

**1905 SUPPLEMENT TO
DEERING'S CIVIL
CODE OF CALIFORNIA**

Published @ 2017 Trieste Publishing Pty Ltd

ISBN 9780649457236

1905 Supplement to Deering's Civil Code of California by James H. Deering

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Cover @ 2017

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JAMES H. DEERING

**1905 SUPPLEMENT TO
DEERING'S CIVIL
CODE OF CALIFORNIA**

SUPPLEMENT
TO THE
CODES AND STATUTES
OF
CALIFORNIA
WITH CITATIONS OF DECISIONS

CIVIL CODE

§ 4. Supp. Cal. Rep. Cit. 145, 715.

§ 8. En March 21, 1872. Rep. Stats. 1905, 11.

§ 9. **Business days.** All other days than those mentioned in section seven are to be deemed business days for all purposes. En. March 21, 1872. Am'd. 1905, 11.

§ 13. Supp. Cal. Rep. Cit. 145, 84; 145, 409.

§ 14. Supp. Cal. Rep. Cit. 140, 409; 141, 115. Subd. 2—142, 539. Subd. 3—142, 539.

§ 19. Supp. Cal. Rep. Cit. 139, 257; 140, 46.

§ 29. Supp. Cal. Rep. Cit. 159, 483.

§ 38. Supp. Cal. Rep. Cit. 139, 511.

§ 39. Supp. Cal. Rep. Cit. 140, 152.

§ 49. **Personal relations forbid.** The rights of personal relations forbid:

1. **Abduction.** The abduction of a husband from his wife, or of a parent from his child.

2. **Same.** The abduction or enticement of a wife from her husband, or a child from a parent, or from a guardian entitled to its custody.

3. **Seduction.** The seduction of a wife, daughter, orphan sister, or servant.

4. **Injury to servant.** Any injury to a servant which affects his ability to serve his master. En. March 21, 1872. Am'd. 1905, 68.

§ 51. **Personal rights, all persons have equal.** All citizens within the jurisdiction of this state are entitled to the full and equal accommodations, advantages, facilities, and privileges of inns, restaurants, hotels, eating houses, barber shops, bath houses, theaters, skating rinks, and all other places of public accommodation or amusement, subject only to the conditions and limitations established by law and applicable alike to all citizens. En. Stats. 1905, 553.

51, 52. The statute of 1897, page 137, relating to the rights of persons, is codified in the two sections above named.—Code Commissioner's Note.

§ 52. **Violation of preceding provisions; damages.** Whoever violates any of the provisions of the last preceding section, by denying to any citizen, except for reasons applicable alike to every race or color, the full accommodations, advantages, facilities, and privileges in said section enumerated, or by aiding or inciting such denial, or whoever makes any discrimination, distinction, or restriction on account of color or race, or except for good cause, applicable alike to all citizens of every color or race whatever, in respect to the admission of any citizen to, or his treatment in, any inn, hotel, restaurant, eating house, barber shop, bath house, theater, skating rink, or other public place of amusement or accommodation, whether such place is licensed or not, or whoever aids or incites such discrimination, distinction, or restriction, for each and every such offense is liable in damages in an amount not less than fifty dollars, which may be recovered in an action at law brought for that purpose. En. Stats. 1905, 553.

See note to § 51, ante.

§ 53. Admittance to places of amusement, etc., on presentation of ticket, or price of ticket; exceptions. It is unlawful for any corporation, person, or association, or the proprietor, lessee, or the agents of either, of any opera house, theater, melodeon, museum, circus, caravan, race course, fair, or other place of public amusement or entertainment, to refuse admittance to any person over the age of twenty-one years, who presents a ticket of admission acquired by purchase, or who tenders the price thereof for such ticket, and who demands admission to such place. Any person under the influence of liquor, or who is guilty of boisterous conduct, or any person of lewd or immoral character, may be excluded from any such place of amusement. En. Stats. 1905, 554.

53, 54. The statute of 1893, page 220, relating to the rights of persons, is codified in the sections above named.—Code Commissioner's Note.

§ 54. Violation of preceding provisions; damages. Any person who is refused admission to any place of amusement contrary to the provisions of the last preceding section, is entitled to recover from the proprietor, lessee, or their agents, or from any such person, corporation, or association, or the directors thereof, his actual damages, and one hundred dollars in addition thereto. En. Stats. 1905, 554.

See note to § 53, ante.

§ 58. En. March 21, 1872. Am'd. 1873-4, 185. Rep. 1905, 554.

Supp. Cal. Rep. Cit. 158, 349.

58. The provisions of this section are contained in the present section 52. The section is therefore unnecessary.—Code Commissioner's Note.

§ 60. Marriages, illegal. All marriages of white persons with negroes, Mongolians, or mulattoes are illegal and void. En. March 21, 1872. Am'd. 1905, 554.

60. The change consists in the insertion of the word "mongolians" after the word "negroes."—Code Commissioner's Note.

§ 61. Supp. Cal. Rep. Cit. 139, 682; 140, 248; 140, 249; 140, 485; 140, 488. Subd. 2—140, 247.

§ 68. **Marriages, procedure required.** Marriage must be licensed, solemnized, authenticated, and recorded as provided in this article; but noncompliance with its provisions by others than a party to a marriage does not invalidate it. En. March 21, 1872. Am'd. 1895, 121; 1905, 554.

68. The change consists in the substitution of the word "others" for "other" before "than"; the substitution of "a party" for "the parties" after "than"; and the substitution of "it" for "that marriage" after "invalidate." The meaning of the section is unchanged.—Code Commissioner's Note.

§ 69. **Marriage licenses.** All persons about to be joined in marriage must first obtain a license therefor from the county clerk of the county in which the marriage is to be celebrated, and must upon oath qualify and show as follows:

1. The identity of the parties;
2. Their real and full names and places of residence;
3. Their ages;
4. No license must be granted when either of the parties applicants therefor is an imbecile or insane, or who at the time of making application for said license is under the influence of any intoxicating liquor, or narcotic drug;
5. No license must be issued authorizing the marriage of a white person with a negro, mulatto, or mongolian;
6. If the male is under the age of twenty-one, or the female under the age of eighteen years, the consent of the father, mother or guardian, if such consent is given; or that such non-age person has been previously, but is not at the time married.

If the male is under the age of twenty-one, or the female under the age of eighteen years, and such person has not been previously married, no license must be issued by the clerk, unless the consent in writing of the parents of the person under age, or one of such parents, or of his or her guardian is presented to him duly verified by such parents or parent or guardian; and such consent must be filed by the clerk and he must state such facts in the license. For the purpose of ascertaining all the facts mentioned and required in this section, the clerk must at the time the license is applied for examine the parties to whom the license is to be issued under oath and reduce such examination to writing to be by them subscribed. En. March 21, 1872. Am'd. 1873-4, 185; 1880, 3; 1905, 182.

§ 70. Supp. Cal. Rep. Cit. 140, 221.

§ 79c. Not applicable to members of particular religious denomination. The provisions of this chapter, so far as they relate to the solemnizing of marriages, are not applicable to members of any particular religious denomination having, as such, any peculiar mode of entering the marriage relation; but such marriages must be declared, as provided in section seventy-six, and be acknowledged and recorded, as provided in section seventy-seven. Where a marriage is declared as provided in said section seventy-six, the husband must file said declaration with the county recorder within thirty days after such marriage, and upon receiving the same the county recorder must record the same; and if the husband fails to make such declaration and file the same for record, as herein provided, he is liable to the same penalties as any person authorized to solemnize marriages, who fails to make the return of such solemnization as provided by law. En. Stats. 1897, 188. Am'd. 1905, 555.

79a (79½). The change consists in the omission of the words "procuring a license and" after "to," thus requiring a license in every case, but leaving the mode of celebrating the marriage as at present. The section is renumbered 79a.—Code Commissioner's Note.

§ 84. Children of annulled marriages. A judgment of nullity of marriage does not affect the legitimacy of children begotten before the judgment. En. March 21, 1872. Am'd. 1905, 555.

84. The design of the amendment is to make the rule declared in this section applicable to all judgments adjudging marriage null, the present section applying only to cases where a marriage is annulled on the ground that a former husband or wife was living.—Code Commissioner's Note.

§ 91. Supp. Cal. Rep. Cit. 140, 488.

§ 94. Divorce, extreme cruelty cause of action for. Extreme cruelty is the wrongful infliction of grievous bodily injury, or grievous mental suffering, upon the other by one party to the marriage. En. March 21, 1872. Am'd. 1905, 75.

§ 95. Supp. Cal. Rep. Cit. 142, 523.

- § 96. Supp. Cal. Rep. Cit. 144, 627.
- § 99. Supp. Cal. Rep. Cit. 140, 115.
- § 101. Supp. Cal. Rep. Cit. 140, 115; 140, 117; 140, 125.
- § 124. Supp. Cal. Rep. Cit. 140, 118. Subd. 3—140, 117.
- § 125. Supp. Cal. Rep. Cit. 140, 118.
- § 128. Supp. Cal. Rep. Cit. 140, 483.
- § 130. Supp. Cal. Rep. Cit. 140, 119; 140, 483; 145, 787.
- § 131. Supp. Cal. Rep. Cit. 140, 479; 140, 480; 140, 488; 143, 631.
- § 132. Supp. Cal. Rep. Cit. 140, 480; 140, 488; 143, 631.

§ 136. **Divorce, maintenance by husband where judgment is denied.** Though judgment of divorce is denied, the court may, in an action for divorce, provide for the maintenance by the husband, of the wife and children of the marriage, or any of them. En. March 21, 1872. Am'd. 1905, 634.

§ 137. **Alimony to be paid while action is pending; action for support.** When an action for divorce is pending, the court may, in its discretion, require the husband to pay as alimony any money necessary to enable the wife to support herself and her children, or to prosecute or defend the action. When the wife has any cause of action for divorce as provided in section ninety-two of this code, she may, without applying for a divorce, maintain in the superior court an action against him for permanent support and maintenance of herself or of herself and children. During the pendency of such action the court may, in its discretion, require the husband to pay as alimony any money necessary for the prosecution of the action and for support and maintenance, and execution may issue therefor in the discretion of the court. The final judgment in such action may be enforced by the court by such order or orders as in its discretion it may from time to time deem necessary, and such order or orders may be varied, altered, or revoked

at the discretion of the court. En. March 21, 1872. Am'd. 1877-8, 76; 1880, 4; 1905, 205.

Supp. Cal. Rep. Cit. 143, 633; 144, 326.

§ 138. **Custody and maintenance of minors during actions for divorce.** In actions for divorce the court may, during the pendency of the action, or at the final hearing or at any time thereafter during the minority of any of the children of the marriage, make such order for the custody, care, education, maintenance and support of such minor children as may seem necessary or proper, and may at any time modify or vacate the same. En. March 21, 1872. Am'd. 1905, 43.

§ 139. Supp. Cal. Rep. Cit. 144, 326.

§ 140. Supp. Cal. Rep. Cit. 144, 325; 144, 326.

§ 158. Supp. Cal. Rep. Cit. 139, 253; 142, 124; 143, 649; 145, 599.

§ 159. Supp. Cal. Rep. Cit. 145, 599.

§ 161. Supp. Cal. Rep. Cit. 139, 560; 145, 480.

§ 162. Supp. Cal. Rep. Cit. 143, 295.

§ 163. Supp. Cal. Rep. Cit. 142, 5; 142, 6.

§ 164. Supp. Cal. Rep. Cit. 138, 572; 142, 121; 143, 295; 143, 647.

§ 171. **Separate property of wife liable for own debts and for necessaries of life.** The separate property of the wife is liable for her own debts contracted before or after her marriage, but is not liable for her husbands debts; provided, that such property is liable for the payment of debts contracted by the husband or wife for the necessaries of life furnished to them or either of them while they are living together. Provided that the provisions of this act shall not apply to the separate property of the wife held by her at the time of her marriage or acquired by her by devise or succession after marriage. En. March 21, 1872. Am'd. 1905, 206.