

# MAINE STATE LEGISLATURE

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FOURTH REVISION.

THE  
REVISED STATUTES

OF THE  
STATE OF MAINE,

PASSED \_\_\_\_\_, 1883;

TO WHICH ARE PREFIXED

THE CONSTITUTIONS

OF THE  
UNITED STATES AND OF THE STATE OF MAINE:

WITH AN APPENDIX AND REFERENCE INDEX.

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PORTLAND:  
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# TITLE FIVE.

## Domestic Relations.

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- CHAP. 59. Marriage and its solemnization; record of marriages, births and deaths; parents and children. Abused and neglected children.
60. Divorce and dissolution of marriages.
  61. The rights of married women.
  62. Masters, apprentices and servants.
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### CHAPTER 59.

#### MARRIAGE AND ITS SOLEMNIZATION; RECORD OF MARRIAGES, BIRTHS, AND DEATHS; PARENTS AND CHILDREN. ABUSED AND NEGLECTED CHILDREN.

##### MARRIAGE AND ITS SOLEMNIZATION.

- SEC. 1. Marriages prohibited within certain degrees of relationship.
2. White persons prohibited from intermarrying with negroes, mulattoes or indians. Insane persons and idiots incapable of contracting marriage.
  3. Polygamy prohibited.
  4. Intention of marriage when and where recorded, book of records how labelled, and kept open to inspection.
  5. Town clerk to give certificate to parties, to be presented to magistrate before marriage begins; but none to be given to minors without written consent of parents or guardians, or to paupers. Penalty.
  6. Penalty for obtaining certificate by fraud, or marrying unlawfully.
  7. Residents going out of state for purpose of marriage, to file certificate with town clerk on return. Penalty for neglect.
  8. Caution, with reasons, may be filed with clerk when unlawful marriage is supposed to be intended. Clerk to withhold certificate and notify person filing caution. Two justices of the peace to decide on sufficiency of reasons after notice to parties. Costs.
  9. Marriage in another state, with intent to evade the preceding provisions, void in this state.
  10. Marriages solemnized among quakers or friends in the form practiced in their meetings valid, and not affected by foregoing provisions. Clerk of meeting to deliver a list of such marriages to the clerk of his town once a year. Penalty for neglect.

- SEC. 11. Justices of the peace, and ordained ministers and licensed preachers commissioned by the governor and council for that purpose, may solemnize marriages within certain limits. Women may be authorized. CHAP. 59.
12. Ministers and preachers to hold office during the pleasure of the executive; commission to be conclusive evidence of being minister; when commission is revoked, copy of revocation to be filed in county clerk's office.
13. Penalty for marrying persons in violation of the foregoing provisions.
14. Penalty for solemnizing marriages by persons not authorized.
15. Persons authorized to solemnize marriages, to keep record and make return to town clerk monthly. Penalty for neglect.
16. Attested copy of such record to be received in all courts as evidence of marriage.
17. Marriages valid notwithstanding informalities or want of authority on the part of the person solemnizing same, if consummated in good faith by either of the persons married.
18. Penalty for giving false certificate of intention.
19. Town clerk to make annual returns of marriages to clerk of court.

#### RECORD OF MARRIAGES, BIRTHS AND DEATHS.

- SEC. 20. Town clerk to record marriages, births and deaths, and make annual returns to secretary of state to be filed by him.
21. Assessors to ascertain births and deaths, and return to town clerk; and parents and others to notify him of births and deaths.
22. Penalty for violating three preceding sections.

#### PARENTS AND CHILDREN.

- SEC. 23. Property of minor children to be applied to their support in certain cases.
24. Mother may bind illegitimate children; but her right to bind legitimate or illegitimate children, ceases at marriage.
25. Widowed mother same right to custody and earnings of minors as father.

#### ABUSED AND NEGLECTED CHILDREN.

- SEC. 26. On written complaint of two citizens, municipal officers may give notice of hearing in case of alleged abuse or neglect of a child by its parents. Proceedings.
27. Municipal officers may make complaint to magistrate. Proceedings.
28. Magistrate may place child under suitable person, who shall give bond. May examine into condition of such children and make further orders.
29. When town officers may take child into custody before hearing.
30. Parents may apply for restoration of child. Notice and hearing.
31. Expense of child's support may be recovered of parents.
32. Towns may provide for support of such children.

#### MARRIAGE AND ITS SOLEMNIZATION.

SEC. 1. No man shall marry his mother, grandmother, daughter, granddaughter, stepmother, grandfather's wife, son's wife, grandson's wife, wife's mother, wife's grandmother, wife's daughter, wife's granddaughter, sister, brother's daughter, sister's daughter, father's sister, or mother's sister; and no woman shall marry her father, grandfather, son, grandson, stepfather, grandmother's husband, daughter's husband, granddaughter's husband, husband's

Marriages prohibited within certain degrees. R.S., c. 59, § 1.

CHAP. 59. father, husband's grandfather, husband's son, husband's grandson, brother, brother's son, sister's son, father's brother, or mother's brother.

Certain marriages void. R.S., c. 59, § 2. 34 Me., 78. 46 Me., 510.

Polygamy prohibited. R.S., c. 59, § 3.

Marriage, notice of intentions of, to be recorded. 1875, c. 40.

—where one of the parties lives out of the state, intentions, how recorded.

Clerk to give certificate to parties, to be presented to magistrate before marriage begins; but none given to minors without written consent of parents, or to paupers. Penalty. R.S., c. 59, § 5.

Penalty for obtaining certificate by fraud, or marrying unlawfully. R.S., c. 59, § 6. Certificate of marriage out of the state, to be filed. Penalty for neglect. R.S., c. 59, § 7.

Proceedings]

SEC. 2. No white person shall intermarry with a negro, indian, or mulatto; and no insane person or idiot shall be capable of contracting marriage.

SEC. 3. All marriages, contracted while either of the parties has a former wife or husband not divorced, living, are void.

SEC. 4. All residents of this state intending to be joined in marriage, shall cause notice of their intentions to be recorded in the office of the clerk of the town in which each resides, at least five days before a certificate of such intentions is granted and if one only of the parties intending to be joined in marriage resides in this state, they shall cause notice of their intentions to be recorded in the office of the clerk of the town in which such party resides, at least five days before a certificate of such intentions is granted; and the book in which such record is made, shall be labelled on the outside of the cover, *with the words* "record of intentions of marriage," and be kept open to public inspection in the office of the clerk; and if there is no such clerk in the place of their residence, the like entry shall be made with the clerk of an adjoining town.

SEC. 5. The clerk shall deliver to the parties a certificate specifying the time such intentions were entered with him; and it shall be delivered to the minister or magistrate before he begins to solemnize the marriage; but no such certificate shall be issued to a male under twenty-one, or a female under eighteen years of age, without the written consent of their parents or guardians first presented, if they have any living in this state; nor to a town pauper when the overseers of a town deposit a list of their paupers with the clerk; and for any intentional violation of the foregoing prohibitions; or for falsely stating the residence of either party named in such certificate, such clerk shall be fined twenty dollars.

SEC. 6. Whoever contracts a marriage, or makes false representations to procure such certificate or the solemnization of marriage contrary to the provisions of this chapter, shall be fined one hundred dollars.

SEC. 7. When residents of this state go into another state for the purpose of marriage, and it is there solemnized, and they return to dwell here, they shall file a certificate or declaration of their marriage with the clerk of the town, in which each of them then lived, within seven days after their return, under a penalty of ten dollars, to be recovered by any person suing therefor, one half to his own use and the other half to the use of the town where the forfeiture is incurred.

SEC. 8. Any person believing that parties are about to contract

matrimony, when either of them cannot lawfully do so, may file a caution and the reasons therefor, in the office of the clerk where notice of their intentions should be filed. Then if either party applies to the clerk to enter such notice, he shall withhold the certificate, and notify the person filing the caution, who shall, within seven days thereafter, unless the justices certify that a longer time is necessary, procure the decision of two justices of the peace, after notice to both parties, upon the sufficiency of such reasons, which shall be duly certified to said clerk, and he shall deliver or withhold the certificate accordingly. If the decision is against the sufficiency, the justices shall enter judgment against the applicant for costs, and issue execution therefor.

СНАР. 59.  
when marriage is forbidden.  
R.S., c. 59, § 8.

SEC. 9. When residents of this state, with intent to evade the provisions of sections one, two and three of this chapter, and to return and reside here, go into another state or country, and there have their marriage solemnized, and afterwards return and reside here, such marriage shall be void in this state.

Marriage in another state in evasion of first three sections, void here.  
R.S., c. 59, § 9.

SEC. 10. All marriages solemnized among the quakers or friends, in the form heretofore practiced in their meeting, shall be valid, and not affected by the foregoing provisions; and the clerk or the keeper of the records of the meeting in which they are solemnized, shall once every year deliver a list thereof to the clerk of his town, on penalty of forfeiting fifty dollars, one half to the use of the county, and the other to the use of the prosecutor.

Marriage among quakers.  
R.S., c. 59, § 10.

SEC. 11. Every justice of the peace appointed for a county or for the state, and residing therein; and every ordained minister of the gospel, and every person licensed to preach by an association of ministers, religious seminary, or ecclesiastical body, duly appointed and commissioned for that purpose by the governor, may solemnize marriages within the limits of their appointment. The governor, with advice of council, may appoint women, otherwise eligible under the constitution, to solemnize marriages, to administer oaths, and to take acknowledgments of deeds.

Who may solemnize marriages.  
1876, c. 110, § 2.  
18 Me., 311.  
42 Me., 288.

SEC. 12. Such ordained or licensed minister shall hold his office during the pleasure of the executive; and the commission shall be conclusive evidence that he is an ordained or licensed minister, and when the commission is revoked, a copy of the revocation shall be filed in the clerk's office of said county.

Women may be authorized.  
1875, c. 56.  
62 Me., 598.  
Tenure of office of ministers.  
R.S., c. 59, § 12.  
42 Me., 288.

SEC. 13. If any person commissioned as aforesaid, knowingly and willfully joins persons in marriage contrary to the provisions of this chapter, he shall forfeit the sum of one hundred dollars, two thirds thereof to the use of the county where the offence is committed, and the other to the prosecutor, to be recovered by the county treasurer or by the parent, guardian, or other person under whose immediate care and government either of the parties

Penalty for joining persons in marriage in violation of these provisions.  
R.S., c. 59, § 13.

**CHAP. 59.** was at the time of such marriage ; and [such offender] is forbidden from *joining* [to join] any persons in marriage after such recovery.

Penalty for solemnization of a marriage by a person not authorized.  
R.S., c. 59, § 14.

**SEC. 14.** If any person thus forbidden, or any minister or other person not authorized to solemnize marriages, joins any persons in marriage, he shall be punished by confinement to hard labor in the state prison for a term not more than five years, or by fine not exceeding one thousand dollars.

Return of marriages to be made to town clerk.  
1876, c. 110, § 1.

**SEC. 15.** Every person, commissioned as aforesaid, shall keep a record of all marriages solemnized by him, and, by the fifteenth day of each month, make return thereof for the preceding month, to the clerk of the town where the marriage is solemnized, [and to the clerks of the towns where the parties receive their certificates,\*] certifying the names of the parties, the places of their residence, and the date of the marriage ; and for any neglect to do so, he shall forfeit the sum of fifty dollars, one half to the use of the county, and the other to the use of the person suing therefor.

Penalty for neglect.

Copies, legal evidence.  
R.S., c. 59, § 16.  
19 Me., 158.

**SEC. 16.** A copy of a record so made and kept, attested or sworn to by a justice of the peace, commissioned minister, or town clerk, shall be received in all courts as evidence of the fact of marriage.

Marriages to be valid, if in good faith, though not according to the forms of law.  
R.S., c. 59, § 17.  
6 Me., 149.  
36 Me., 454.  
61 Me., 177.

**SEC. 17.** No marriage, solemnized before any known inhabitant of this state professing to be a justice of the peace, or an ordained or licensed minister of the gospel duly appointed and commissioned, shall be void, nor shall its validity be affected by any want of jurisdiction or authority in the justice or minister, or by any omission or informality in entering the intention of marriage, if the marriage is in other respects lawful, and consummated with a full belief, on the part of either of the persons married, that they are lawfully married.

Penalty for false certificate of intention.  
R.S., c. 59, § 18.

**SEC. 18.** If any town clerk makes out and delivers to any person a false certificate of the entry of the intention of matrimony, knowing it to be false in any particular, he shall be fined one hundred dollars or imprisoned six months in the county jail.

Town clerk to make annual return of marriages to clerk of court.  
R.S., c. 59, § 19.

**SEC. 19.** The clerk of every town shall return to the clerk of the judicial courts for his county, a transcript of all the records of marriages made upon his books during the year for which he was a clerk ; and said clerk of the courts shall record the same in a book to be kept for that purpose ; and be allowed therefor from the county treasury at the rate of twelve cents a page.

#### RECORD OF MARRIAGES, BIRTHS AND DEATHS.

Clerk to record marriages, births, and deaths, and

**SEC. 20.** The clerk of every town shall record in a book kept for that purpose the marriages, births and deaths occurring therein ; and by the second Monday of May annually, shall make certified

\* [NOTE. The act of 1876, c. 110, § 1, seems to overlook the act of 1873, c. 102, which inserted the words inclosed in brackets, and therefore the act of 1876 may perhaps be held to repeal said clause, but such construction is doubtful, and the question is submitted to the wisdom of the Honorable Legislature.]

returns thereof to the secretary of state for the year ending the last day of March; and the latter shall receive and file them in his office.

SEC. 21. The assessors, while taking the inventory of the polls and estates annually, shall ascertain by inquiry the births and deaths during the year ending the last day of March, and make return thereof to the town clerk by the last day of April; and parents, householders, masters of workhouses, alms houses, prisons, and vessels, shall give notice to the clerk of their town of the births and deaths which take place in their families, houses, or vessels, and the elder person next of kin shall give notice of the death of his kindred.

SEC. 22. Whoever neglects to perform the duties required of him in the three preceding sections, forfeits not exceeding ten dollars for each offence, to be recovered half to the town and half to the prosecutor.\*

#### PARENTS AND CHILDREN.

SEC. 23. If any minor, having a father alive, has property sufficient for his maintenance and education in a manner more expensive than his father can reasonably afford, regard being had to the situation of his father's family and to all the circumstances of the case, the expenses of his maintenance and education may be defrayed out of his own property, in whole or in part, and the charges therefor allowed accordingly in the settlement of the guardian's account.

SEC. 24. The mother of an illegitimate child may bind him during minority; but her right to bind legitimate or illegitimate children ceases at her subsequent marriage, and cannot be exercised by her or her husband while it continues.

SEC. 25. Widowed mothers have the same right to the custody and earnings of minor children without guardians, as a father has.

#### ABUSED AND NEGLECTED CHILDREN.

SEC. 26. When complaint in writing, signed by two or more citizens of any town or city alleging that any child therein is willfully neglected or cruelly treated by its parents, or by the willful fault of such parents is not provided with suitable food, clothing or privileges of education, or is kept at any house of ill-fame, or that such child is an orphan without means of support or kindred of sufficient ability who will furnish such support, shall be made to the municipal officers of such town or city, such officers shall give notice of a time and place of hearing upon such petition, by serving such notice, with a copy of such petition upon such parents at least two days before such hearing, or by publishing a copy of such

#### CHAP. 59.

make annual return to sec'y of state. R.S., c. 59, § 20.

Assessors to ascertain births and deaths, and return to town clerk; and parents and others to notify him of births and deaths. R.S., c. 59, § 21.

Penalty for violating §§ 19, 20, 21. 1875, c. 29.

Property of minor children to be applied to their support in certain cases. R.S., c. 59, § 23. 23 Me., § 72.

Mother may bind illegitimate child; but not at re-marriage. R.S., c. 59, § 24.

Widowed mothers, rights touching minors. R.S., c. 59, § 25.

Municipal officers may on complaint give notice of hearings on cases of alleged abuse of children by parents. 1881, c. 72, § 1.

\* [QUERY. Ought not the secretary of state to be required to furnish town clerks with suitable blanks?]



CHAP. 59. petition and notice in some newspaper in the county where such child resides, at least seven days before such hearing. Said municipal officers shall at the time and place mentioned in said notice, give a hearing to the parties and their witnesses, and if they find that the allegations in the petition are true, and that it is just and expedient to make further provision for the care, education and support of such child, they shall make a record thereof, signed by them or a majority of them, which shall be recorded by the clerk of said city or town in a book kept for that purpose.

Municipal officers may make complaint to justice of court or trial justice. 1881, c. 72, § 2.

Proceedings.

SEC. 27. Upon the making of such record it shall be the duty of such municipal officers or of some person appointed by them for that purpose, to make complaint under oath to any judge of any court or to any trial justice, which shall contain in substance, the allegations set forth in said petition, and praying that such provision may be made for the care, custody, support and education of the child named in said complaint as justice shall require, and thereupon the magistrate, before whom such complaint is made, shall issue his warrant and cause such child to be brought before him, and if upon notice and hearing, it shall appear that the allegations of the complaint are true, and that justice requires that such child shall be supported and educated away from its parents, he shall order such child to such place or institution as shall be provided therefor by such town or city, or to such charitable institution or private person, as he shall deem suitable for the purpose, provided such institution or person shall consent to receive, support and educate such child; but such order shall not extend beyond the time when such child shall arrive at the age of twenty-one years, if a male, or at the age of eighteen years, if a female.

Magistrate may place child under control of private person, who shall give bond. 1881, c. 72, § 3.

Magistrate may examine into condition of such children and make further order for their benefit.

Municipal officers may take custody of child in

SEC. 28. Whenever the magistrate shall deem it suitable and conducive to the public welfare, that such child shall be placed under the control of any private person, he shall first take a bond from such person, running to such town or city where the child resides, in such sum and with such sureties as he shall approve, conditioned that such person will humanely treat and properly support, clothe and educate the child, and in case of the non-performance of said bond, a suit may be commenced thereon, and the sum recovered upon such bond shall be paid into the treasury of the town or city to which the bond is given. Upon application to any magistrate, he shall examine into the condition and welfare of the children who have been provided for under this chapter, and may at any time make such further order in relation to their care, custody, support and education as justice shall demand.

SEC. 29. Whenever the municipal officers of any town or city have reason to believe that any child will be removed beyond the limits of the state before a hearing can be had, as provided in this

chapter, at any time after the filing of the petition, they shall have power to take the child into their custody and keep the same until the hearing before the magistrate, as hereinbefore provided.

SEC. 30. Whenever any child is in the custody of any public or charitable institution, the parents or either of them may make application in writing to any judge of the supreme judicial court to have the custody of such child restored to them. Such notice of the application and the time and place of the hearing thereon as the court shall order, shall be given to such institution and [to] the municipal officers of the town *or city* where the proceedings hereinprovided *for* commenced, and if it shall appear upon such hearing, that the applicant is of sufficient ability and inclination suitably to provide for the support and education of such child, and justice requires that the custody of such child shall be restored to such applicant, the judge shall so order, and the custody and control of said child shall thereupon be given to such applicant until the further order of *the* court.

SEC. 31. Any town or city incurring expenses under the five preceding sections, by reason of the fault of parents who are of sufficient ability properly to support and educate their children, but who wrongfully neglect and refuse to do so, may recover of such parents in an action of debt, the amount so expended *for the support of said children*.

SEC. 32. Any town or city may make proper provisions for the support of children mentioned in said sections, and such support shall not make such children or their parents, paupers.

CHAP. 60.  
certain cases.  
1881, c. 72, § 4.

Parents  
may make  
application  
to have cus-  
tody of child  
restored to  
them.  
1881, c. 72, § 5.  
Notice and  
hearing.

Expense of  
support of  
children may  
be recovered  
of parents.  
1881, c. 72, § 6.

Towns may  
make provis-  
ions for  
children.  
1881, c. 72, § 7.

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## CHAPTER 60.

### DIVORCE AND ANNULLING OF MARRIAGES.

#### WHAT MARRIAGES ARE VOID WITHOUT PROCESS.

SEC. 1. Certain marriages void without process.

#### DIVORCE FROM BONDS OF MATRIMONY.

- SEC. 2. In what cases divorces may be granted; either party a witness, and when divorced may marry again.
3. Court shall grant divorce for three years' desertion, and may for less.
  4. Libel may be filed with clerk of courts or inserted in writ of attachment, and served by summons and copy. Court or judge may order notice.
  5. Residence of libellee to be named in libel, if known, and actual notice obtained. If residence cannot be ascertained, libellant shall so swear.

- CHAP. 60. SEC. 6. False swearing, penalty for.
7. To be tried by a jury when either party requests or court orders.
  8. Pending libel, court or judge may order husband to pay for wife's defence or prosecution thereof, and provide for her support. Care of minor children.
  9. Dower, alimony, and other provisions for wife in case of divorce.
  10. Provision for husband in case of divorce for adultery of wife. Exceptions.
  11. New trial may be had within three years, except in certain cases. Alimony.
  12. Divorce decreed out of the state, when void and when valid.
  13. Issue not debarred from inheriting, by divorce.

#### DIVORCE FROM BED AND BOARD.

- SEC. 14. Causes of divorce from bed and board. Libel, how filed.
15. Provision for wife from husband's estate. Court to allow alimony.

#### ANNULLING ILLEGAL MARRIAGES.

- SEC. 16. Illegal marriages, how annulled.
17. Issue, when legitimate and when not, after divorce.
  18. Issue of second marriage, when legitimate.

#### GENERAL PROVISIONS.

- SEC. 19. Court may free wife from restraint pending a libel.
20. Both parties guilty of adultery, or collusion, divorce to be denied.
  21. Disposal of minor children, and compulsory powers of court.

#### WHAT MARRIAGES ARE VOID WITHOUT PROCESS.

Certain marriages void without process.  
R.S., c. 60, § 1.  
31 Me., 491,  
493,  
32 Me., 589.

- SEC. 1. All marriages prohibited by law as specified in sections one, two, and three, of chapter fifty-nine, if solemnized in this state, are absolutely void; and the sentence of either party to imprisonment for life and confinement under it, dissolve the bonds of matrimony, without any legal process in either case.

#### DIVORCE FROM THE BONDS OF MATRIMONY.

In what cases divorces may be granted. Either party a witness, and when divorced may marry again.  
R.S., c. 60, § 2.

- SEC. 2. A divorce from the bonds of matrimony may be decreed by the supreme judicial court, in the county where either party resides at the commencement of proceedings, when the judge deems it reasonable and proper, conducive to domestic harmony and consistent with the peace and morality of society, if the parties were married in this state, or cohabited here after marriage; or [if] the libellant resided here when the cause of divorce *accrued*, [occurred\*] or had resided here in good faith one year prior to the commencement of proceedings. Either party may be a witness, and when such divorce is granted, may marry again. (a)

Divorce for three years' desertion;

- SEC. 3. The court shall grant such divorce for three years' willful desertion or abandonment without reasonable cause, or

(a) 31 Me., 343, 491; 32 Me., 338; 43 Me., 261; 45 Me., 379; 51 Me., 481; 54 Me., 366; 58 Me., 162; 61 Me., 377.

\* [NOTE. "Occurred" is the word used in § 12.]

intent on the part of the libellant to procure a divorce, and may, for a less period.

SEC. 4. The libellant may file a libel signed by him in the clerk's office, 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.

SEC. 5. Upon all libels for divorce when the residence of the libellee can be ascertained, it shall be named in the libel and actual notice shall be obtained, if the libellee is out of the state, in such manner and by such means as may be ordered by the court. When it is not known to the libellant and cannot be ascertained by reasonable diligence, the libellant shall [so] allege *and make* [under] oath *to the same* in the libel.

SEC. 6. Whoever falsely and corruptly swears or affirms to any facts required as aforesaid, shall be guilty of perjury, and be punished by imprisonment not less than two nor more than ten years.

SEC. 7. If either party requests, or the court orders it, the case shall be submitted to a jury; and if they find that the allegations are true, and that a divorce ought to be granted according to section two, the court shall so decree.

SEC. 8. Pending a libel, the court, or any justice thereof in vacation, may order the husband to pay the clerk, for the wife, a suitable sum of money for her defence, 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 they think right; and enforce obedience by appropriate processes.

SEC. 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 received by him by the marriage, or its value in money, as they think reasonable; and may compel him to disclose, on oath, what personal estate he so received, how it was disposed of, and what then remained. [s.] When a divorce is decreed to the wife for the fault of the husband for any other cause, she shall have dower in his real estate, to be recovered and assigned to her as if he was 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 for his ability; and to effectuate 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

CHAP. 60.

may for less.  
R.S., c. 60, § 8.  
Libel filed  
with clerk,  
or inserted  
in writ and  
served by  
summons  
and copy.  
Notice.  
R.S., c. 60, § 4.  
69 Me., 338.

Libellee's  
residence  
to be named  
in libel, when  
known.  
1874, c. 184, § 1.  
—when not  
known, pro-  
ceedings.

Perjury,  
penalty for.  
1874, c. 184, § 2.

Jury trial.  
R.S., c. 60, § 5.  
58 Me., 162.

Pending  
libel, wife's  
expenses to  
be paid by  
husband.  
1878, c. 25.  
46 Me., 381.  
65 Me., 409.  
69 Me., 333-9.

Dower, ali-  
mony, and  
other provis-  
ions for wife  
in case of  
divorce for  
husband's  
fault.  
R.S., c. 60, § 7.  
55 Me., 21.  
59 Me., 150,  
153.  
60 Me., 452.  
61 Me., 377,  
398.  
65 Me., 409.  
69 Me., 533.

CHAP. 60. alimony, may decree a specific sum to be paid by him to her; and use all necessary legal processes to carry their decrees into effect.

Provisions for husband in case of divorce for adultery of wife. Exceptions. R.S., c. 60, § 8. 69 Me., 533.

SEC. 10. When a divorce is decreed to the husband for the adultery of the wife, he may hold her personal estate forever, and her real estate, of which she was seized during coverture, during his life, if they had a child born alive during marriage, otherwise, during her life only, if he survives her; but the court may allow her so much of her real or personal estate as is necessary for her subsistence. This section shall not apply to the wife's property held under the provisions of chapter sixty-one.

New trial within three years when granted. 1874, c. 184, § 3. 55 Me., 375. 64 Me., 420.

SEC. 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 have 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.

Alimony.

Divorce decreed out of the state, when to be void and when valid. R.S., c. 60, § 10. 9 Me., 146.

SEC. 12. When residents of this 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.

Issue not barred from inheriting. R.S., c. 60, § 11.

SEC. 13. A divorce from the bonds of matrimony shall not bar the issue of the marriage from inheriting, or affect their rights.

#### DIVORCE FROM BED AND BOARD.

Causes of divorce from bed and board. Libel, how filed. R.S., c. 60, § 12. 32 Me., 333.

SEC. 14. A divorce from bed and board may be decreed for extreme cruelty in either party, or when the husband is of sufficient ability, and cruelly neglects or refuses suitably to provide for his wife's support; and the libel may be filed, notice ordered, and the proceedings had as hereinbefore provided.

Divorce decreed, wife's property to be restored, and alimony allowed from husband's estate. Powers of court in such case. R.S., c. 60, § 13.

SEC. 15. When such divorce is decreed, and there is no issue living, the wife's real estate shall be restored to her, and reasonable alimony be allowed her, according to the husband's ability, and the personal property that he received by the marriage; if there is issue living, or the divorce is decreed for the cruelty of the wife, the court may exercise a discretion as to the restoration of property, or granting alimony; and its decree may be altered, as may be found just and reasonable. For these purposes, the court may order the real estate of the husband, or any part of it, or [any part] of its rents and profits, to be set out to the wife during life.

## ANNULLING ILLEGAL MARRIAGES.

## CHAP. 60.

SEC. 16. 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 shall affect the rights of the libellee, unless he was personally notified to answer, or did answer to the libel.

Illegal marriages, how annulled.  
R.S., c. 60, §14.  
55 Me., 302.

SEC. 17. When a marriage is annulled on account of the consanguinity or affinity of the parties, or because it is between a white person and a negro, mulatto or indian, 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.

Issue, when legitimate, and when not, after divorce.  
R.S., c. 60, §15.

SEC. 18. When a marriage is annulled on account of a prior marriage, and the parties contracted the second marriage in good faith, believing 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.

Issue of second marriage, when legitimate.  
R.S., c. 60, §16.

## GENERAL PROVISIONS.

SEC. 19. After a libel is filed in either class of cases herein described, the court, in any county, on the petition of the wife, may prohibit the husband from imposing any restraint on her personal liberty during its pendency.

Court may free wife from restraint pending libel.  
R.S., c. 60, §17.

SEC. 20. When both parties have been guilty of adultery, or there is collusion between them to procure a divorce of either kind, a divorce shall not be granted.

If collusion, or adultery by both, no divorce.  
R.S., c. 60, §18.  
61 Me., 397.  
69 Me., 535.

SEC. 21. The court making a decree of nullity, or of divorce of either kind, may also decree concerning the care, custody, and support of the minor children of the parties, and with which parent any of them shall live; alter their decree from time to time as circumstances require; and in execution of the powers given them in this chapter, may employ any compulsory process, they deem proper, by execution, attachment, or other effectual form.

Disposal of minor children.  
Compulsory powers of court.  
R.S., c. 60, §19.  
64 Me., 488.  
65 Me., 409.  
66 Me., 535.

CHAP. 61.

CHAPTER 61.

RIGHTS OF MARRIED WOMEN.

- SEC. 1. A married woman may acquire and dispose of property, exceptions.
2. Marriage does not vary her rights of property.
  3. She may receive wages of her labor, not for her own family.
  4. Her husband not liable for her debts contracted before marriage, or after; she and her property, but not her body, liable as if sole.
  5. She may sue and be sued as if sole, but not liable to arrest.
  6. Wife dying intestate, her estate descends to her heirs; but husband and wife may make marriage settlement.
  7. Wife, when husband absconds, or is in state prison, may make contracts under authority from court.
  8. Her contracts so made, binding; she may sue and be sued on them, and they may be enforced.
  9. Damages awarded for real estate of wife invested for her use.
  10. Wife coming from another state without her husband, powers of.
  11. Wife's expenses for last sickness to be paid from her estate.

Rights of married women to hold and dispose of property. Exceptions, R.S., c. 61, § 1.

SEC. 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 real estate directly or indirectly conveyed to her by her husband, or paid for by him, or given or devised to her by his relatives, cannot be conveyed by her without the joinder of her husband in such conveyance; 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 *paid* [made] for property conveyed to her from the property of her husband, or it was conveyed by him to her without a valuable consideration made therefor, it may be taken as the property of her husband to pay his debts contracted before such purchase. (a)

A woman does not lose, and a husband does not acquire rights to her property by marriage. R.S., c. 61, § 2.

SEC. 2. A woman, having property, is not deprived of any part of it by her marriage, since *the act approved March twenty-two*, [April twenty-one,] eighteen hundred and forty-four *was in force*; and a husband, by marriage since that time, acquires no right to any property of his wife. His rights acquired before that time are not affected by the provisions of this chapter. A married woman may release to her husband the right to control her

(a) 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; 43 Me., 189; 45 Me., 445, 480; 47 Me., 134, 335; 48 Me., 181, 346; 49 Me., 482; 50 Me., 93, 372; 51 Me., 50, 252, 348, 357, 519; 53 Me., 47; 54 Me., 159; 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.

property, or any part of it, and to dispose of the income thereof for their mutual benefit, and may in writing revoke the same. (a) CHAP. 61.

SEC. 3. She may receive the wages of her personal labor, not performed for her own family, maintain an action therefor in her own name, and hold them in her own right against her husband or any other person. (b) May be paid for her labor, not done for her family. R.S., c. 61, § 3.

SEC. 4. A husband married since April twenty-six, eighteen hundred and fifty-two, is not liable for the debts of his wife contracted before marriage, nor for those contracted after[-ward] in her own name, for any lawful purpose; but she is liable in both cases; a suit may be maintained against her, or against her and her husband therefor; and her property may be attached and taken on execution for such debts as if she was sole; but she cannot be arrested. (c) Husband not liable for wife's debts contracted before or after marriage; her property, but not her body, liable, as if sole. R.S., c. 61, § 4.

SEC. 5. She may prosecute and defend suits at law or in equity, either of tort or contract, in her own name, without the joinder of her husband, for the preservation and protection of her property and personal rights, or for the redress of her injuries, as if unmarried, or may do it jointly with her husband, and the husband shall not settle or discharge any such action or cause of action without the written consent of the wife. Neither of them can be arrested on such writ or execution, nor can he alone maintain an action respecting his wife's property. (d) She may sue and be sued relative to her property, as if sole, or may join with husband, but not liable to arrest. 1876, c. 112.

SEC. 6. When a married woman dies intestate, her property descends to her heirs; and administration and distribution may take place accordingly; but a husband and wife, by a marriage settlement executed in the presence of two witnesses before marriage, may determine what rights each shall have in the other's estate during the marriage, and after its dissolution by death; and may bar each other of all rights in their respective estates not so secured to them. Wife dying intestate, her estate descends to her heirs, but husband and wife may arrange by marriage settlement. R.S., c. 61, § 6. 45 Me., 262. 69 Me., 251-2, 534.

SEC. 7. When a husband abandons his wife and leaves the state, without making sufficient provision for her maintenance, or is confined in the state prison in execution of a sentence, the supreme judicial court, on application of his wife, may authorize her, during such absence or confinement, to make contracts under seal or otherwise, and any person holding personal property to which he is entitled in her right, to pay or deliver the same to her, for her disposal, and for which she may make a valid discharge. Wife may make contracts and receive property when husband has abandoned her, or is in state prison. R.S., c. 61, § 7. 47 Me., 230.

(a) 48 Me., 268; 63 Me., 521; 64 Me., 181; 68 Me., 104, 277; 69 Me., 252; 71 Me., 134; 72 Me., 116.

(b) 58 Me., 55; 59 Me., 588; 64 Me., 181; 66 Me., 184; 69 Me., 533.

(c) 41 Me., 245; 42 Me., 116; 46 Me., 463; 51 Me., 79; 55 Me., 516; 57 Me., 547; 63 Me., 409; 64 Me., 181; 65 Me., 222; 69 Me., 110, 252.

(d) 33 Me., 197; 35 Me., 330; 46 Me., 208; 55 Me., 359; 67 Me., 309; 68 Me., 104; 70 Me., 332.



CHAP. 62. Such application may be presented in any county and notice thereof given, as in case of a libel for divorce, before such powers are granted.

Her con-  
tracts so  
made, bind-  
ing on her  
and her hus-  
band, and  
may be  
enforced.  
R.S., c. 61, § 8.

SEC. 8. All contracts, lawfully made by her by virtue of such power, are binding upon her and her husband, and during such absence or confinement, she may sue and be sued thereon, and for all acts done by her; and execution may be enforced against her, as if unmarried. No such suit is abated by the return or release of the husband, but he may, on application, be admitted to prosecute or defend jointly with her.

Damages  
awarded to  
real estate of  
wife, secured  
to her.  
Equity pro-  
ceedings.  
R.S., c. 61, § 9.

SEC. 9. When the real estate of a married woman is taken or damaged for public use, the amount awarded therefor is to be so invested as to secure to her the same benefits as she would have had from the estate. The court may, on her application, hear and decide upon the rights, according to the course of chancery proceedings.

Wife com-  
ing from an-  
other state  
without her  
husband;  
powers.  
R.S., c. 61, § 10,  
54 Me., 159.

SEC. 10. When a married woman comes from any other state or country, and remains in this state, without living with her husband, she may make contracts, dispose of property, sue and be sued, as if unmarried. When her husband comes and claims his marital rights, her contracts and suits shall be affected the same as if they were then first married.

Expenses of  
last sickness  
paid from  
her estate.  
R.S., c. 61, § 11.

SEC. 11. The administrator of a deceased married woman, whose husband survives, may pay all reasonable expenses occasioned by her last sickness.

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## CHAPTER 62.

### MASTERS, APPRENTICES AND SERVANTS.

- SEC. 1. Binding of minors under the age of fourteen.  
 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 binding; but not on minors after death of master. No minor to be transferred to another, or carried out of the state.  
 7. Remedies of parties same as provided in chapter 24.

Binding of  
minors un-  
der fourteen.  
R.S., c. 62, § 1.  
43 Me., 458.

SEC. 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. CHAP. 62.

SEC. 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. Binding of minors above the age of 14. R.S., c. 62, § 2.

SEC. 3. No minor of any age shall be thus bound, unless by an indenture of two parts, signed, sealed, and delivered by both parties; and when the minor binds himself, by the consent of the municipal officers, such consent shall be in writing, signed by them on each part of the indenture. Indentures in such cases. R.S., c. 62, § 3. 13 Me., 153.

SEC. 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. By whom indentures shall be kept. R.S., c. 62, § 4.

SEC. 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 him without any control on the part of the parent or guardian at any time. Consideration, how secured. R.S., c. 62, § 5. 56 Me., 529.

SEC. 6. All indentures made as aforesaid shall, in law, bind all parties thereto; but not the minors, parents or guardians, after the death of the master or mistress; nor shall such minors be transferred to another, or carried out of the state. Not binding on minor after death of master. No transfer or removal from state. R.S., c. 62, § 6.

SEC. 7. Parents and guardians, municipal officers, and masters and mistresses, joining in such indentures, have the like remedies and proceedings thereon as are provided for corresponding parties in chapter twenty-four. Remedies of parties same as in c. 24. R.S., c. 62, § 7.