

MAINE STATE LEGISLATURE

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REVISED STATUTES
OF THE
STATE OF MAINE
1954

1955 SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES

VOLUME 4

**Place in Pocket of Corresponding
Volume of Main Set**

THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
1955

or misleading, or is intended or designed not to sell the merchandise, commodities or service so advertised at the price stated therein, or otherwise communicated, or with intent not to sell the merchandise, commodities or service so advertised, may be enjoined from such advertising, and shall be punished by a fine of not more than \$500.

The provisions of this section shall not apply to any radio station, publisher of a newspaper, magazine or other publication, or any other established and recognized advertising media, or printer who publishes or prints said advertisement without actual knowledge of its falsity. The fact of the publishing or printing of such advertisement shall not be prima facie evidence of such actual knowledge of falsity. (R. S. c. 120, § 29. 1955, c. 54.)

Effect of amendment.—The 1955 amendment rewrote the first paragraph and inserted the words “or any other established and recognized advertising media” in the second paragraph.

Chapter 134.

Crimes against Chastity, Morality and Decency. Sunday Activities.

Houses of Ill Fame. Prostitution.

Sec. 12. Prostitution, lewdness and assignation; terms of probation and parole.

Indictment for procuring or soliciting.—An indictment charging that defendant (first count) did attempt to induce one Blanche Gagnon to become a prostitute by offering to procure for and furnish to the said Blanche Gagnon men who would pay, etc., and (second count) that defendant did solicit and attempt to procure one

Blanche Gagnon for the purpose of prostitution by offering to procure for and furnish to the said Blanche Gagnon men who would pay, etc., was defective in its failure to state to whom the offer was made. State v. Michaud, 150 Me. 479, 114 A. (2d) 352.

Sec. 16. Procuration for prostitution.

Indictment defective for failure to state to whom offer was made.—An indictment charging that defendant (first count) did attempt to induce one Blanche Gagnon to become a prostitute by offering to procure for and furnish to the said Blanche Gagnon men who would pay, etc., and (second count) that defendant did solicit and at-

tempt to procure one Blanche Gagnon for the purpose of prostitution by offering to procure for and furnish to the said Blanche Gagnon men who would pay, etc., was defective in its failure to state to whom the offer was made. State v. Michaud, 150 Me. 479, 114 A. (2d) 352.

Chapter 135.

Crimes against Public Justice and Official Duty.

Perjury and Subornation of Perjury.

Sec. 4. Indictment.

Possibility of materiality must be apparent from face of indictment.—The possibility of materiality of the alleged false testimony must be apparent from the face of the indictment alone, although the indictment need not specify the manner in

which the testimony becomes actually material. State v. Papalos, 150 Me. 46, 103 A. (2d) 511.

Particular proceeding in which perjury was committed must be identified.—By the language “in which C. D. and E. F. were

parties," this section is demanding that the indictment shall set forth a specific, particular proceeding. The section is requiring that this particular proceeding shall be identified, in its individuality, from among the multitude of proceedings heard or adjudicated by the competent tribunal involved. *State v. Papalos*, 150 Me. 46, 103 A. (2d) 511.

Adversary proceeding must be identified by naming parties thereto.—An indictment for perjury relating to a proceeding adversary in character, which fails to designate and identify a specific, particular proceeding by naming the parties thereto would be fatally defective, not only at common law, but even under the statute. *State v. Papalos*, 150 Me. 46, 103 A. (2d) 511.

And identification is not dispensed with where proceeding was not adversary.—In a perjury indictment the purpose of identification must be fulfilled and cannot be

dispensed with when statutory form is adapted to cover a proceeding which is not adversary in nature and which lacks parties such as a grand jury inquiry. *State v. Papalos*, 150 Me. 46, 103 A. (2d) 511.

Indictment must designate particular matter being investigated by tribunal involved.—An indictment for perjury, even under a streamlined statutory form, must contain some designation or identification of the particular matter being investigated, or heard, by the tribunal involved. *State v. Papalos*, 150 Me. 46, 103 A. (2d) 511.

Grand jury inquiry insufficiently identified.—The allegation in an indictment for perjury that the grand jury was "then and there engaged in hearing testimony relative to the commission of crime in the county of Kennebec" does not identify the particular proceeding or inquiry by which the materiality of the testimony may be adjudged. *State v. Papalos*, 150 Me. 46, 103 A. (2d) 511.

Bribery and Attempt to Corrupt Officials.

Sec. 5. Bribery and acceptance of bribes by public officers.

Concurrence is not required to establish crime.—In this state and under our statute, concurrence is not required to establish a substantive crime of bribery. *State*

v. Papalos, 150 Me. 370, 113 A. (2d) 624.

Conspiracy to bribe public officer.—See *State v. Papalos*, 150 Me. 370, 113 A. (2d) 624.

Sec. 8. Informer exempted from punishment.

Concealment of immunity by a witness cannot be based upon the fact that several persons and the witness relied upon differ-

ent interpretations of this section. *State v. Papalos*, 150 Me. 370, 113 A. (2d) 624.

Compounding Felonies.

Sec. 12. Concealment or neglect to disclose commission of felony.

Mere omission to disclose without positive concealment, insufficient to justify conviction.—A mere omission to disclose knowledge of the commission of a felony, without positive concealment, is not enough to justify a conviction under this section. *State v. Michaud*, 150 Me. 479, 114 A. (2d) 352.

While this section employs the words "conceals or does not ... disclose" it should be interpreted in the conjunctive, i. e. "conceals and does not ... disclose." *State v. Michaud*, 150 Me. 479, 114 A. (2d) 352.

Character of knowledge required.—This section requires "knowledge of the actual

commission of a felony." It must be actual and personal knowledge. It must not be knowledge from hearsay, or from possibilities or probabilities. It must be first-hand knowledge by the respondent of all facts necessary to know that the alleged felony has been committed. *State v. Michaud*, 150 Me. 479, 114 A. (2d) 352.

The indictment must indicate what the knowledge was or how obtained. *State v. Michaud*, 150 Me. 479, 114 A. (2d) 352.

And must set forth acts of concealment.—An indictment under this section must set forth the acts of concealment. *State v. Michaud*, 150 Me. 479, 114 A. (2d) 352.