

MAINE STATE LEGISLATURE

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FOURTH REVISION.

THE
REVISED STATUTES

OF THE

STATE OF MAINE,

PASSED AUGUST 29, 1883, AND TAKING EFFECT JANUARY 1, 1884.

BY THE AUTHORITY OF THE LEGISLATURE.



PORTLAND:
PUBLISHED BY LORING, SHORT & HARMON
AND
WILLIAM M. MARKS, PRINTER.
1884.

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ERRATA:

**The following two leaves are
inserted because one or more pages
in this chapter have errors
noticed and corrected here.**

ERRORS.

ERROR IN THE TEXT OF THE REVISED STATUTES.

Page 63, § 3, line one.—Erase the last word “may.”

ERROR IN THE TEXT OF THE REPEALING ACT.

Page 999.—Transfer “Chapter 48, Section 6, of an act to facilitate the prompt administration of justice by establishing a superior court in Kennebec County,” from the year 1879 to 1878.

ERROR IN THE COMMISSIONER'S NOTES.

Pages 177, 178.—Erase the last two lines of page 177, and the first three lines of page 178.

ERRORS IN THE MARGINAL REFERENCES.

- Page 59, § 6, ¶ xx.—Erase “*R. S.*, c. 1, ¶ xx”, and supply, at the bottom of the page, “*R. S.*, c. 1, § 4”
- “ 66, § 24.—Erase “*Resolve of 1837, c. 52.*”
- “ 69, § 44.—Supply “*Resolve of 1840, c. 107.*”
- “ 72, § 68.—Erase “*See c. 6, §§ 40-67.*”
- “ “ § 70.—Erase “*R. S.*, c. 2, § 66.”
- “ 79, § 12, (note b).—“*See c. 18, § 73*” should read “*See c. 18, § 75.*”
“*See c. 30, § 15*” should read “*See c. 30, § 16.*”
- “ “ § 14.—Supply “*See c. 18, § 75.*”
- “ 83, § 40.—“*R. S.*, c. 3, § 34” should read “*R. S.*, c. 3, § 33.”
- “ 84, § 46.—“*See c. 18, § 67*” should read “*See c. 18, § 59.*”
- “ 86, § 59, ¶ i, (note b).—“*See c. 17, §§ 25-29*” should read “*See c. 17, §§ 27, 28.*”
- “ “ “ ¶ vi, (note e).—“*See c. 18, § 15*” should read “*See c. 18, § 17.*”
- “ 92, note.—“*c. 18, §§ 39, 103*” should read “*c. 18, §§ 39, 97.*”
- “ 97, § 16.—Erase “*R. S.*, c. 4, § 16.”
- “ 108, § 86.—“*Art. ii, § 2*” should read “*Art. ii, § 1, ¶ 2.*”
- “ 117, § 28.—Erase the first reference to “1878, c. 31, § 1.” Also erase “*R. S.*, c. 5, § 26.”
- “ 176, § 27.—“*Resolve of 1883, c. 20*” should read “*Resolve of 1883, c. 86.*”
- “ 183, § 5.—“*See § 93, ¶ 6*” should read “*See § 93, ¶ v.*”
- “ 202, § 102.—“1883, c. 229” should read “*See c. 115, § 1.*”
- “ 209, § 1.—Supply “1880, c. 215.”
- “ 210, § 7.—Supply “1880, c. 215.”
- “ 249, § 44.—“1875, c. 25, § 6” should read “1875, c. 25, § 6.”
- “ 270, § 16.—Supply “1880, c. 215.”
- “ 330, § 26.—“*See c. 40, § 77*” should read “*See c. 40, § 74.*”
- “ “ § 28.—“*See c. 40, § 38*” should read “*See c. 40, §§ 33, 40.*”
- “ 374, § 23.—“*See § 17*” should read “1880, c. 234, § 1.”
- “ 384, § 74.—Add “1883, c. 138, § 3.”
“1883, c. 144, § 4.”
- “ 506, § 1.—Supply “*See 1880, c. 215.*”
- “ 642, § 80, bottom of the page.—Supply “1878, c. 48, § 6.”
- “ 709, § 105.—“*See c. 134, § 13*” should read “*See c. 134, § 19.*”
- “ 773, § 42.—Supply “1883, c. 198, § 2.”
- “ 804, § 35.—“*See c. 134, § 26*” should read “*c. 134, § 26.*”
- “ 861, § 1.—“*R. S.*, c. 2, § 20.” } should read “1883, c. 221.”
“*R. S.*, c. 115, § 1.” }
- “ 862, § 4.—“*See c. 63, §§ 32 to 39*” should read “*See c. 63, § 35.*”

ERRORS IN CITATIONS OF CASES.

- Page 10, § 8, ¶ iii, (note c).—"14 *Pet.*, 504" should read "14 *Pet.*, 540."
 " 16, § 1, (note b).—"10 *Me.*, 483" should read "10 *Me.*, 283."
 " 78, § 5, (note a).—"13 *Me.*, 472, 489" should read "13 *Me.*, 472."
 " " § 7, (note b).—"12 *Me.*, 589" should read "12 *Me.*, 489."
 " 147, § 97.—"58 *Me.*, 528" should read "58 *Me.*, 532."
 " 166, § 1.—"64 *Me.*, 549" should read "64 *Me.*, 599."
 " 200, § 93, ¶ iv.—Erase "20 *Me.*, 545."
 " 211, § 19.—"3 *Me.*, 347" should read "3 *Me.*, 249."
 " 241, § 5, (note b).—"68 *Me.*, 28" should read "63 *Me.*, 28."
 " 257, § 80, (note a), Construction of ways.—"26 *Me.*, 340" should read "26 *Me.*, 240."
 " 397, § 1, (note a).—Erase "66 *Me.*, 526."
 " 521, § 2, (note a).—Erase "60 *Me.*, 377."
 " " § 9.—Erase "60 *Me.*, 533."
 " 563, § 10.—"31 *Me.*, 286" should read "31 *Me.*, 254."
 " 597, § 23.—"4 *Me.*, 19" should read "4 *Me.*, 8."
 " 705, § 78.—"43 *Me.*, 438" should read "48 *Me.*, 438."
 " 728, § 12.—Erase "68 *Me.*, 30."
 " 750, § 5.—Erase "20 *Me.*, 325."
 " 765, § 1, (note a).—Erase "73 *Me.*, 228."
 " 814, § 19, (note c).—Erase "71 *Me.*, 543."
 " 817, § 8, (note b).—"27 *Me.*, 363" should read "27 *Me.*, 362."
 " 885, § 1.—Erase "62 *Me.*, 285."
 " 886, § 8.—"36 *Me.*, 225" should read "36 *Me.*, 227."
 " 933, § 4.—"34 *Me.*, 478" should read "39 *Me.*, 478."

OMISSION IN REFERENCE INDEX TABLE, PART I.

Page 1060.—Supply "1878, c. 48, § 6," with a reference to "R. S., c. 77, § 80."

CHAP. 59. educate their children, but wrongfully neglect and refuse to do so, may recover of them, in an action of debt, the amount so expended.

of parents.
1881, c. 72, § 6.
Towns may
provide for
children.
1881, c. 72, § 7.

SEC. 31. Any town may make proper provision for the support of children mentioned in the six preceding sections, and such support shall not make such children or their parents, paupers.

CHAPTER 60.

DIVORCE AND ANNULING 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; proviso: in case of collusion or of adultery by both divorce not to be decreed; either party is a witness.
3. Libel how filed and served. Court or justice may order notice in vacation.
 4. Residence of libellee to be named, when ascertainable, and actual notice obtained. If residence cannot be ascertained, libellant shall so swear.
 5. False swearing, penalty for.
 6. Pending libel, court or justice may order husband to pay for wife's defence or prosecution thereof, and for her support. Care of minor children.
 7. Court may free wife from restraint, pending a libel.
 8. Case to be tried by a jury, when either party requests or court orders it.
 9. Dower, alimony, and other provisions for wife, on divorce for husband's fault.
 10. Provision for husband, in case of divorce for adultery of wife. Exceptions.
 11. Decrees to be nisi at first; to become absolute, after six months.
 12. Neither party shall marry again within two years, and libellee not at all, without permission of court.
 13. Clerks, when to make return of applications and decrees to secretary of state.
 14. New trial may be had within three years, except in certain cases. Alimony.
 15. Divorce decreed out of the state, when void and when valid.
 16. Issue not debarred by divorce, from inheriting.
 17. Disposal of minor children, and compulsory powers of court.

ANNULING ILLEGAL MARRIAGES.

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

WHAT MARRIAGES ARE VOID WITHOUT PROCESS.

SEC. 1. Marriages prohibited 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, dissolves the bonds of matrimony, without legal process in either case.

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

DIVORCE FROM BONDS OF MATRIMONY.

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, for causes of adultery, impotence, extreme cruelty, utter desertion continued for three consecutive years next prior to the filing of the libel, gross and confirmed habits of intoxication, cruel and abusive treatment, or on the libel of the wife, where

In what cases divorce may be granted.
1883, c. 212, § 1.

the husband, being of sufficient ability, grossly, or wantonly and cruelly, refuses or neglects to provide suitable maintenance for her; *provided*, that the parties were married in this state, or cohabited here after marriage; or, if the libellant resided here when the cause of divorce accrued, or had resided here in good faith for one year prior to the commencement of proceedings. (a) But when both parties have been guilty of adultery, or there is collusion between them to procure a divorce, it shall not be granted. Either party may be a witness. (b)

SEC. 3. The libellant may file in the clerk's office, a libel signed by him or insert it in a writ of attachment with power to attach real and personal property to respond to the decrees of the court as in other suits; and service thereon shall be made by summons and copy 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. 4. 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 under oath in the libel.

SEC. 5. Whoever falsely and corruptly swears or affirms to any facts required as aforesaid, is guilty of perjury, and shall be punished by imprisonment not less than two nor more than ten years.

SEC. 6. Pending a libel, the court, or any justice thereof in vacation, may order the husband to pay to the clerk, for the wife, sufficient 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. After a libel is so filed in any county, the court, on the petition of the wife, may prohibit the husband from imposing any restraint on her personal liberty during its pendency.

SEC. 8. 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. 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 as came to him by the marriage, or its value in money, as it thinks reasonable; and may compel him to disclose, on oath, what personal estate he so received, how it has been disposed of, and what then remains. 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 were dead; and the same right to a restoration of her real and personal estate, as in case of divorce for impotence. The court

CHAP. 60.
—proviso.

—if adultery by both, or collusion, no divorce.
R.S., c. 60, § 18.
—either party a witness.
1883, c. 212, § 1.

Libel filed with clerk, or inserted in writ and served by summons and copy.
R.S., c. 60, § 4.
69 Me., 338.
—notice.

Libellee's residence to be named in libel, when known.
1874, c. 184, § 1.

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

Pending libel, wife's expenses to be paid by husband.
1878, c. 25.
46 Me., 381.
65 Me., 409.
69 Me., 338.

Court may free wife from restraint pending libel.
R.S., c. 60, § 17.
Jury trial.
R.S., c. 60, § 5.
58 Me., 162.

Dower, alimony, and other provisions for wife in case of divorce for husband's fault.
R.S., c. 60, § 7.
27 Me., 220.
41 Me., 230.
55 Me., 21.
59 Me., 150,
153.
60 Me., 452,
533.

(a) 32 Me., 338; 43 Me., 261; 45 Me., 379; 51 Me., 481; 54 Me., 366; 58 Me., 162, 514; 60 Me., 377, 452; 61 Me., 377.

(b) 61 Me., 397; 69 Me., 535.

CHAP. 60.

61 Me., 377,
398.
62 Me., 123.
65 Me., 409.
69 Me., 533.

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

—exception.

Decrees nisi
at first; abso-
lute after six
months.
1883, c. 212, § 3.

Re-marriage
of respective
parties, how
restricted.
1883, c. 212, § 4.

Clerks of
court to make
return of ap-
plications
and decrees
to secretary
of state.
1883, c. 212, § 5.

New trial
within three
years, when
granted.
1874, c. 184, § 3.
55 Me., 375.
63 Me., 424.
66 Me., 270.
—alimony.
64 Me., 420.
66 Me., 537.

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

Issue inherit.
R.S., c. 60, § 11.

Disposal of
minor
children.
R.S., c. 60, § 19.

may also decree to her reasonable alimony out of his estate, having regard to his ability; and to effect 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 its decrees into effect.

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 does not apply to the wife's property held under chapter sixty-one.

SEC. 11. Decrees of divorce shall, in the first instance, be decrees nisi, to become absolute after six months from the entry thereof, on application of either party to the clerk of the court; whereupon the clerk shall enter a final decree, unless the court has, for sufficient cause, on application of a party interested, otherwise ordered.

SEC. 12. The party on whose petition a divorce is granted, shall not marry again within two years after entry of the final decree, except by permission of the court. The party against whom the divorce was granted, shall not marry again within said two years; and not afterwards except on permission granted by the court.

SEC. 13. Within thirty days after the adjournment of any court having jurisdiction of divorce, the clerk thereof shall make return to the secretary of state of the applications and decrees nisi for the term, in cases of divorce, with the names of the parties and the causes for which the divorces were granted. And the secretary shall record the same in a suitable book.

SEC. 14. 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 has 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.

SEC. 15. When residents of the 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.

SEC. 16. A divorce does not bar the issue of the marriage from inheriting, or affect their rights.

SEC. 17. The court making a decree of nullity, or of divorce, 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

its decree from time to time as circumstances require; and in execution of the powers given it in this chapter, may employ any compulsory process, which it deems proper, by execution, attachment, or other effectual form.

CHAP. 60.

—compulsory powers of court.
64 Me., 488.
65 Me., 409.
66 Me., 537.

ANNULING ILLEGAL MARRIAGES.

SEC. 18. 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 affects 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., 362.

SEC. 19. When a marriage is annulled on account of the consanguinity or affinity of the parties, or because it was 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.
See c. 59, § 2;
1883, c. 203.

SEC. 20. When a marriage is annulled on account of a prior marriage, and the parties contracted the second marriage in good faith, believing that 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.

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 for her labor, not performed for her own family.
 4. Husband not liable for her debts contracted in her own name, or torts committed 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 is not liable to arrest.
 6. Wife dying intestate, her estate descends to her heirs; but husband and wife may make a 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 of last sickness may be paid from her estate.

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

Rights of married women to hold and dispose of property;