

MAINE STATE LEGISLATURE

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REPORT

OF THE

COMMISSIONERS

APPOINTED TO

REVISE THE PUBLIC LAWS

OF THE

STATE OF MAINE.

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**TITLE V.**  
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AUGUSTA:
STEVENS & BLAINE, PRINTERS TO THE STATE.

1855.

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TITLE FIFTH.

DOMESTIC RELATIONS.

- Chap.* 59. Marriage and its solemnization, record of births and deaths, parents and children, and the adoption of children.
60. Divorce and dissolution of marriages.
61. The rights of married women.
62. Masters, apprentices and servants.

Chapter 59.

MARRIAGE AND ITS SOLEMNIZATION, RECORD OF BIRTHS AND DEATHS, AND THE ADOPTION OF CHILDREN.

Marriage and its solemnization.

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Marriage and its solemnization.

SECT. 1. No man shall marry his mother, grandmother, 2 daughter, grand daughter, stepmother, grandfather's wife, 3 son's wife, grandson's wife, wife's mother, wife's daughter, 4 wife's grand daughter, sister, brother's daughter, sister's 5 daughter, father's sister, or mother's sister. R. S. c. 87, § 1.

SECT. 2. No woman shall marry her father, grandfather, 2 son, grandson, stepfather, grandmother's husband, daughter's 3 husband, grand daughter's husband, husband's father, hus- 4 band's grandfather, husband's son, husband's grandson, 5 brother, brother's son, sister's son, father's brother, or moth- 6 er's brother. R. S., c. 87, § 2.

SECT. 3. No white person shall intermarry with any negro, 2 Indian or mulatto; and no insane person or idiot shall be 3 capable of contracting marriage. R. S., c. 87, § 3.

SECT. 4. All marriages contracted while either of the par- 2 ties has a former wife or husband living, are void, unless the 3 former marriage was dissolved by a decree of divorce.

R. S., c. 87, § 4.

SECT. 5. All persons resident in this state, intending to be 2 joined in marriage, shall cause notice of their intentions to be 3 entered, before their marriage, in the office of the clerk of the 4 town in which they respectively dwell; and if there is 5 no such clerk in the place of their residence, the like entry 6 shall be made with the clerk of an adjoining town.

1852, c. 282, § 1. R. S., c. 87, § 8. 1841, c. 8.

SECT. 6. The clerk shall deliver to the parties a certificate, 2 under his hand, specifying the time when notice of the inten- 3 tion of marriage was entered with him, which shall be

4 delivered to the minister or magistrate, before he proceeds
5 to solemnize the same; but no clerk shall issue such
6 certificate to a male under twenty-one or a female under
7 eighteen years of age, unless the applicant first presents to
8 him the written consent of the parents or guardians of such
9 minor, if he has any residing within this state; nor to any
10 town pauper, without the written consent of the overseers of
11 the poor of his town. 1852, c. 282, § 2.

SECT. 7. When parties living in this state go into another
2 state for that purpose, and a marriage is there solemnized,
3 and they return to dwell here, they shall file a certificate or
4 declaration of their marriage with the clerk of the town in
5 which each of them lived at the time, within seven days
6 after their return, under a penalty of ten dollars, to be recov-
7 ered by any person suing therefor, one half to his own use,
8 and the other half to the use of the town in which the for-
9 feiture is incurred. 1852, c. 282, § 3.

SECT. 8. When a male under twenty-one or a female under
2 eighteen years of age, is to be married, the consent of the
3 parent, guardian, or other person having the care and
4 government of such party, if within the state, shall be first
5 obtained. R. S., c. 87, § 7.

SECT. 9. When any parent, guardian or master of any
2 minor apprehends that such minor is intending to enter into
3 matrimony before the age permitted by this chapter, without
4 such consent, he may file with the clerk of any town in
5 whose office the notice, provided for in section five, is to be
6 entered, a caution forbidding such marriage, and setting forth
7 the reasons why it should not take place, and also forbidding
8 the issuing by the clerk of any certificate to such minor
9 under the provisions of said section. If after such caution
10 is filed, the clerk issues a certificate without the written con-
11 sent of such parent, guardian or master, he shall thereby
12 forfeit to such parent, guardian or master, a sum not less
13 than one hundred nor more than five hundred dollars, to be
14 recovered in an action of debt. R. S., c. 87, § 9.

SECT. 10. Any person apprehending that the contract of
2 matrimony is about to be entered into between persons, either
3 of whom there is reason to believe cannot lawfully enter into

4 such contract, may file a like caution and reasons, in the
5 office of such clerk. After such caution is filed, if any of
6 said parties applies to the clerk to cause notice of the inten-
7 tion of marriage to be entered, he shall withhold the cer-
8 tificate, and as soon as convenient, notify the person
9 filing such caution, of said application, and such person shall
10 within seven days after being so notified, unless the justices
11 shall certify that a longer time is necessary, procure the
12 decision of two justices of the peace of the same county, after
13 notice to both parties, upon the sufficiency of the reasons so
14 filed forbidding the marriage; and their decision shall be
15 duly certified to said clerk, and he shall deliver or withhold
16 the certificate in accordance with such decision. If the deci-
17 sion is, that the reasons are not sufficient to forbid the
18 marriage, the justices shall enter judgment for costs against
19 the applicant, and issue execution therefor.

R. S., c. 87, § 9.

SECT. 11. When any residents of this state, undertaking to
2 contract a marriage contrary to the preceding provisions, go
3 into another state or country with intent to evade those pro-
4 visions, and to return and reside in this state, and there have
5 their marriage solemnized, and afterwards return and reside
6 here, such marriage shall be deemed void in this state.

R. S., c. 87, § 5.

SECT. 12. All marriages, solemnized among the people
2 called quakers or friends, in the form heretofore practised
3 and in use in their meeting, shall be good and valid, and not
4 affected by any of the foregoing provisions; and the clerk or
5 the keeper of the records of the meeting, in which such mar-
6 riages are solemnized, shall once every year deliver a list of
7 all such marriages to the clerk of the town, in which such
8 clerk resides, on penalty of forfeiting fifty dollars; one half
9 to the use of the county, and the residue to the use of the
10 prosecutor.

R. S., c. 87, § 10.

SECT. 13. Every justice of the peace appointed for a county
2 or for the state, and residing therein, every ordained minister
3 of the gospel, and every person licensed to preach by an asso-
4 ciation of ministers, religious seminary or ecclesiastical body,
5 duly appointed and commissioned for that purpose by the

6 governor and council, may solemnize marriages within the
7 limits of their appointment. 1852, c. 287, § 1, 2.

R. S., c. 87, § 11, 12. 1855, c. 153, § 1.

SECT. 14. Such ordained or licensed minister shall hold his
2 office during the pleasure of the executive; and the commis-
3 sion shall be conclusive evidence that he is an ordained or
4 licensed minister, and when the commission is revoked, a
5 copy of such revocation shall be filed in the clerk's office of
6 said county. R. S., c. 87, § 13. 1855, c. 153.

SECT. 15. If any justice of the peace or minister commis-
2 sioned as aforesaid, knowingly and wilfully joins any persons
3 in marriage, contrary to the provisions of this chapter, he
4 shall forfeit and pay the sum of one hundred dollars; two
5 third parts thereof to the use of the county in which the
6 offense was committed, and the residue to the prosecutor;
7 to be sued for and recovered by the county treasurer, or by
8 the parent, guardian or other person, under whose immediate
9 care and government either of the parties was, at the time of
10 such marriage: and every justice or minister, against whom
11 such recovery shall be had, is forbidden from joining any
12 persons in marriage afterwards. R. S., c. 87, § 14.

SECT. 16. If any person thus forbidden, or any minister or
2 other person who is not authorized to solemnize marriages,
3 joins any persons in marriage, on conviction thereof upon
4 indictment, he shall be punished by confinement to hard labor
5 in the state prison for a term not exceeding five years, or by
6 fine not exceeding one thousand dollars. R. S., c. 87, § 15.

SECT. 17. Every such justice of the peace and minister of
2 the gospel shall keep a record of all marriages solemnized by
3 him, and within one year after the date of each marriage,
4 make a return to the clerk of the town in which the marriage is
5 solemnized, certifying the names of the parties and the places
6 of their residence, and the date of the marriage; and for any
7 neglect to comply with this requisition, such justice or minis-
8 ter shall forfeit and pay the sum of fifty dollars; one half to
9 the use of the county and the other half to the use of the per-
10 son suing therefor. 1846, c. 190, § 1.

SECT. 18. An attested or sworn copy of the record of a
2 marriage, made and kept as before mentioned, by a justice of

3 the peace, or commissioned minister, or by the clerk of any
 4 town shall be received in all courts as evidence of the fact of
 5 marriage; but where this cannot be produced, other evi-
 6 dence may be admitted. R. S., c. 87, § 17.

SECT. 19. No marriage solemnized before any known
 2 inhabitant of this state, professing to be a justice of the peace
 3 or an ordained or licensed minister of the gospel, duly
 4 appointed and commissioned, shall be deemed void, nor shall
 5 its validity be in any manner affected by any want of juris-
 6 diction or authority in the justice or minister, or by any
 7 omission or informality in entering the intention of marriage,
 8 provided the marriage is in other respects lawful, and
 9 consummated with a full belief on the part of the persons
 10 married, or either of them, that they are lawfully joined in
 11 marriage. R. S., c. 87, § 18. 1855, c. 153.

SECT. 20. If any town clerk makes out and delivers to any
 2 person a false certificate of the entry of the intention of mat-
 3 rimony, knowing the same to be false in any particular, he
 4 shall be fined one hundred dollars, or imprisoned for the term
 5 of six months in the jail of the county where the offense is
 6 committed. R. S., c. 87, § 20. 1852, c. 282, § 1.

SECT. 21. The clerk of every town shall return to the clerk
 2 of the judicial courts for his county, a transcript of all
 3 records of marriages made upon his books, during the year
 4 for which he was clerk; and said clerk of the courts shall
 5 record the same in a book, to be kept for that purpose; and
 6 be allowed from the county treasury, for recording, at the
 7 rate of twelve cents a page. R. S., c. 87, § 21.

Record of births and deaths.

SECT. 22. Every town clerk shall record all births and
 2 deaths which occur in his town and come to his knowledge;
 3 stating the time when each took place, and the names of the
 4 parents, if known, for the fees allowed by law, to be paid by
 5 such town. R. S., c. 38, § 1.

SECT. 23. Parents, householders, masters of work houses,
 2 alms houses, prisons, and vessels, shall give notice to the
 3 clerk of their town, of the births and deaths which take

4 place in their families, houses or vessels, and the elder person
5 next of kin, shall give like notice of the death of his kindred.

R. S., c. 38, § 2

SECT. 24. Any person neglecting to perform the duty re-
2 quired of him in the two preceding sections, for the space of
3 six months, shall forfeit and pay one dollar for each offense ;
4 to be recovered on complaint, to the use of the town.

R. S., c. 38, § 3.

Parents and children.

SECT. 25. If any minor, having a father alive, has property
2 sufficient for his maintenance and education, in a manner
3 more expensive than his father can reasonably afford,
4 regard being had to the situation of the father's family, and
5 to all the circumstances of the case, the expenses of his main-
6 tenance and education may be defrayed out of his own
7 property, in whole or in part, and the charges therefor allowed
8 accordingly, in the settlement of the guardian's account.

R. S., c. 88, § 1.

SECT. 26. Every father by his last will, may appoint a
2 guardian for his minor children, until the age of fourteen.

R. S., c. 88, § 2.

SECT. 27. The mother of an illegitimate child may bind
2 him during minority.

R. S., c. 83, § 3.

SECT. 28. The power of the mother to bind legitimate or
2 illegitimate children, shall cease in case of her subsequent
3 marriage; and shall not be exercised during the continuance
4 of such marriage, either by herself or her husband.

[R. S., c. 88, § 4.

Adoption of children.

SECT. 29. Any inhabitant of this state, not married, singly,
2 or any husband and wife jointly, may petition the judge of
3 probate for their county, for leave to adopt a child not theirs
4 by birth, and for a change of his name; but a written con-
5 sent must be given to such adoption, by the child, if of the
6 age of fourteen years, and by each of his living parents, who
7 is not hopelessly insane or intemperate; if there are no such
8 parents, then by the legal guardian; if there is no such guar-
9 dian, then by the next of kin in this state; if there is no such

10 kin, then by a discreet and suitable person, appointed by
 11 said judge, to act in the proceedings as the next friend of
 12 such child. 1855, c. 189, § 1, 2, 3, 4, 8, 9.

SECT. 30. Thereupon, if the judge is satisfied of the identity
 2 and relations of said parties; of the ability of the petitioners
 3 to bring up and educate the child properly, having reference
 4 to the degree and condition of his parents, and of the fitness
 5 and propriety of such adoption, he shall make a decree, set-
 6 ting forth the facts, and declaring that from that date such
 7 child shall, to all legal intents and purposes, be deemed the
 8 child of the petitioners, and that his name is thereby changed
 9 without requiring public notice thereof. 1855, c. 189, § 5, 9.

SECT. 31. By such decree the natural parents shall be
 2 divested of all legal rights whatever in respect to such child,
 3 and he shall be free from all legal obligations of obedience and
 4 maintenance in respect to them; and shall be deemed, for the
 5 custody of the person and right of obedience, but not of inher-
 6 itance, to all intents and purposes, the child of his adoptors,
 7 the same as if they had been his natural parents.

1855, c. 189, § 6, 7.

SECT. 32. Any petitioner, or any such child, by any next
 2 friend, may appeal to the supreme court of probate, from any
 3 such decree, in the same manner and with the same effect as
 4 in other cases, except that no bond to prosecute his appeal
 5 shall be required of such child or next friend, nor any costs
 6 awarded against either. 1855, c. 189, § 10.

Chapter 60.

DIVORCE AND DISSOLUTION OF MARRIAGES.

- Sect.* 1. Certain marriages void without divorce.
 2. For what causes a divorce may be granted.
 3. Jurisdiction when the wife is libellant.
 4. Evidence not restricted to facts happening in the state.
 5. What shall be alleged in the libel, and when tried by a jury.
 6. Issue not debarred from inheritance by a divorce.
 7. Libel, manner of filing and service.
 8. Lien on lands of the husband.
 9. Provision for the wife on divorce for impotency.
 10. Dower and provision for the wife in case of divorce for other causes. Alimony.

Sect. 11. Provision in case of divorce for adultery of the wife. Exceptions.

12. Libel for annulling a marriage.
13. No decree in such case without notice.
14. Issue, when illegitimate after divorce.
15. Issue when legitimate.
16. Same subject.
17. Court may free the wife from restraint pending the libel.
18. Disposal of the children on a divorce.
19. Power of the court to use compulsory processos.
20. Decrees of other states, when void in this.
21. When valid.
22. Court may grant a new trial within three years.
23. Provision and support of the wife pending a libel.

SECT. 1. All marriages prohibited by law as specified in sections one, two, three and four of chapter fifty-nine, if solemnized in this state, are absolutely void, without any decree of divorce or other legal process; and the sentence of either party to imprisonment for life in the state prison, and confinement under such sentence, shall dissolve the bond of matrimony, without any legal process. R. S., c. 89, § 1.

SECT. 2. A divorce from the bonds of matrimony may be decreed by any justice of the supreme judicial court, at any term thereof, in the county in which either of the parties resides at the time of filing the libel, when in the exercise of a sound discretion he deems the same reasonable and proper, conducive to domestic harmony, and consistent with the peace and morality of society. 1850, c. 171, § 1.

SECT. 3. When the libellant is the wife, residing in this state, and the marriage took place in this state, or the parties after the marriage cohabited in this state as man and wife, the court shall have jurisdiction. 1850, c. 171, § 1.

SECT. 4. The libellant shall not be restricted at the trial to proof of causes happening within the state, or when either of the parties resided in the state, but may allege and prove any facts shewing that a decree should be granted as aforesaid. 1850, c. 171, § 2.

SECT. 5. The libellant shall particularly allege in the libel, the causes for which the divorce is asked, and prove the same. If either party requests it, or if the court so orders, the matter shall be submitted to a jury, and if they find that the allegations in the libel are true, and that a divorce ought

6 to be granted according to the rule prescribed in section two,
7 the court shall decree the same.

1849, c. 116, § 2. R. S., c. 89, § 31.

SECT. 6. No divorce from the bonds of matrimony shall
2 bar the issue of the marriage from inheriting; but the ques-
3 tion of the right of such issue shall remain unaffected by any
4 thing in this chapter. R. S., c. 89, § 3.

SECT. 7. The libellant may file the libel, signed by him, in
2 the office of the clerk of the court, in which shall be set forth,
3 as particularly as may be, the causes of complaint; and shall
4 cause the other party, if in the state, to be served with an
5 attested copy thereof and a summons, at least fourteen days
6 before the session of the court in which the trial is to be had;
7 or in all cases the libel may be presented to the court in ses-
8 sion in any county; and such court shall order what notice
9 shall be given to the other party, and the manner of giving
10 it, returnable in the county where the libellant resides.

R. S., c. 89, § 8, 9. 1850, c. 171, § 3.

SECT. 8. When the libel is filed by the wife, in the clerk's
2 office, or presented to the court in session, praying for a
3 divorce, and she causes legal notice to be served on the hus-
4 band, all his lands in the state shall be thereby held to answer
5 the order and judgment of court, in case a divorce is decreed,
6 if a lien is prayed for in the libel. R. S., c. 89, § 10.

SECT. 9. When a divorce is decreed, for the impotence of
2 either of the parties, the wife shall have all her lands restored
3 to her; and the court may enter a judgment for all or such
4 part of her personal estate which came to her husband's
5 hands by virtue of the marriage, or the value thereof, as
6 they judge to be reasonable; and may use all necessary
7 process to compel the husband to disclose on oath, what per-
8 sonal estate of the wife so came to his hands, how it was
9 disposed of, and how much remained in his hands at the
10 time of divorce. R. S., c. 89, § 15.

SECT. 10. When a divorce is decreed to the wife on her
2 libel, for the fault of the husband, for any cause except impo-
3 tence, she shall be entitled to her dower in the husband's
4 estate, to be recovered, assigned and set out to her in the

5 same manner as though he was dead; and the real estate
 6 which he held in her right, the court may assign to her for
 7 her own use; and also the personal estate which the husband
 8 received in virtue of the marriage, or its equivalent in money,
 9 as the court deems reasonable. The court may also decree
 10 to the wife reasonable alimony out of the husband's estate,
 11 having regard to his ability; and to carry into effect such
 12 decrees, the court may order so much of the husband's real
 13 estate, or of the rents and profits thereof, to be assigned and
 14 set out to the wife, during her natural life, as may be neces-
 15 sary therefor; or instead of alimony the court may decree
 16 a specific sum of money to be paid by the husband to the
 17 wife, and employ all necessary legal process to carry the
 18 decrees aforesaid into execution. 1854, c. 100.

SECT. 11. Where the divorce is decreed on the libel of the
 2 husband, for adultery committed by the wife, he shall hold
 3 her personal estate forever, and her real estate, of which she
 4 was seized during coverture, during his natural life, if they
 5 had a child born alive during the marriage; otherwise
 6 during her natural life only, if he should survive her; but the
 7 court may allow her for her subsistence so much of her per-
 8 sonal or real estate as is necessary; but this section shall not
 9 apply to property of the wife owned or acquired under the
 0 provisions of chapter sixty-one. R. S., c. 89, § 18.

SECT. 12. When the validity of a marriage is denied or
 2 doubted, either party may file a libel for annulling it, the
 3 same as a libel for a divorce; and upon due proof of the nul-
 4 lity or of the validity of the marriage, it shall be declared
 5 void or affirmed, by sentence of the court. R. S., c. 89, § 21.

SECT. 13. No such decree of dissolution or affirmation shall
 2 prejudice the rights of the party against whom it is passed,
 3 unless he was personally notified to answer to the libel, or
 4 appeared and answered to it. R. S., c. 89, § 22.

SECT. 14. Upon dissolution of a marriage, by divorce, on
 2 sentence of nullity, on account of consanguinity or affinity
 3 between the parties, or of any marriage between a white per-
 4 son and a negro, indian or mulatto, the issue of the marriage
 5 shall be deemed illegitimate. R. S., c. 89, § 23.

SECT. 15. If the dissolution of the marriage is on account

2 of the nonage, insanity or idiocy of either of the parties, the
3 issue of the marriage shall be deemed the legitimate issue of
4 the parent, who at the time of the marriage was capable of
5 contracting marriage. R. S., c. 89, § 24.

SECT. 16. When a marriage is dissolved on account of
2 a prior marriage of either of the parties, and it appears
3 that the second marriage was contracted in good faith, and
4 in the full belief of the parties that the former husband or
5 wife was dead, that fact shall be stated in the sentence of
6 divorce or nullity; and the issue of such second marriage,
7 begotten before the commencement of the suit, shall be
8 deemed the legitimate issue of the parent who at the time of
9 the marriage was capable of contracting; and such legitimacy
10 shall be presumed, on the same principles of evidence as in
11 a case where both parties were able to contract lawful
12 marriage, at the time of the solemnization of the supposed
13 marriage. R. S., c. 89, § 25.

SECT. 17. After a libel is filed for the dissolution of a mar-
2 riage, or for a divorce from the bond of matrimony, the court
3 may, in any county, on the petition of the wife, prohibit the
4 husband from imposing any restraint on her personal liberty,
5 during the pendency of such libel. R. S., c. 89, § 26.

SECT. 18. The court, when decreeing the dissolution of a
2 marriage or a divorce from the bond of matrimony, may
3 make such further decree as they judge expedient, concern-
4 ing the custody, care and maintenance of the minor children
5 of the parties; and may determine with which of the parents
6 any of the children shall remain; and may from time to time,
7 revise and alter such decree, as the circumstances of all con-
8 cerned require, or render expedient. R. S., c. 89, § 27.

SECT. 19. The court, in the execution of the powers given
2 to them in this chapter, may employ such compulsory process
3 as they deem proper, by execution, attachment, or other
4 effectual form. R. S., c. 89, § 28.

SECT. 20. When an inhabitant of this state goes into any
2 other state or country, in order to obtain a divorce for any
3 cause which occurred here and while the parties resided here,
4 or for any cause which would not authorize a divorce by the

5 laws of this state, a divorce so obtained shall be void in this
6 state. R. S., c. 89, § 29.

SECT. 21. In all other cases, a divorce decreed in any other
2 state or country, according to the law of the place, by a court
3 having jurisdiction of the cause and of both the parties, shall
4 be valid in this state. R. S. c. 89, § 30.

SECT. 22. The justices of the supreme judicial court may,
2 at their discretion, and on such conditions as they may
3 impose, within three years from the former decree, grant a
4 new trial in cases of divorce, when the parties have not lived
5 together since the former trial, on application of the party
6 aggrieved by the judgment then given. R. S., c. 89, § 32.

SECT. 23. Pending any libel for divorce, the court may
2 order the husband to pay the clerk for the use of the wife, a
3 reasonable sum of money to be expended by her in the
4 defense or prosecution thereof, and to make reasonable pro-
5 vision for her separate support, and may enter such decree
6 touching the care and custody of the minor children during
7 the pendency of the libel, as they judge expedient, and
8 enforce obedience by appropriate processes. 1853, c. 30.

Chapter 61.

RIGHTS OF MARRIED WOMEN.

- Sect. 1.* Married women may acquire, own and dispose of real estate. Have all rights and remedies for enjoyment and protection thereof. Not liable to arrest on process. Husband can maintain no action for the possession or value thereof.
2. Husband not liable for debts or contracts of his wife. Estate conveyed by him to her after marriage without consideration, liable for his debts. She may release to him the control of her estate. Effect of such release. She may release her dower in his estate, he being under guardianship.
3. She may dispose of her estate by last will and testament. If not so disposed of how to be administered and distributed. Interest of husband in the same if she leaves children.
4. Interest of the husband if she leaves no children.
5. Tenancy by the courtesy and marriage settlement not affected by.
6. How claims against her are to be enforced on her estate. Provision in case of fraudulent conveyance or concealment thereof.
7. Wife deserted by her husband, how authorized to contract and sell real estate. May be party to suits.

- Sect.* 8. Money and property due to her in her own right, how recovered and obtained.
 9. Her contracts bind her husband. He may join in suits or defense of suits.
 10. Husband confined in state prison, wife authorized to make contracts. Notice of application. Duration of authority.
 11. How avails of her real estate taken for public uses secured to her.
 12. Married woman moving into the state without her husband may contract as a feme sole.
 13. Effect if her husband afterwards come into the state.

SECT. 1. A married woman of whatever age, may own in 2 her own right, any estate real or personal, acquired by 3 descent, gift or purchase; and manage, sell or convey the 4 same at her pleasure, by her sole contract, deed, or any other 5 conveyance, or mode of transfer. The income of such estate 6 while so owned, and the proceeds thereof when sold, shall be 7 her's to be reinvested or otherwise disposed of. She shall 8 have in her own name, all the rights and remedies at law or 9 in equity, for the enjoyment and protection of such property, 10 which she would have if unmarried. She shall not be liable 11 to arrest upon any process or execution arising out of any 12 suit or proceedings relating to such estate, but they shall be 13 satisfied out of her estate alone. No action shall be main- 14 tained by her husband for the possession or value of any 15 property by her held or disposed of in manner aforesaid.

1844, c. 117. 1847, c. 27. 1848, c. 73. 1852, c. 227, c. 291.

SECT. 2. Her husband shall not be liable in any manner, 2 for any of her debts or contracts existing before the marriage, 3 the same having taken place since April 26, 1852, or for any 4 of her contracts or liabilities on account of such estate. Any 5 estate, real or personal, acquired by her from her husband, 6 after the marriage, without adequate consideration to him 7 paid therefor, shall be liable to be taken by legal process for 8 his debts or contracts existing at the time of the transfer. She 9 may release to her husband the right to control and manage 10 her estate, and such release shall be valid so long as the pro- 11 ceeds are applied to their joint benefit. She may by her sole 12 deed release her dower in the estate of her husband under 13 guardianship. 1852, c. 291. 1847, c. 27. 1844, c. 117.

SECT. 3. She may dispose of such estate by her last will 2 and testament, made in due form of law, and if by such will

3 she gives the whole or any part thereof to her husband, no
 4 objection shall be made to the will on account of the cover-
 5 ture of the wife. If she dies intestate, leaving children or
 6 lineal descendants, her husband shall have, during his life
 7 time, the use of one third part of her real estate, and abso-
 8 lutely one third part of the residue⁷ of her personal estate,
 9 after paying her just debts and expenses [of administration.
 10 Her estate shall be administered and otherwise distributed in
 11 the same manner as if she was unmarried.

1848, c. 73, § 3. (New.)

SECT. 4. If she dies intestate leaving no children⁷ or lineal
 2 descendants, her husband shall have half of the residue of her
 3 personal estate absolutely, and the use of one half of the real
 4 estate of which she died seized, his right in her real estate in
 5 each case to be demanded, set out and recovered in the same
 6 manner as dower is demanded, set out and recovered. The
 7 judge may also at his discretion, in all cases, make to him a
 8 suitable allowance out of her personal estate. (New.)

SECT. 5. The foregoing provisions shall not affect the
 2 rights of the husband as tenant by the curtesy in the real
 3 estate of his wife, or as heir or otherwise in her personal
 4 estate, acquired and owned before the twenty-second day of
 5 March, 1844, when the marriage took place before that time;
 6 nor any marriage settlement or rights of property acquired
 7 by virtue thereof. 1847, c. 27, § 3. (New.)

SECT. 6. Her real and personal estate acquired before and
 2 after the marriage, shall be liable to be attached on mesne
 3 process, or taken on execution for her debts and contracts,
 4 contracted either before or after the marriage, the same
 5 as if she was unmarried. Any creditor hindered or delayed
 6 in satisfying such execution, by the fraudulent concealment
 7 or conveyance of such estate, may have a remedy therefor
 8 against her and all parties concerned, by a bill in equity, in
 9 the supreme judicial court, which shall have full power to
 10 grant such adequate relief as the case may require. The
 11 right of the husband to the society and services of his wife
 12 is in no manner changed or diminished by the provisions
 13 of this chapter. (New.)

SECT. 7. The supreme judicial court, on application of any
2 married woman whose husband has absented himself from
3 the state, abandoning her and not making sufficient provision
4 for her maintenance, may empower her during his absence,
5 in her own name to make and execute any contract under
6 seal or otherwise; to make sale of any estate real or personal,
7 of which she is seized or possessed in her own right;
8 execute all legal instruments necessary for that purpose, and
9 commence, prosecute, and defend actions in law or equity
10 to final judgment and execution the same as if she were
11 unmarried. R. S., c. 87, § 22, 23, 24.

SECT. 8. The court may also, on her petition, authorize any
2 person holding money or any other personal property, to
3 which her husband is entitled in her right, to pay and deliver
4 the same to her, and authorize her to give a valid discharge
5 therefor, and use and dispose thereof during his absence
6 as her own property. Such application may be pre-
7 sented and heard in any county, but the court before granting
8 any of the powers mentioned in this and the preceding sec-
9 tion, shall order suitable notice to be given of the pendency
10 thereof. R. S., c. 87, § 25, 26.

SECT. 9. All contracts lawfully made by any married
2 woman by virtue of any power to her thus given, shall be
3 binding on her and her husband, and during his absence she
4 shall be liable to be sued thereon, as if she was unmarried,
5 and also for all other acts done by her, while the power
6 granted to her is continued. No such suit shall abate by his
7 return to the state, but on her application he may be admit-
8 ted to prosecute or defend jointly with her. If he is not
9 admitted as a party, judgment shall be rendered and execu-
10 tion issued and enforced by or against her, the same as
11 if she were unmarried. R. S., c. 87, § 27, 28.

SECT. 10. When any married man is sentenced to confine-
2 ment in the state prison, and confined under such sentence,
3 his wife, on her petition, may be authorized to make contracts
4 and conveyances, and perform all such acts as are men-
5 tioned in the three preceding sections; but in all such cases
6 notice shall be given to the husband prior to the grant of such
7 powers; her contracts shall have the same binding effect

8 as those mentioned in the preceding sections; and her author-
 9 ity shall continue until the discharge of the husband from
 10 the state prison. R. S., c. 87, § 29, 30.

SECT. 11. When the real estate of a married woman is
 2 taken for any railroad, turnpike, way, or public use, or shall
 3 be damaged by the laying out of such way, or any other
 4 public work, the damages awarded therefor, shall be so
 5 invested and disposed of as to secure to her the same benefits
 6 of the sum awarded and the income of it, as she would have
 7 had from the real estate and its income; and on her applica-
 8 tion to the supreme judicial court, they may hear and decide
 9 the case according to the course of chancery proceedings, and
 10 make such decrees as may enforce and secure her rights.

R. S., c. 87, § 31.

SECT. 12. When a married woman comes into this state
 2 from any other state or country, without her husband, not
 3 having lived with him in this state, she may make contracts,
 4 and commence and defend suits, and dispose of property in
 5 her own name as if she were unmarried; and shall be liable
 6 to be sued on her contracts made before his arrival in this
 7 state.

R. S., c. 87, § 32.

SECT. 13. If the husband of such woman afterwards comes
 2 into this state, and claims his marital rights, his arrival shall
 3 have the same effect, and no other, as to contracts made by
 4 her, or suits pending, in which she is a party, as if they had
 5 been first married at the time of his arrival.

R. S., c. 87, § 33.

Chapter 62.

MASTERS, APPRENTICES AND SERVANTS.

- Sect. 1. Binding of minors under fourteen years of age.
 2. Binding of minors above the age of fourteen,
 3. Indentures in such cases.
 4. By whom indentures shall be kept.
 5. Consideration, how secured,
 6. Indentures to be binding,
 7. Void on the death of the master.
 8. Minor not to be transferred, nor transported from the state.

Sec. 9. Proceedings for discharge of apprentice for ill treatment.

10. Proceedings to discharge him for misbehaviour.

11. How recovered in case he absconds.

SECT. 1. Children under the age of fourteen years, may be bound as apprentices or servants until that age, without their consent, by their father if living; and if not by their mother or legal guardian; and if they have no parent or guardian, they may bind themselves, with the approbation of the municipal officers of the town where they reside.

R. S., c. 90, § 1.

SECT. 2. Minors above the age of fourteen years, may be bound in the same manner with their consent, which shall be distinctly expressed in the indenture signed by them; females to the age of eighteen years, or to the time of their marriage within that age, and males to the age of twenty-one years.

R. S., c. 90, § 2.

SECT. 3. No minor of any age shall be bound as aforesaid, unless by an indenture of two parts, signed, sealed and delivered by both parties; and when the minor binds himself as aforesaid, by the consent of the municipal officers, such consent shall be certified in writing, signed by them on each part of the indenture.

R. S., c. 90, § 3.

SECT. 4. One part of the indenture shall be kept by the master or mistress to whom the minor is bound, and the other part by the parent or guardian, for the use of the minor; and when made by the consent of the municipal officers, as aforesaid, it shall be deposited with the town clerk.

R. S., c. 90, § 4.

SECT. 5. All considerations allowed by the master or mistress, in any contract of service or apprenticeship, shall be secured by the indenture to the sole use of the minor; and paid to such minor without any control on the part of the parent or guardian at any time.

R. S., c. 90, § 5.

SECT. 6. All indentures made in the manner and form prescribed in this chapter, shall be binding and effectual in law, against all parties thereto.

R. S., c. 90, § 6.

SECT. 7. No indenture between any minor, his parent or guardian, and any master or mistress, or their executors and administrators, shall be binding on such minor, parent or

4 guardian, after the death of such master or mistress ; but the
5 indenture shall be deemed void from that time, and the minor
6 may be bound out anew as aforesaid. R. S., c. 90, § 7.

SECT. 8. A minor, thus bound, shall not be transferable to
2 another person, nor transported out of the state, by his mas-
3 ter or mistress. R. S., c. 90, § 8.

SECT. 9. Parents and guardians who have bound minors,
2 and municipal officers who have given their consent to
3 such binding, may inquire into their usage; defend them
4 from the cruelty or other injury of their masters and mistresses;
5 and complain to the supreme judicial court of the county, of
6 which such master or mistress is an inhabitant, against them
7 for any such cruelty, neglect or injury ; and said court after
8 giving due notice to the person complained of, may hear and
9 decide on such complaint; and if it is supported, may render
10 judgment that the minor is discharged from his apprentice-
11 ship or service, with costs against the respondent, and award
12 execution accordingly ; in which case the indenture shall be
13 thereafter void. If the complaint is not supported, the court
14 shall award costs for such respondent, against the complain-
15 ants when it appears to the court that the complaint was
16 made without probable cause, and issue execution accord-
17 ingly. R. S., c. 90, § 9.

SECT. 10. If any apprentice or servant is guilty of gross
2 neglect, misbehaviour, or wilful refusal to do his duty, the
3 master or mistress may complain thereof to said court, in the
4 county where the complainant lives; and the court shall,
5 after giving notice to such apprentice or servant and all per-
6 sons interested, by means of signing or approving the
7 indenture, hear and decide the cause; and if the complaint is
8 supported, may discharge the said master or mistress from
9 the obligation of said indenture, with costs, and award exe-
10 cution therefor; and the apprentice or servant may be bound
11 out anew. R. S., c. 90, § 10.

SECT. 11. If any apprentice or servant bound as aforesaid,
2 departs from the service of his master or mistress, any justice
3 of the peace of the county where the delinquent is found, on
4 complaint of such master or mistress, may issue his warrant
5 against him, and cause him to be brought before such justice;

6 who upon a hearing, may order such apprentice or servant
7 to be returned to the place of his duty, or commit him to the
8 jail of said county for a term not exceeding twenty days,
9 unless sooner discharged by the master or mistress. And the
10 warrant of such justice shall authorize the officer to convey
11 such delinquent to his master or mistress, though they reside
12 in another county. The expenses of the proceedings shall be
13 paid by the complainant, and may be recovered by action on
14 the deed of indenture; and if recovered of a guardian, they
15 shall be a valid and proper charge in his guardianship
16 account. R. S., c. 90, § 11.