all purposes a true copy of such libel.

87 Me. 492; 108 Me. 99.

Sec. 5. Perjury, penalty for. R. S. c. 65, § 5. Whoever falsely and corruptly swears or affirms to any facts required as aforesaid, is guilty of perjury, and shall be punished by imprisonment for not less than two years, nor more than ten years.

See c. 133, § 1.

Sec. 6. Pending libel, wife's expenses to be paid by husband. R. S. c. 65, § 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 the court deems proper; and enforce obedience by appropriate processes.

46 Me. 381; 65 Me. 409; 69 Me. 338; *112 Me. 419; 123 Me. 243.

Sec. 7. Court may free wife from restraint pending libel. R. S. c. 65, § 7. 1929, c. 227. Pending a libel, the court, or any justice thereof in vacation, on petition of the wife, may prohibit the husband from imposing any restraint on her personal liberty; and enforce obedience by appropriate processes.

Sec. 8. Jury trial. R. S. c. 65, § 8. 1917, c. 181. 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. All libels for divorce shall be in order for hearing at the first or return term, provided service of said libel has been made in accordance with this chapter not less than sixty days before said return term.

58 Me. 162; 119 Me. 14.

Sec. 9. Alimony, and other provisions for wife in case of divorce for husband's fault. R. S. c. 65, § 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.

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; 117 Me. 236; 122 Me. 156.

Sec. 10. Provisions for husband in case of divorce for fault of wife. R. S. c. 65, § 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 libelee in the real estate of the libelant shall be barred by the decree.

69 Me. 533.

Sec. 11. New trial within three years, when granted. R. S. c. 65, § 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.

55 Me. 375; 63 Me. 424; 66 Me. 270, 537; 64 Me. 420; 119 Me. 17; *120 Me. 407.

Sec. 12. Divorces decreed out of the state. R. S. c. 65, § 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.

*9 Me. 146; 76 Me. 536; *78 Me. 189.

Sec. 13. Issue inherit. R. S. c. 65, § 13. A divorce does not bar the issue of the marriage from inheriting, or affect their rights.

Sec. 14. Disposal of minor children, and change of name; compulsory powers of court. R. S. c. 65, § 14. 1917, c. 175. 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 parents any of them shall live, or grant the care and custody of said children to a third person or to some suitable society or institution for the care and protection of children, 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.

64 Me. 488; 65 Me. 409; 66 Me. 537; 80 Me. 483; 127 Me. 357.

Annuling Illegal Marriages.

Sec. 15. Illegal marriages, how annulled. R. S. c. 65, § 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 libelee, unless he was personally notified to answer, or did answer to the libel.

55 Me. 362; *76 Me. 422; 97 Me. 132.

Sec. 16. Issue, when legitimate, and when not. R. S. c. 65, § 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.

See c. 72, § 2; 76 Me. 422.

Sec. 17. Issue of second marriage, when legitimate. R. S. c. 65, § 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.

CHAPTER 74.

Rights of Married Women and Judicial Separation.

Sections 1-9 Rights of Married Women.

Sections 10-16 Judicial Separation of Husband and Wife.

Rights of Married Women.

Sec. 1. Rights of married women to hold and dispose of property; exceptions. R. S. c. 66, § 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.

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; 112 Me. *369, 431; 120 Me. 287.

Sec. 2. A woman does not lose, and a husband does not acquire, rights to her property by marriage. R. S. c. 66, § 2. A woman, having property, is not