

CHAPTER TWENTY-TWO.

MARRIAGE AND DIVORCE.

Sec.

718. Who may be licensed to perform marriage ceremony.

719. Licenses; by whom issued.

720. Form of license.

721. Record of licenses.

722. Minister's certificate; form.

723. Copy of record to be evidence.

724. Certain persons to be deemed husband and wife.

725. Their children legitimate.

726. Children of those who have ceased to cohabit.

727. Right of married women to property absolute.

728. Full power of disposal.

729. Right to contract, sue, and be sued.

730. Husband not liable, when.

731. Applications for divorce.

732. Proceedings; general rule.

733. What petition must specify.

734. Summons to respondent.

Sec.

735. Notice by publication, when.

736. When causes shall be heard.

737. No judgment without proof.

738. Divorce from bond of marriage; causes.

739. Divorce from bed and board; causes.

740. When causes occur out of District.

741. Dissolution of marriage on account of a former marriage.

742. Legitimacy of issue.

743. Dissolution on account of lunacy; legitimacy of issue.

744. Legitimacy, how otherwise affected and determined.

745. Alimony and right of dower.

746. Alimony pending petition.

747. Custody and maintenance of children.

748. When maiden name may be restored.

749. Adultery of wife after divorce from bed and board.

MARRIAGES.

Who may be licensed to perform marriage ceremony.

1 June, 1870, c. 115, s. 4, v. 16, p. 147.

Licenses; by whom issued.

Ibid.

Form of license.

Ibid.

Record of licenses.

Ibid., s. 5.

Minister's certificate; form.

Ibid.

Copy of record to be evidence.

Ibid., s. 6.

Certain persons to be deemed husband and wife.

SEC. 718. For the purpose of preserving the evidence of marriages in the District, every minister of the gospel, appointed or ordained according to the rites and ceremonies of his church, whether his residence be in the District or elsewhere in the United States or its Territories, may be licensed to celebrate marriages in the District.

Blackburn vs. Crawfords, 3 Wall., 175; *United States vs. McCormick*, 1 Cranch, C. C., 593; *United States vs. Lambert*, 2 Cranch, C. C., 137.

SEC. 719. Such license shall be issued by the clerk of the supreme court of the District.

SEC. 720. Licenses shall be in the following form:

"To any minister of the Gospel authorized to celebrate marriages in the District of Columbia, greeting:

"You are hereby licensed to solemnize the rites of marriage between _____, of _____, and _____, of _____, if you find no lawful impediment thereto; and having so done, you are commanded to appear in the clerk's office of the supreme court of said District and certify the same.

"Witness my hand and the seal of said court.

"_____, Clerk."

SEC. 721. The clerk shall provide a record-book of his office, consisting of licenses in the form prescribed in the preceding section, printed in blank, one of which he shall fill up with the names of the parties for whose union any license has been issued, and beneath it shall be printed a certificate to be made by the minister who solemnized the marriage.

SEC. 722. The minister's certificate shall be in the following form:

"I, _____, minister of _____ church in _____, hereby certify that, by authority of a license of the same tenor as the foregoing, I solemnized the marriage of the parties aforesaid, on the _____ day of _____, eighteen hundred and _____, at _____, in the District of Columbia.

"_____, "

SEC. 723. A copy of any license and certificate, recorded in the record-book of the clerk's office, and certified by the clerk, under his hand and the seal of the court, shall be competent evidence of the marriage.

SEC. 724. All colored persons in the District, who, previous to their actual emancipation, had undertaken and agreed to occupy the relation to each other of husband and wife, and were cohabiting together as such,

or in any way recognizing the relation as existing on the twenty-fifth day of July, eighteen hundred and sixty-six, whether the rites of marriage have been celebrated between them or not, are deemed husband and wife, and are entitled to all the rights and privileges, and subject to the duties and obligations of that relation, in like manner as if they had been duly married according to law.

SEC. 725. All the children of such persons shall be deemed legitimate, whether born before or after the date mentioned in the preceding section.

SEC. 726. When such parties have ceased to cohabit before such date, in consequence of the death of the woman, or from any other cause, all the children of the woman recognized by the man to be his shall be deemed legitimate.

25 July, 1866, c. 240, v. 14, p. 236.

Their children legitimate.

Ibid.

Children of those who have ceased to cohabit.

Ibid.

PROPERTY-RIGHTS OF MARRIED WOMEN.

SEC. 727. In the District the right of any married woman to any property, personal or real, belonging to her at the time of marriage, or acquired during marriage in any other way than by gift or conveyance from her husband, shall be as absolute as if she were unmarried, and shall not be subject to the disposal of her husband, nor be liable for his debts.

SEC. 728. Any married woman may convey, devise, and bequeath her property, or any interest therein, in the same manner and with like effect as if she were unmarried. [See §§ 450-452.]

Right of married women to property absolute.

10 April, 1869, c. 23, s. 1, v. 16, p. 45.

Sykes vs. Chadwick, 18 Wall., 141.

Full power of disposal.

10 April, 1869, c. 23, s. 1, v. 16, p. 45.

SEC. 729. Any married woman may contract, and sue and be sued in her own name, in all matters having relation to her sole and separate property, in the same manner as if she were unmarried.

Right to contract, sue, and be sued.

Ibid., s. 2.

Husband not liable, when.

Ibid.

SEC. 730. Neither the husband nor his property shall be bound by any such contract, made by a married woman, nor liable for any recovery against her in any such suit, but judgment may be enforced by execution against her sole and separate estate in the same manner as if she were unmarried.

DIVORCE.

SEC. 731. All applications for divorce shall be made by petition to the supreme court of the District. [See § 766.]

Applications for divorce.

19 June, 1860, c. 158, s. 1, v. 12, p. 59.

SEC. 732. The proceedings upon a petition for divorce shall be the same as are had in other cases, except so far as otherwise provided in this chapter.

Proceedings; general rule.

SEC. 733. The petition for a divorce shall specify the causes therefor with certainty.

What petition must specify.

Ibid., s. 2.

Summons to respondent.

Ibid.

SEC. 734. Upon the petition being filed, the clerk shall issue summons for the defendant to appear and answer.

Notice by publication, when.

Ibid.

SEC. 735. If it shall appear by the affidavit of a disinterested witness that the defendant is a non-resident of the District, or has been absent therefrom for the space of six months, the court, after the return of one summons not found, may authorize notice of the pendency of the petition, to be given by publication, in such manner as it shall direct.

SEC. 736. The court shall proceed to hear and determine such cause, whenever such summons shall have been served twenty days, or such publication made forty days before the commencement of the term.

When causes shall be heard.

Ibid.

SEC. 737. No judgment for a divorce shall be rendered on default without proof; nor shall any admissions contained in the answer of the defendant be taken as proof of the facts charged as the ground of the application, but the same shall in all cases be proved by other evidence.

No judgment without proof.

Ibid.

Divorce from bond of marriage; causes.

19 June, 1860, c. 158, s. 3, v. 12, p. 59.
1 June, 1870, c. 116, v. 16, p. 147.

SEC. 738. A divorce from the bond of marriage may be granted in any of the following cases, namely:

First. Where such marriage was contracted while either of the parties thereto had a former wife or husband living, unless the former marriage had been lawfully dissolved and no restraint imposed on the party contracting such second marriage.

Second. Where such marriage was contracted during the lunacy of either party.

Third. Where either party was matrimonially incapacitated at the time of the marriage.

Fourth. Where either party has committed adultery during the marriage.

Fifth. For habitual drunkenness for a period of three years of the party complained against.

Sixth. For cruelty of treatment, endangering the life or health of the party complaining.

Seventh. For willful desertion and abandonment by the party complained of against the party complaining for the full uninterrupted space of two years.

Divorce from bed and board; causes.

19 June, 1860, c. 158, s. 4, v. 12, pp. 59, 60.

SEC. 739. A divorce from bed and board may be granted for either of the following causes, namely:

First. Cruelty of treatment, endangering the life or health of one of the parties.

Second. Reasonable apprehension, to the satisfaction of the court, of bodily harm.

When causes occur out of the District.

Ibid., s. 5, p. 60.
Dissolution of marriage on account of a former marriage.

Ibid., s. 6.
Legitimacy of issue.

Ibid.
Dissolution on account of lunacy; issue legitimate.

Ibid., s. 7.
Legitimacy, how otherwise affected and determined.

Ibid., s. 8.
Alimony and right of dower.

Ibid., s. 9.
Wallingsford vs. Allen, 10 Peters, 593.

Alimony pending petition.
Ibid., s. 11.
Custody and maintenance of children.

Ibid., s. 10.
Maiden name may be restored.

Ibid., s. 9.
Adultery of wife

SEC. 740. No divorce shall be granted for any cause which shall have occurred out of the District, unless the party applying for the same shall have resided within the District for two years next preceding the application.

SEC. 741. Upon the dissolution of a marriage on account of either of the parties having a former wife or husband living, if it shall appear that the second marriage was contracted in good faith by the party whose second marriage has been thus dissolved, and with the full belief on his or her part that the former wife or husband was dead, that fact shall be stated in the judgment or sentence of divorce.

SEC. 742. The issue of such second marriage, born or begotten before the commencement of the suit, shall be deemed to be the legitimate issue of the parent who, at the time of the marriage, was capable of contracting.

SEC. 743. Upon the dissolution of a marriage on account of the lunacy of either party at the time of such marriage, the issue of the marriage shall be deemed to be legitimate.

SEC. 744. A divorce for causes not specially provided for in the two preceding sections shall not affect the legitimacy of the issue of the marriage; but the legitimacy of such issue, if questioned, shall be tried and determined according to the course of the common law.

SEC. 745. In all cases where a divorce is granted, the court allowing the same shall have power, if it see fit, to award alimony to the wife, and to retain her right of dower.

SEC. 746. The court may also award alimony to the wife for her sustentance during the pendency of a petition for a divorce filed for any of the causes mentioned in this chapter.

SEC. 747. The court shall also have power to order and direct, in every case of divorce, who shall have the guardianship and custody of the children of the marriage so divorced, and who shall be charged with their maintenance.

SEC. 748. The court may also, in granting a divorce from the bond of marriage, restore to the wife her maiden or other previous name.

SEC. 749. In case of adultery by the wife, committed after judgment

or sentence of divorce from bed and board, the court may, on the petition of the husband setting forth and accompanied by legal proof of such adultery, deprive the wife of alimony from the date of her said criminal act, and rescind her right of dower, as well as dispossess her, if the court judge fit, of the care, custody, and guardianship of any child which, under the original judgment of the court in granting the divorce, may have been assigned to her.

after divorce from
bed and board.

19 June, 1860, c.
158, s. 12, v. 12, p.
60.

CHAPTER TWENTY-THREE.

THE JUDICIARY.

Sec.

- 750. Supreme court.
- 751. Salaries of the justices.
- 752. Oath of office.
- 753. General and special terms.
- 754. Justices holding terms.
- 755. When terms may be held.
- 756. Number of terms required to be held annually.
- 757. Designation of justice to hold special term.
- 758. Special term as district court.
- 759. Special term as criminal court.
- 760. Jurisdiction as a circuit court.
- 761. Power of justices.
- 762. Jurisdiction as a district court.
- 763. As a criminal court.
- 764. Jurisdiction under copyright and patent laws.
- 765. Jurisdiction as a court of bankruptcy.
- 766. In divorce cases.
- 767. Original actions limited to the District, except.
- 768. Common law and chancery causes.
- 769. Amount required to give jurisdiction.
- 770. Rules.
- 771. Justices may administer oaths to United States officers.
- 772. Appeals from special to general term.
- 773. Appeals from police court.
- 774. Appeals from justices of the peace.
- 775. Summary hearing, when.
- 776. Trial by jury at election of parties.
- 777. When appellee fails to appear.
- 778. When appellant fails to prosecute.
- 779. When appeal shall not be dismissed.
- 780. Appeals from Commissioner of Patents.
- 781. Tests of writs.
- 782. Writs of attachment and garnishment.
- 783. How may be quashed.
- 784. Discharge of attached property.
- 785. Sale of attached property.
- 786. Final judgment.
- 787. Notice by publication.
- 788. Order of publication.
- 789. Form.
- 790. Process against foreign corporations.
- 791. No person to be held to bail on action of debt or contract.
- 792. Validity of sales in certain cases.
- 793. Decree confirming sale.
- 794. Capias ad satisfaciendum.

Sec.

- 795. Proceedings upon arrest.
- 796. Exemptions from arrest on civil process.
- 797. Exemptions of property from distraint, &c.
- 798. Conveyance of exempted articles.
- 799. Prior deeds.
- 800. Motions and suits at special terms.
- 801. Issues of fact, how triable.
- 802. Issues at law, how tried.
- 803. Exceptions.
- 804. New trials.
- 805. Appeal to general term.
- 806. Motion for new trial to be held at general term.
- 807. Trials when another term intervenes.
- 808. Proceedings to enforce a lien.
- 809. Fictions in pleadings abolished.
- 810. Set-offs.
- 811. Form of plea set-off.
- 812. Judgment for balance due.
- 813. Mutual judgments.
- 814. Replevin; form of declaration.
- 815. Plaintiff's affidavit to state what.
- 816. Plaintiff to give security.
- 817. Officer's return; proceedings.
- 818. When defendant cannot be found; order and notice.
- 819. Proceedings in default.
- 820. Appearance of plaintiff; plea.
- 821. Plaintiff's damages.
- 822. When judgment is for defendant.
- 823. Damages when things cloigned.
- 824. Judgment; damages for detention.
- 825. Judgment by default in suits on open account.
- 826. Verification of authority of officer taking affidavit.
- 827. Where money is payable by joint obligors; proceedings.
- 828. Plaintiff not entitled to costs, when.
- 829. Interest on judgments.
- 830. Injunction upon judgments; damages on dissolution.
- 831. Damages for satisfaction of interest in case of a forthcoming bond.
- 832. When the court may direct none or partial damages.
- 833. Petition for change of name.
- 834. Notice.
- 835. Name changed.
- 836. Form of indictments.
- 837. Recovery and distribution of certain fines.
- 838. Peremptory challenge of jurors.