

# MAINE STATE LEGISLATURE

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**Legislative Document**

**No. 776**

H. P. 1182

House of Representatives, February 13, 1947

Referred to the Committee on Judiciary, sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk

Presented by Mr. Silsby of Aurora.

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**STATE OF MAINE**

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
FORTY-SEVEN

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**AN ACT to Provide for Jurisdiction of Probate Courts in Divorce Cases.**

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Be it enacted by the People of the State of Maine, as follows:

**Sec. 1. R. S., c. 140, §§ 21-A - 21-D, additional.** Chapter 140 of the revised statutes is hereby amended by adding thereto 4 new sections to be numbered 21-A to 21-D, inclusive, to read as follows:

**Sec. 21-A. Jurisdiction of probate courts in divorce cases.** In addition to the powers and duties set forth in the preceding sections, probate courts shall have jurisdiction of libels for divorce as provided in section 55 of chapter 153.

**Sec. 21-B. Commencement of proceedings; service.** When libels for divorce are brought in a probate court the libellant may file in the registry of probate a libel, signed by him and the service thereof shall be made by summons and copy 14 days before it is returnable; the probate court in any county having jurisdiction over the parties or any judge thereof in vacation may order notice as in suits at law.

**Sec. 21-C. Powers and duties of probate courts in divorce cases.** For the purpose of trial of libels for divorce and judgments thereon and incident thereto and for the purpose of preliminary proceedings pending a libel and

subsequent proceedings after granting a decree of nullity or divorce, each probate court within its particular jurisdiction shall have the same powers and duties as are delegated to superior court justices under the provisions of sections 57 to 69, inclusive, of chapter 153, except that issues of fact shall be decided by the probate judge and not submitted to juries as provided by section 61 of chapter 153.

**Sec. 21-D. Removal to superior court.** Whenever a divorce libel, if filed in a registry of probate and service has been had, in the event either libellant or libellee desires to be heard in the superior court, either the libellant or libellee may file a motion at any time prior to the hearing on said libel addressed to the judge of probate in the county where the libel is filed requesting transfer of said libel to the superior court. No specifications of cause shall be necessary and the judge of probate shall grant said motion and shall promptly send said libel together with all records to the clerk of the superior court of his county. Said libel shall be in order for hearing at the next term of superior court in and for the county where it is filed.'

**Sec. 2. R. S., c. 153, § 55, amended.** The last sentence of section 55 of chapter 153 of the revised statutes is hereby amended to read as follows:

'The superior court ~~has~~ shall have jurisdiction of all libels for divorce ~~in all counties~~ concurrent with the probate courts of each county, jurisdiction of probate courts being limited in each case to the probate court for the county in which either party resides.'

**Sec. 3. R. S., c. 153, § 56, amended.** Section 56 of chapter 153 of the revised statutes is hereby amended to read as follows:

'**Sec. 56. Commencement of proceedings; service.** When libels for divorce are filed in the superior court, the ~~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, 14 days before it is returnable; the court in any county or a justice thereof in vacation, may order notice as in other suits.'