

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.



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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;

CHAP. 61. 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; 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 made for property conveyed to her from the property of her husband, or it was conveyed by him to her without a valuable consideration, 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. 71 Me., 134.

SEC. 2. A woman, having property, is not deprived of any part of the same by her marriage, since April twenty-one, eighteen hundred and forty-four; 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 this chapter. A married woman may release to her husband the right to control her property, or any part of it, and to dispose of the income thereof for their mutual benefit, and may in writing revoke the same. (*b*)

May be paid for her labor, not done for her family. R. S., c. 61, § 3.

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. (*c*)

Husband not liable for wife's debts contracted, or torts committed, before or after marriage; her property, but not her body, liable as if sole. 1883, c. 207.

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 afterward in her own name, for any lawful purpose; nor is he liable for her torts committed after April twenty-six, eighteen hundred and eighty-three, in which he takes no part; but she is liable in all such 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 and for damages for such torts, as if she were sole; but she cannot be arrested. (*d*)

She may sue and be sued relative to her property, as if sole, or may join with husband, but neither is liable to arrest. 1876, c. 112.

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. (*e*)

(*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; 42 Me., 116; 43 Me., 189; 45 Me., 445, 480; 47 Me., 134, 335; 48 Me., 180, 346; 49 Me., 482; 50 Me., 93, 374; 51 Me., 50, 252, 348, 357, 519; 53 Me., 47; 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.

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

(*c*) 58 Me., 55; 64 Me., 181; 66 Me., 184.

(*d*) 41 Me., 245; 42 Me., 116; 55 Me., 516; 57 Me., 547; 63 Me., 409; 64 Me., 181; 65 Me., 222; 69 Me., 110, 252.

(*e*) 33 Me., 197; 35 Me., 339; 46 Me., 298; 51 Me., 79; 54 Me., 159; 55 Me., 247, 359; 58 Me., 55; 67 Me., 309; 68 Me., 104, 277; 70 Me., 382.

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 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. (a)

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 her application, may authorize her, during such absence or confinement, to make contracts under seal or otherwise, and may authorize any person holding personal property to which her husband is entitled in her right, to pay or deliver the same to her, for her disposal, and for it she may give a valid discharge. 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.

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, as well as 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.

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

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 are affected the same as if they were then first married.

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

(a) 45 Me., 262; 69 Me., 251.

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Wife dying intestate, her estate descends to her heirs; but husband and wife may dispose of it by settlement.
R. S., c. 61, § 6.

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.

Her contracts so made, binding on her and her husband, and may be enforced.
R. S., c. 61, § 8.

Damages awarded for real estate of wife, secured to her.—equity proceedings.
R. S., c. 61, § 9.

Wife coming from another state without her husband; powers of.
R. S., c. 61, § 10.
54 Me., 159.

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