

MAINE STATE LEGISLATURE

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L A W S

OF THE

STATE OF MAINE;

TO WHICH ARE PREFIXED

THE

CONSTITUTION OF THE U. STATES

AND OF SAID STATE,

IN TWO VOLUMES,

WITH AN APPENDIX.

.....
VOL. I.
.....

Published according to a resolve of the State, passed
March 8, 1821.

BRUNSWICK.

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.....
1821.

Proceedings when a person outlawed appears in Court and confesses or traverses, &c.

SEC. 8. *Be it further enacted*, That every offender that may be outlawed, upon his appearing in open Court, and confessing the charge, and receiving sentence thereon, or appearing and traversing the charge, shall be acquitted by a Jury or on demurrer, or any other plea, the same shall be adjudged insufficient in law to compel the person accused to answer thereunto, or support a judgment thereon : in every such case, the proceeding shall be construed to operate as a full and effectual reversal of the judgment of outlawry as though a formal reversal had been given upon a writ of error expressly brought for that purpose : *Provided*, The appearance upon which such acquittal shall be given shall be voluntary and without compulsion, and within one year and a day after judgment of outlawry shall be pronounced, and the cost accruing on the process of outlawry shall be first satisfied and paid. [Approved February 24, 1821.]

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CHAPTER LXX.

An Act for regulating Marriage, and for the orderly solemnization thereof.

SEC. 1. *Be it enacted by the Senate and House of Representatives, in Legislature assembled*, That no man or woman shall intermarry within the degrees hereafter named, that is to say :

Degrees, within which marriages are void, as incestuous,

No Man shall marry his

Mother,
Grandmother,
Daughter,
Son's Daughter,
Daughter's Daughter,
Step Mother,
Grandfather's Wife,
Son's Wife,
Son's Son's Wife,
Daughter's Son's Wife,
Wife's Mother,
Wife's Grandmother,
Wife's Daughter,
Wife's Son's Daughter,
Wife's Daughter's Daughter,
Sister,
Brother's Daughter,
Sister's Daughter,
Father's Sister,
Mother's Sister,

No Woman shall marry her

Father,
Grandfather,
Son,
Son's Son,
Daughter's Son,
Step Father,
Grandmother's Husband,
Daughter's Husband,
Son's Daughter's Husband,
Daughter's Daughter's Husband,
Husband's Father,
Husband's Grandfather,
Husband's Son,
Husband's Son's Son,
Husband's Daughter's Son,
Brother,
Brother's Son,
Sister's Son,
Father's Brother,
Mother's Brother,

And if any man or woman shall intermarry within the degrees aforesaid, every such marriage shall be deemed, taken and adjudged incestuous, and shall be null and void.

SEC. 2. *Be it further enacted,* That all marriages, where either of the parties shall have a former wife or husband living at the time of such marriage, and all marriages between any white person and any Negro, Indian or Mulatto shall be absolutely void.

Certain other marriages to be void.

SEC. 3. *Be it further enacted,* That every Justice of the Peace, and also every ordained Minister of the Gospel, who shall be duly appointed and commissioned for that purpose by the Governor, with the advice of Council, be, and they respectively are authorized and empowered to solemnize marriages within the county, where they reside, between persons who may lawfully enter into that relation, when one or both of the parties are resident within the county in which such Justice or Minister resides.

Persons authorized to solemnize marriages.

SEC. 4. *Be it further enacted,* That the Governor with the advice of Council be, and he is authorized to appoint and commission such ordained Ministers of the Gospel, as the public good may require, to solemnize marriages within the county in which they may reside, who shall hold the said office during his pleasure: and said commission shall be conclusive evidence, that the person therein named is an ordained Minister of the Gospel; and whenever said commission shall be revoked, an attested copy of such revocation shall be filed in the office of the Clerk of said county.

Governor to appoint and commission ordained ministers to marry.

SEC. 5. *Be it further enacted,* That all persons desiring to be joined in marriage, shall have such their intentions published at three public religious meetings, on different days, at three days distance exclusively, at least, from each other, in the town or plantation wherein they respectively dwell; or shall have their intentions of marriage posted up by the Clerk of such town or plantation, fourteen days in some public place, within the same town or plantation, fairly written; and shall also produce to the Justice or Minister, who shall be desired to marry them, a certificate of such publishment, under the hand of the Clerk of such town or plantation respectively; and where a male under twenty one years, or a female under eighteen years of age, is to be married, the

Intentions of marriage to be published, &c.

Certificate to be delivered to Minister or Justice.

Consent of parent or guardian necessary in certain cases.

REGULATION OF MARRIAGE.

consent of the parent, guardian or other person, whose immediate care and government such party is under, if within the State, shall be first had to such marriage. And in case the parties or either of them, live in a town or place, where there shall be no Clerk, then publishment shall be made in the town next adjoining, in manner aforesaid, and a certificate from the Clerk of the same town, of such publishment, shall be produced as aforesaid, previous to their marriage.

Publishment
in adjoining
town in case.

SEC. 6. *Be it further enacted,* That if at any time the banns of matrimony betwixt any persons shall be forbidden, and the reasons thereof assigned, in writing, by the person so forbidding the same, left with the town or plantation Clerk, he shall forbear issuing a certificate as aforesaid, until the matter shall have been duly inquired into, and determined before two Justices of the same county, quorum unus: *Provided,* The person forbidding the banns, shall, within seven days after filing the reasons as aforesaid, apply unto two Justices as aforesaid, and procure their determination thereon: unless the said Justices shall certify unto the said Clerk, that a further time is necessary for their determination on the reasons filed; in which case the Clerk shall forbear issuing a certificate, until the time then certified to be necessary shall expire, unless the Justices shall sooner determine; according to whose determination, the Clerk shall govern himself herein; and if the said Justices shall determine, that the reasons assigned by the person forbidding the said banns, were not supported by the laws of the State, then the person so forbidding shall pay all the costs that may have arisen in consequence of such objection; and the said Justices shall make up judgment and issue execution accordingly.

If banns are
forbidden
what proceed-
ings must be
had.

SEC. 7. *Be it further enacted,* That if any person shall deface or pull down any publishment posted up in writing as aforesaid, before the expiration of the said fourteen days, he shall forfeit and pay the sum of four dollars, to the use of the town. And if any Justice of the Peace or Minister, shall, otherwise than is expressly allowed and authorized by this Act, join any persons in marriage, they shall severally forfeit and pay the sum of one hundred dollars, two third parts

Penalty for
pulling down
publishment.

For marrying
persons con-
trary to law.

thereof to and for the use of the county wherein the offence may be committed, and the residue to the prosecutor, to be sued for and recovered in the Circuit Court of Common Pleas, within the same county, by the Treasurer thereof, who is hereby enjoined upon due information thereof, to prosecute and sue for the said penalty without delay, or by the parent, guardian, or other person under whose immediate care and government either of the parties were at the time of such marriage; and every Justice or Minister, against whom such recovery shall be had, is hereby forbidden from joining persons in marriage forever after. And in case a person forbid as aforesaid, or any other person whatever, not authorized and empowered to solemnize marriages by this Act, shall join any persons in marriage, and be convicted thereof, in the Supreme Judicial Court, upon presentment or indictment, he shall suffer solitary imprisonment for a term not exceeding twenty days, and be confined to hard labor for a term not exceeding five years.

Punishment of those who solemnize marriages not being authorized.

SEC. 8. *Be it further enacted,* That every Justice and Minister shall make and keep a particular record of all marriages solemnized before them respectively; and in the month of April yearly and every year, shall make a return to the Clerk of the town or plantation in which he lives, certifying the names of all the persons, who have been by them respectively joined together in marriage within the year then last past, if any such have been by them so joined together. And if any Justice or Minister shall neglect to make such return, within the month of April annually, he shall forfeit the sum of fifty dollars, to be recovered by action of debt in the Circuit Court of Common Pleas, one half thereof to the use of the county, and the other half to the use of the person who may sue for the same.

Justices and ministers to keep record of marriages and make return to town clerk.

Penalty for neglect.

SEC. 9. *Be it further enacted,* That any marriages which shall be had and solemnized, among the people called Quakers or Friends, in the manner and form used and practised in their societies, shall be good and valid in law, any thing in this Act to the contrary notwithstanding: and the Clerk or keeper of the records of the meeting wherein such marriage shall be had and solemnized, shall once a year make a certificate under his hand of all marriages had and solemniz-

Marriages among Quakers, according to their forms, valid.

Clerk of their meetings to make return of marriages to clerk of town.

Penalty for neglect.

No minister, not commissioned, to marry after May, 1, 1821.

ed in the society or meeting to which he belongs, and shall deliver the same to the Clerk of the town, in which the Clerk of said meeting resides; and if he shall neglect so to do, he shall forfeit the sum of fifty dollars, the one half to the use of the county, and the other half to the use of the prosecutor, to be recovered by an action of debt.

SEC. 10. *Be it further enacted*, That no Minister of the Gospel, not appointed and commissioned as aforesaid, shall solemnize any marriage after the first day of May next.

[Approved February 19, 1821.]

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CHAPTER LXXI.

An Act regulating Divorces.

Sup. J. Court to decide all questions of Divorce and Alimony.

SEC. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled*, That all questions of divorce and alimony shall be heard and tried by the Supreme Judicial Court holden for the county where the parties live; and that the decree of the same Court shall be final.

Libel to be filed in Clerk's office, and opposite party, to be served with copy if in the State—

SEC. 2. *Be it further enacted*, That no cause of divorce or alimony shall be brought before the same Court, unless the party suing or complaining shall file his or her libel in the office of the Clerk of the said Court, therein setting forth the cause of his or her complaint specially, and shall cause the other party, if in this State, to be served with an attested copy of the same, and with a summons to appear at the Court, fourteen days at least before the sitting of said Court where the cause is to be tried; otherwise, in such manner as the said Court shall direct; and the said Court shall have all the powers necessary to the conducting and finally issuing such causes, according to the true intendment of this Act.

If not, such notice must be given as the Court may order.

Divorces from bond of matrimony, in what cases decreed.

SEC. 3. *Be it further enacted*, That divorces from the bonds of matrimony shall be decreed, in case the parties are within the degrees by law prohibited, or either of them had a former wife or husband alive at the time of solemnizing such second marriage, or for impotency or adultery in either of the parties, and for no other cause; and that divorce from bed and board may and shall be granted for the

In what cases from bed and board.