

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

REVISED STATUTES
OF THE
STATE OF MAINE
1954

1957 CUMULATIVE SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES
VOLUME 4

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

THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
1957

necessary to prove that the defendant knows of the offensive picture contained in the literature involved. (R. S. c. 121, § 24. 1957, c. 321, § 1.)

Effect of amendment.—The 1957 amendment rewrote this section.

Sec. 27. Circulation or posting of obscene pictures, handbills, etc.; distribution of certain publications by minors; jurisdiction.—Whoever circulates, posts or causes to be circulated or posted in any conspicuous or public place any picture, handbill or poster containing obscene, indecent or immoral representations; or in any manner hires, uses or employs any minor to sell or give away, or in any manner to distribute, or who, having the care, custody or control of any minor, permits such minor to sell or give away, or in any manner to distribute any book, magazine, pamphlet or newspaper as described in this section shall be punished by a fine of not less than \$50 nor more than \$100 or by imprisonment for not more than 11 months, or by both. Trial justices within their county shall have, by complaint, jurisdiction of the offenses mentioned in this section, original and concurrent with municipal courts and the superior court. (R. S. c. 121, § 27. 1957, c. 321, § 2.)

Effect of amendment.—Prior to the 1957 amendment this section was applicable also to sale or distribution to minors of publications principally containing criminal news. The 1957 amendment deleted such provision and also increased the minimum fine from \$25 to \$50 and the

maximum imprisonment from 6 months to 11 months in the first sentence.

Editor's note.—The publications referred to are no longer described in this section. See now § 24 of this chapter re publications depicting crime and torture.

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 de-

signate 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.

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.

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.

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

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

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.

Chapter 136.

Crimes against Public Peace and Tranquility.

Section 4-A. Disorderly Conduct.

Disorderly Conduct.

Sec. 4-A. Disorderly conduct; penalty.—Any person who shall by any offensive or disorderly conduct, act or language annoy or interfere with any person in any place or with the passengers of any public conveyance, although such conduct, act or language may not amount to an assault or battery, is guilty of a breach of the peace and shall be punished by a fine of not more than \$100 or by imprisonment for not more than 6 months, or by both. (1957, c. 133.)