

# MAINE STATE LEGISLATURE

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REVISED STATUTES  
OF THE  
STATE OF MAINE  
1954

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1957 CUMULATIVE SUPPLEMENT

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ANNOTATED

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IN FIVE VOLUMES  
VOLUME 4

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

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THE MICHIE COMPANY  
CHARLOTTESVILLE, VIRGINIA  
1957

## Chapter 134.

### Crimes against Chastity, Morality and Decency. Sunday Activities.

#### Sexual Crimes.

##### Sec. 3. Crime against nature.

Age of victim or pathic is not material.—Where the crime against nature is charged, the age of the victim or pathic is not material and there is no requirement that it be alleged. *State v. Pratt*, 151 Me. 236, 116 A. (2d) 924.

Penetration of a natural orifice of the body essential.—An indictment which charged that the defendant committed the

offense of the crime against nature by causing a female to manipulate his sexual parts was vulnerable to demurrer, since the crime against nature involving mankind is not complete without some penetration, however slight, of a natural orifice of the body. *State v. Pratt*, 151 Me. 236, 116 A. (2d) 924.

##### Sec. 6. Indecent liberties.

Testimony of earlier happenings, etc.

In accord with original. See *State v. Norton*, 151 Me. 178, 116 A. (2d) 635.

Sentence.—Defendant, who pleaded guilty to an indictment in two counts charging the offense of taking indecent liberties on June 20, 1945, and the conviction and sentence for a prior similar offense in

1936 was properly sentenced for 20 years pursuant to provisions of ch. 149, § 3, since provisions of ch. 149, § 11 requiring sentence for minimum and maximum terms did not apply to prosecutions under ch. 134, § 6 for taking of indecent liberties (ch. 149, § 12). *Carr v. State*, 151 Me. 226, 117 A. (2d) 63.

#### 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.

#### Immoral Literature, Pictures, Exhibitions and Advertisements.

Sec. 24. Distribution and sale to minors of publications depicting crime and torture.—Whoever sells, rents, displays for sale, loans, gives or distributes to a child under 18 years of age or offers for sale to such a child any pamphlet, magazine, comic book, picture, picture book which contains fictional illustrations of sadism, masochism, sexual perversion, bestiality or lust, or of physical torture of human beings, shall be punished by imprisonment for not more than 30 days or by fine of not more than \$50. Under this section it shall be

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