

MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE,

DURING ITS SESSION

A. D. 1839.

VOL. 2.

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1839.

NINETEENTH LEGISLATURE.

NO. 2.

HOUSE.

R E P O R T

ON THE PETITIONS OF

EBENEZER COBB AND MARY COBB,

FOR A DIVORCE.

[SMITH & ROBINSON,.....Printers.]

STATE OF MAINE.

HOUSE OF REPRESENTATIVES, }
January 10, 1839. }

This Report, on being read, was accepted, and the Bill, having been read twice, was with the Report, laid on the table, and three hundred copies of the Report and Bill ordered to be printed for the use of the Legislature.

CHARLES WATERHOUSE, *Clerk.*

R E P O R T
OF THE
STATE OF MAINE.

HOUSE OF REPRESENTATIVES, }
January 10th, 1839. }

THE Joint Select Committee to whom were referred the Petitions of Ebenezer Cobb and Mary Cobb, praying that the bond of matrimony which binds them together as man and wife, might be dissolved, have had the subject under consideration, and ask leave to make the following statement of facts, and also to report a Bill, which is herewith respectfully submitted.

The Committee, on an examination of the testimony offered in the case, find that the memorialists were married agreeably to the laws of this State, the eighth day of March last. At the marriage ceremony, every thing appeared to the bridegroom to be pleasant and happy. He fondly believed that the relationship he was about to form would prove a great source of happiness and comfort to himself, and all concerned. Having a competence of this world's goods for the support of himself and wife, and cherishing in his own heart the most kindly feelings of love and esteem, and fondly believing these feelings were properly reciprocated by his wife, he looked forward with lively hopes to a long and happy life. With these views and feelings, and with this beautiful prospect opening before him, he conducted his wife to his residence in Gray.

During the four days she remained with him, (for she remained only four,) he conducted towards her with the greatest kindness, and did every thing in his power to render her new relation happy and agreeable; but all his efforts were useless and vain. He now learned for the first time, "that his bride had been sacrificed an unwilling victim on the altar of filial duty and affection, and that through the great persuasion of her parents and friends, she had been induced to give him her hand, while her heart had been an unwilling witness of the ceremony." At the expiration of four days, she requested to go home to her parents. This request was most cheerfully and readily complied with, on the part of the husband; but when he called for her to return with him to his own fire-side, she utterly refused to go, and declared her determination never to live with, or again see her husband. This purpose she has resolutely and perseveringly adhered to, and no remonstrance, persuasion or entreaty, has been successful in changing this fixed purpose of her heart. The husband has tried every method within his power, both by letters, and the intercessions of mutual friends, to prevail upon her to return, but all these appliances have utterly failed to make any impression upon her mind. He has never been able to have any interview with her, and has now ceased to hope to be able to induce her to change her resolution. From the testimony of both parties to this unfortunate relationship, the Committee have reason to believe that this marriage was never completed and perfected as relations of this kind invariably are, however much this consummation might have been devoutly wished on the part of the husband. They have never cohabited together as man and wife, and there is no reasonable prospect of their ever being able to do so. The Committee have

more readily come to a result favorable to the memorialists from the fact that both parties desire to be separated ; and also the parents of the wife testify that a separation would greatly relieve the anxiety and solicitude under which ~~their daughter now suffers.~~ They say she was once very healthy and animated, ~~but~~ now, through her mental sufferings, occasioned by this most unhappy connexion, her health is ~~wasting away,~~ her spirits gloomy and dejected. In her own language, she humbly and fervently and sorrowfully prays, that she may be permitted to retrace this false step, which she has so unadvisedly taken. She wishes to be judged in mercy, and to be released from this unhappy relation. Her tender mind was too easily and successfully assailed by the persuasion of her friends, and by the prospect of ease and affluence. These influences, older and stronger minds can hardly resist, much less can the young and susceptible heart guard itself successfully against their approach. The Committee feel no disposition to censure either party, and that heart must be hard indeed which could find no excuse for the conduct of this unfortunate female, either in the peculiar circumstances of the case, or in the infirmities of human nature. "To err is human—to forgive divine." And surely the Committee feel disposed, as they have no doubt every member of the Legislature does, to throw the mantle of charity over the faults of a young and tender female, especially when those faults are occasioned more by the influence of peculiar and extraordinary circumstances, than by malicious motives or wicked propensities. In the progress of events in this changing world, some of your Committee entertain fears that they also might be placed in the same situation with these unfortunate individuals, and therefore feel more forcibly the importance of adhering

strictly to the golden rule. The Committee are aware that constitutional objections may, and have been raised against granting bills of divorce, by this body. It is true that in cases where the Supreme Judicial Court have power to pass judgment, and where the Legislature has given to that department of our government authority to settle questions involving marriage contracts, Legislative interference would seem to be wrong; but in those cases where no such power is granted to the Judiciary, the Committee can see no good reason why the Legislature should not interpose and give relief. And they believe this department of the government has power over these contracts, or they could not with any degree of consistency have granted it to the Supreme Judicial Court. Surely, the Legislature could not give that which they did not possess; and if they have granted power in certain cases, and not in others, it follows as a natural result that they have some power reserved which they have a constitutional right to exercise, whenever a case comes legitimately within its reach. And the Committee believe this to be such a case. They would, however, recommend great caution in approaching questions involving contracts of so much importance, as those connected with the divine institution of marriage. It is a relation which must and ever will be held sacred by all civilized nations. It is an institution which lies at the very foundation of all domestic bliss, and any department of the government to which the people—the only true source of all power—have delegated authority to disturb or render void contracts of so high a nature and of such immense importance, will proceed with great caution, and the most mature deliberation. The Committee have given to this case, which has been entrusted to their care, all the deliberation which its im-

portance would seem to demand. The circumstances developed present a case of a very extraordinary nature—one which calls loudly for relief. And it is the opinion of the Committee that no power is lodged in any department of the Government, which can afford the desired relief, but in the Legislative branch. Upon a view of all the circumstances of the case, and after the most mature deliberation, the Committee have come unanimously to the conclusion, that the bond of matrimony which so unhappily connects these memorialists together, ought to be dissolved—and in accordance with this view, they have directed me to report a Bill. All which is respectfully submitted.

OSGOOD BRADBURY, *Per order.*

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT
HUNDRED AND THIRTY-NINE.

**AN ACT to divorce Ebenezer Cobb and Mary
Cobb.**

*Be it enacted by the Senate and House of
2 Representatives in Legislature assembled,
3 That the marriage heretofore existing between
4 Ebenezer Cobb of Gray, in the County of Cum-
5 berland, and Mary Cobb, his wife, be, and here-
6 by is dissolved, and rendered void.*