

MAINE STATE LEGISLATURE

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THE
REVISED STATUTES

OF THE
STATE OF MAINE,

PASSED JANUARY 25, 1871;

TO WHICH ARE PREFIXED
THE CONSTITUTIONS

OF THE
UNITED STATES AND OF THE STATE OF MAINE:

WITH AN APPENDIX.

BY AUTHORITY OF THE LEGISLATURE.



PORTLAND:
PUBLISHED BY BAILEY & NOYES.

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.

CHAP. 60.
Mother may bind illegitimate child; her right to bind legitimate or illegitimate children ceases at marriage. R. S. c. 59, §§ 25, 26. Widowed mothers, same right to custody and earnings of minors as fathers. 1868, c. 203.

CHAPTER 60.

DIVORCE AND ANNULLING OF MARRIAGES.

WHAT MARRIAGES VOID WITHOUT PROCESS.

SEC. 1. Certain marriages void without process.

DIVORCE FROM BONDS OF MATRIMONY.

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GENERAL PROVISIONS.

SEC. 17. Court may free wife from restraint pending a libel.

18. Both parties guilty of adultery, or collusion, divorce not to be granted.
19. Disposal of minor children on divorce, and compulsory powers of court.

WHAT MARRIAGES VOID WITHOUT PROCESS.

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.

Certain marriages void without process. R. S. c. 60, § 1. 31 Me. 342, 490, 493. 32 Me. 589.

CHAP. 60.

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.

1858, c. 45.

1863, c. 211,

§§ 1, 4.

1869, c. 44.

31 Me. 342; 490.

32 Me. 337.

43 Me. 258.

45 Me. 377.

51 Me. 480.

54 Me. 365.

Court shall grant divorce for three years desertion, and may for less.

1863, c. 211, § 2.

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.

R. S. c. 60, § 3.

1862, c. 122, § 1.

Jury trial, on request of either party or order of court.

R. S. c. 60, § 4.

Pending libel, wife's expenses to be paid by husband.

Care of minor children.

R. S. c. 60, § 5.

46 Me. 377.

Dower, alimony, and other provisions for wife in case of divorce for husband's fault.

R. S. c. 60, § 6.

55 Me. 21.

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 co-habited here after marriage; or the libelant resided here when the cause of divorce accrued, 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.

SEC. 3. The court shall grant such divorce for three years wilful desertion or abandonment without reasonable cause, or intent on the part of the libelant to procure a divorce, and may, for a less period.

SEC. 4. The libelant 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. 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. 6. Pending a libel, the court 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. 7. 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. 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 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. CHAP. 60.

SEC. 8. 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.

Provisions for husband in case of divorce for adultery of wife. Exceptions. R. S. c. 60, § 7.

SEC. 9. Within three years after a judgment on a libel for divorce, a new trial may be granted as to the divorce, or alimony or specific sum decreed, on such terms as the court may impose, when the parties have not cohabited, or either contracted a new marriage since the former trial.

New trial may be had within three years, except in certain cases. R. S. c. 60, § 8. 1863, c. 211, § 3. 55 Me. 374.

SEC. 10. 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.

Divorce decreed out of the state, when to be void and when valid. R. S. c. 60, § 9. 9 Me. 140.

SEC. 11. A divorce from the bonds of matrimony shall not bar the issue of the marriage from inheriting, or affect their rights.

Issue not barred from inheriting, by divorce. R. S. c. 60, § 10.

DIVORCE FROM BED AND BOARD.

SEC. 12. 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 herein before provided.

Causes of divorce from bed and board. Libel, how filed. R. S. c. 60, § 11. 32 Me. 337.

SEC. 13. 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 of its rents and profits, to be set out to the wife during life.

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.

ANNULLING ILLEGAL MARRIAGES.

SEC. 14. When the validity of a marriage is doubted, either party may file a libel as for divorce; and the court shall decree it

Illegal marriages, how

CHAP. 60. annulled or affirmed, according to the proof; but no such decree shall affect the rights of the libelee, unless he was personally notified to answer, or did answer to the libel.

annulled.
R. S. c. 60, § 14.
35 Me. 361.

Issue, when
legitimate,
and when
not, after di-
vorce.
R. S. c. 60, § 15.

SEC. 15. 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 of sec-
ond marriage,
when legiti-
mate.
R. S. c. 60, § 16.

SEC. 16. 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.

GENERAL PROVISIONS.

Court may
free wife from
restraint pend-
ing libel.
R. S. c. 60, § 17.

SEC. 17. 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.

Both parties
guilty of adul-
tery or collu-
sion, divorce
not granted.
R. S. c. 60, § 18.

SEC. 18. 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.

Disposal of
minor chil-
dren. Com-
pulsory pow-
ers of court.
R. S. c. 60, § 19.

SEC. 19. 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.