PURDON'S
PENNSYLVANIA STATUTES
ANNOTATED

Title 18
Crimes and Offenses
§§ 1 to 4700

George T. Bisel Company

Newark, N. J.
Soney & Sage Company

St. Paul, Minn.
West Publishing Co.
§ 783. Selling or advertising medicines, etc., to produce abortion; giving, selling or advertising obscene books, etc.; proceedings on complaint of offense

A magistrate having jurisdiction to issue warrants in criminal cases, upon complaint that any person within his jurisdiction is offending against the provisions of this act, supported by oath or affirmation, must issue a warrant directed to the sheriff, or to any constable, marshal or police officer within the county directing him to search for, seize and
§ 819. Prostitution

It shall not be a defense in the foregoing section that the defendant tried and punished intended to be practiced, any overt act in further 1931, April 24, P.L. 52, § 1

Repealed in part, 3

§§ 831–932, 951–872, § 1201; 3 901)

Derivation of sections:
Sections 821–833 were derived from act 1917, July 16, P.L. 1600, § 11 now, sections 4651, 4652 of the

§ 818. Transportation for purpose of prostitution; jurisdiction

Any person who shall knowingly transport or cause to be transported, or aid or assist in obtaining transportation for, by any means of con-
PUBLIC MORALS AND DEENCY 18 § 4525

Medicines, etc., to procure abortion or prevent conception

Whoever prints or publishes, or causes to be printed or published, in any newspaper, pamphlet, book or circular, any advertisement of, or sells or keeps for sale, or gives away or publishes an account or description of, or by writing, publishes or circulates any notice of any secret drug, nostrum, medicine, recipe or instrument, purporting to be for the use of females for the purpose of preventing conception, or procuring abortion or miscarriage, is guilty of a misdemeanor, and shall upon conviction thereof, be sentenced to pay a fine not exceeding five hundred dollars ($500), or undergo imprisonment not exceeding one (1) year, or both.

Nothing contained in this section shall be construed to apply to teaching in regular chartered medical colleges, or the publication of standard medical books. 1939, June 24, P.L. 872, § 525.

Historical Note

Source Notes by Drafting Committee:
1977, May 12, P.L. 93, § 2 (18 P.S. § 775).

Pennal Code 1948:
This section is a consolidation of the following provisions:
Act 1970, March 16, P.L. 39, § 2, providing: "If any person shall print or publish, or cause to be printed or published, in any newspaper in this state, any advertisement of any secret drug, nostrum or medicine, purporting to be for the use of females, or if any person shall sell or buy, or shall give away any such secret drug or nostrum purporting to be for the use of females, or if any person shall, by writing or printing, or in any other way, publish an account or description of any drug, medicine, instrument or apparatus for the purpose of preventing conception, or of procuring abortion or miscarriage, such person or persons, so violating any of the provisions of this act, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be fined in any sum not exceeding one thousand dollars, or be imprisoned in the county jail not exceeding six months, or both, at the discretion of the court. Provided, That nothing in this act contained shall be construed to affect teaching in regular chartered medical colleges, or..."
18 § 4525

THE PENAL CODE

Act 1887, May 12, P.L. 63, § 2, providing: "A person who sells, lends, gives away or in any manner exhibits or offers to sell, lend or give away, or has in his possession with intent to sell, lend or give away or advertises or offers for sale, loan or distribution, any instrument or article, or any recipe, drug or medicine for the prevention of conception, or for causing unlawful abortion, or advertises or holds out representations that it can be so used or applied, or any such description as will be calculated to lead another to so use or apply any such article, recipe, drug, medicine or instrument, or who writes or prints, or causes to be written or printed, a card, circular, pamphlet, advertisement or notice of any kind, or gives information orally stating when, where, how, of whom or by what means such an instrument, article, recipe, drug or medicine can be purchased or obtained, or who manufactures any such instrument, article, recipe, drug or medicine, is guilty of a misdemeanor, and shall be liable to the same penalties as provided in section one of this act."

Cross References

Abortion causing death, see section 4710 of this title.
Aiding or abetting abortion, revocation of license to practice medicine, see section 410 of Title 63, Professions and Occupations.
Importing and transporting obscene books, see 18 U.S.C.A. § 1462.
Mailing obscene matter, see 18 U.S.C.A. § 1461.
Proceedings against offenders, see section 763 of this title.

Notes of Decisions

Construction and operation
Evidence
Indictment

Library references
Abortion §§1, 2.
C.C.S. Abortion §§ 1 et seq., 14.
P.L.E. Abortion § 1.

1. Construction and operation
This section does not prohibit the sale or keeping for sale of contraceptives, provided the articles are not publicized or exhibited in any manner. Com. v. Payne, 66 D. & C. 462, 1949.

The sale or keeping for sale of contraceptives is no longer prohibited, provided that they are not publicized or exhibited in any manner. Com. v. Mosholder, 46 D. & C. 31, 91 P.L.J., 139, 1943.

Under act 1880, March 31, P.L. 382, § 27, intent to procure miscarriage by administration of drugs must be shown, but under act 1887, May 12, P.L. 63, § 2, although no intent was shown, mere administration of drugs was sufficient to sustain conviction. Com. v. Woerner, 31 D. & C. 138, 1925.

2. Indictment
An indictment for publishing an account of an instrument for preventing conception, which does not contain a copy of the publication, or its purport or substance, or a description of the instrument, is defective. Com. v. Loeb, 15 Phila. 376, 38 L.L. 184, 1881.

3. Evidence
Defendant's demurrer to the evidence produced at a hearing on an indictment charging defendant with a violation of this section was sustained, where the police found a number of condoms in his suitcase after he had been arrested; the prosecution having failed to show that the forbidden articles were the use of females for the purpose of preventing conception. Com. v. F., 47 D. & C. 392, 91 P.L.J. 100, 1945.

§ 4526. Advertising treatment of generative organs

Whoever advertises himself as being engaged in the business of treating diseases of the generative organs, or questions thereof, is guilty of a misdemeanor, and shall be punished by a fine not exceeding five hundred dollars, or imprisonment for not exceeding one year, or both.
Title 35
Health and Safety
§ 521.9 Diagnosis and treatment of venereal disease

(a) Except as provided in subsection (b) of this section, the department shall provide or designate adequate facilities for the free diagnosis, including blood and other tests, of venereal disease and for the free treatment of persons infected with venereal disease when necessary for the preservation of the public health.

(b) Upon approval of the department, any local board or department of health may undertake to share the expense of furnishing free diagnosis and free treatment of venereal disease, or the local board or department of health may take over, entirely or in part, the furnishing of free diagnosis and free treatment of venereal disease with or without financial assistance from the department. 1956, April 23, P.L. (1955) 1510, § 9.

§ 521.10 Sale of drugs for venereal diseases

The sale of drugs or other remedies for the treatment of venereal disease is prohibited, except under prescription of physicians licensed to practice in this Commonwealth. 1956, April 23, P.L. (1955) 1510, § 10.


§ 521.11 Persons refusing to submit to treatment for venereal diseases, tuberculosis or any other communicable disease

(a.1) If the secretary or any local health officer finds that any person who is infected with venereal disease, tuberculosis or any other communicable disease in a communicable stage refuses to submit to treatment approved by the department or by a local board or department of health, the secretary or his representative or the local medical health officer may cause the person to be isolated in an appropriate institution designated by the department or by the local board or department of health for safekeeping and treatment until the disease has been rendered non-communicable.

(a.2) The secretary or the local health officer may file a petition in the court of common pleas of the county in which the person is present to commit such person to an appropriate institution designated by the department or by the local board or department of health for safekeeping and treatment until such time as the disease has been rendered non-communicable. Upon filing of such petition, the court shall, within twenty-four hours after service of a copy thereof upon the respondent, hold a hearing, without a jury, to ascertain whether the person named in the petition has refused to submit to treatment. Upon a finding that the
MCCREARY, P. J.

At the above stated term and number defendant, Ben Payne, was indicted on a charge which reads as follows:

"That Ben Payne, late of the County aforesaid, yeoman, on the twenty-third day of February in the *463 year of our Lord One Thousand Nine Hundred and Forty-eight in the County aforesaid, and within the jurisdiction of this court, with force and arms did then and there unlawfully, within this state, to wit: at Third Avenue, in the Borough of New Brighton, in said County, did keep for sale and gratuitous distribution nostrums for the purpose of preventing conception."

This indictment, no doubt, is drawn under The Penal Code of June 24, 1939, P. L. 872, sec. 525. That section reads as follows:

"Whoever prints or publishes, or causes to be printed or published, in any newspaper, pamphlet, book or circular, any advertisement of, or sells or keeps for sale, or gives away or publishes an account or description of, or by writing, publishes or circulates any notice of any secret drug, nostrum, medicine, recipe or instrument, purporting to be for the use of females for the purpose of preventing conception, or procuring abortion or miscarriage, is guilty of a misdemeanor, and shall upon conviction thereof, be sentenced to pay a fine not exceeding five hundred dollars ($500), or undergo imprisonment not exceeding one (1) year, or both."

"Nothing contained in this section shall be construed to apply to teaching in regular chartered medical colleges, or the publication of standard medical books."

Before the jury was sworn defendant, by his counsel, moved to quash the indictment, the motion being as follows:

"The defendant, by his undersigned attorney, respectfully moves the court to quash the indictment in the above entitled case, and assigns therefor the following reasons.

"1. That the defendant is charged in the said indictment as follows:

*464 "Did then and there unlawfully, within this state, to-wit: on Third Avenue, in the Borough of New Brighton in said county, did keep for sale and gratuitous distribution nostrums for the purpose of preventing conception."

**2 "2. That said indictment does not charge the defendant with the commission of any crime under the laws of the Commonwealth of Pennsylvania.

"The defendant therefore moves your honorable court to quash said indictment and that he be discharged from said proceeding."

The motion to quash was overruled and defendant proceeded to trial, the result of which was that the jury returned a verdict of guilty as indicted.

Following the trial defendant made two motions, both of which were filed June 21, 1948. The first was a motion for a new trial and the second was a motion in arrest of judgment. In view of our disposition of the motion in arrest of judgment, we need not and will not pass upon the motion for a new trial.

Defendant, by his counsel, made a motion that the court arrest the judgment for the following reasons:

"1. The court erred in refusing the motion of the defendant to quash the information.

"2. The court erred in refusing the motion of the defendant to quash the indictment.

"3. The court erred in refusing to grant the demurrer of the defendant to the evidence at the trial.

"4. The court erred in refusing to charge the jury especially as requested by the defendant in his request that the court direct a verdict of "not guilty".

"5. In that there was a variance between the charge in the indictment and the proof, there being no evidence that the defendant had or kept for sale nostrums.

"6. The defendant therefore asks the court to direct the stenographer to transcribe the notes of testimony and charge of the court, and that he be given fifteen *465 days after the filing of the same in which to file additional reasons in support of this motion."

We are of the opinion that the court should have granted the motion of defendant to quash the indictment, and therefore we are compelled to grant defendant's motion to arrest the judgment for the reason that the indictment does not charge an indictable offense under the law of Pennsylvania. The motion in arrest of judgment will be granted when it appears from the face of the record that the court was without jurisdiction; or that the act of assembly on which the indictment is framed is unconstitutional; or that the indictment is insufficient (2 Sadler on Criminal Procedure in Pennsylvania, §606, Henry's 2d ed.). The cases of Delaware Division Canal Co. et al. v. Commonwealth, 60 Pa. 367, and Commonwealth v. Moore, 99 Pa. 570, are authority for the proposition that the court should sustain a motion in arrest of judgment where it appears from the face of the record that the indictment is insufficient.

The same motions were before the Court of Quarter Sessions of Cambria in the case of Commonwealth v. Mosholder, 46 Pa. D. & C. 31, involving the same or a similar charge. In that case, after argument, defendant's motion for a new trial was denied but his motion in arrest of judgment was sustained in an opinion by Judge Griffith on May 15, 1942. We think that Judge Griffith properly analyzed the situation and reached the proper conclusion that under The Penal Code of June 24, 1939, P. L. 872, sec. 525, repealing the Acts of March 16, 1870, P. L. 39, and May 12, 1897, P. L. 63, the sale, or keeping for sale of contraceptives is no longer prohibited in Pennsylvania, provided
the articles are not publicized or exhibited in any manner. Unfortunately, the legislature, in substituting section 525 of The Penal Code of 1939 for the provisions of the Acts of 1870 and 1897, supra, either intentionally or *466 unintentionally left a big hole in the law. The Act of March 16, 1870, P. L. 39, prohibited the advertisement and the sale, and keeping for sale, of any secret drug or nostrum purporting to be for the use of females, and also the publishing of an account or description of any drug, medicine, instrument or apparatus for the purpose of preventing conception. This act evidently did not make it a penal offense for one to sell or have in his possession for sale contraceptives for the purpose of preventing conception; it was aimed at advertising drugs or instruments purporting to be for the use of females for the purpose of preventing conception.

**3 The legislature, by the Act of May 12, 1897, P. L. 63, 18 PS §778, enlarged criminality of those advertising or offering for sale, drugs or medicines therefor. Part of that act reads as follows:

"A person who sells, lends, gives away or in any manner exhibits or offers to sell, lend or give away, or has in his possession with intent to sell, lend or give away, any instrument or article, or any recipe, drug or medicine for the prevention of conception ... is guilty of a misdemeanor ..."

It would therefore appear from this later act that it was the intention of the legislature to make it a misdemeanor for any person to sell or give away an instrument or an article that could be used to stop conception. The General Assembly of 1939 had before it both the Acts of 1870 and 1897, supra, and repealed both of them when it changed and combined them in The Penal Code of 1939, sec. 525.

Judge Kennedy of the Court of Quarter Sessions of Allegheny County, in the case of Commonwealth v. Rupp, 47 Pa. D. & C. 302, also had before him for consideration the meaning of section 525 of The Penal Code of 1939. He reached the identical conclusion which was reached by Judge Griffith in the case of Commonwealth v. Mosholder, supra. Judge Kennedy tried the *467 Rupp case without a jury by agreement of the parties, and felt compelled to sustain defendant's demurrer to the evidence on the ground that the sale of condoms does not constitute a violation of section 525 of The Penal Code of 1939, P. L. 872. He said in part as follows (pp. 305, 306):

"The assistant district attorney concedes that, under the agreed set of facts, defendant could not be convicted under section 525 of The Penal Code of 1939. He, however, earnestly urges that defendant could be found guilty of a common-law offense, in that defendant committed an act which 'openly outrages decency and is injurious to public morals', and cites in support of his position the case of Commonwealth v. DeGrange, 97 Pa. Superior Ct. 181, which is a case of indecent assault upon a minor female of most immature years, and also the case of Commonwealth v. J. & M. Cartusciello, 100 Pa. Superior Ct. 473. Neither of these cases in our opinion is helpful to the Commonwealth in urging that defendant here could be found guilty of an act that openly outraged decency or was injurious to public morals. It should also be borne in mind that the Commonwealth did not urge at the time that defendant, by counsel, demurred to the evidence, that defendant could be adjudged guilty of a common-law offense which, of course, is still preserved in the Penal Code of 1939. No cases have been submitted by counsel which concluded that the surreptitious sale of condoms is an offense against public morals. While it is true that the Superior Court has said that the mere fact that an analogous case has not been determined by the courts in no way prohibits the courts from finding that an alleged act is against public morals, yet in this case, since it is admitted by the prosecutor, a police officer of the Borough of Brackenridge, that he did not know what defendant was attempting to sell men customers in a tavern until he seized his kit, therefore it *468 cannot be said that defendant was committing an act against public decency. To make such a ruling now would be to determine that the surreptitious sale of these devices that has been carried on for many years in drugstores has been a crime against public morals.
**4 "This court is in full accord with the position
taken by the assistant district attorney, that if the
attempted sale or the exhibition of these devices
were made in mixed company or especially to
matureting children, defendant would be guilty of a
misdemeanor at common law.

"It is, therefore, our conclusion that the demurrer to
the evidence must be sustained."

At the conclusion of the argument on the motion
before the court en banc we were satisfied, and are
still satisfied that both Judge Kennedy and Judge
Griffith are correct in their conclusion that The
Penal Code, as now drawn, does not make the sale
of condoms a violation of section 525 of said act,
but we felt that the indictment and the verdict might
still be sustainable at common law for the reason
that such sales outraged decency and are injurious
to public morals. However, we have now
concluded, on the authority of these two eminent
jurists, that neither the indictment nor the verdict
can be sustained on those grounds, particularly in
view of the fact that the indictment as drawn, based
on the information as made, charges defendant, not
with the sale, or possession for purposes of sale, of
condoms, but it charges defendant with the sale, or
possession for the purpose of sale, of nostrums.
Webster's dictionary defines nostrums as follows:

"A medicine, the ingredients of which are kept
secret for the purpose of restricting the profits of
sale to the inventor or proprietor; a quack medicine.
(2) Any quack device, scheme or plan."

*469 It can hardly be said that the sale of nostrums,
within the meaning of that definition, would be an
offense at common law.

In the case of Commonwealth v. Rupp, supra, and
the case of Commonwealth v. Mosholder, supra, the
indictments charged the defendants with the sale
of condoms and contraceptives. In spite of that fact
courts of Allegheny and Cambria Counties
determined that section 525 of The Penal Code of
1939, which repealed the Acts of 1870 and 1897,
supra, no longer makes the sale of contraceptives
an offense under the statute. Certainly, it does not
prevent the sale or keeping for sale of patent
medicines, that being what defendant in the case
now under consideration was charged with.

We have reached our conclusion in this case very
reluctantly, feeling as we do that the sale, or
keeping for sale, of contraceptives, outside of
medical channels, ought to be, and probably was
intended to be, prohibited by the legislature of
1939, just as it was considered to be by the
legislature of 1897. We hope this case and the
Allegheny and Cambria Counties cases are called to
the attention of the legislature, so that it may pass
upon the question as to whether or not the people
want the provisions of the Act of 1897 restored to
the Criminal Code. The legislature did see fit to
make it a penal offense to vend these articles
through vending machines, as appears by reference
to section 659 of the Act of June 24, 1939, P. L.
872. It is now for the legislature to say in plain
language, if it so desires, what the legislature said
when it passed the Act of May 12, 1897, P. L. 63, sec. 2.

**5 For the reasons stated we make the following

Order
Now, October 26, 1948, after argument and upon
due consideration defendant's motion for a new trial
is denied and a new trial is refused.

*470 Order
Now. October 26, 1948, defendant's motion in
arrest of judgment is sustained, and defendant is
discharged upon payment of the costs.

END OF DOCUMENT

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Court of Common Pleas of Pennsylvania, Cambria County.
Commonwealth v.
Mosholder
May 15, 1942.

**1 **31 Motions for new trial and in arrest of judgment.

West Headnotes

KeyCite Notes

- 4 Abortion and Birth Control
  - 4k132 Contraceptives and Birth Control
  - 4k140 k. Crimes and Prosecutions. Most Cited Cases
    (Formerly 4k1.10, 4k1)

Under The Penal Code of June 24, 1939, P.L. 872, No. 375, § 525, 18 P.S. § 4525, repealing the Acts of March 16, 1870, P.L. 39, 18 P.S. §§ 776, 777, and May 12, 1897, P.L. 63, § 2, 18 P.S. § 778, the sale or keeping for sale of contraceptives is no longer prohibited, provided that they are not publicized or exhibited in any manner.

William J. Blimmel, assistant district attorney, for Commonwealth.
Frank P. Barnhart, for defendant.

GRIFFITH, J.
Defendant, I. J. Mosholder, was indicted under The Penal Code of June 24, 1939, P.L. 872, sec. 525, 18 PS §4525, in an indictment which charged that he "did willfully sell and keep for sale certain instruments, to wit: rubber prophylactics, purporting to be for the use of females for the purpose of preventing conception". After the jury was sworn, and before taking testimony, the Commonwealth moved to amend the indictment by striking out the word "sell" inasmuch as the Commonwealth was not in position to prove any sale on the part of defendant. This amendment was allowed.
The testimony adduced on behalf of the Commonwealth showed that some 55 gross of contraceptives *32 were found in the possession of defendant. A portion of these were found in his automobile truck and the remainder in his garage. Upon the conclusion of the Commonwealth's testimony, defendant demurred to the evidence and submitted a point for binding instructions, and adduced no testimony.
The jury found defendant guilty on the count with which we are now concerned, and defendant immediately moved for a new trial and made a separate motion in arrest of judgment. The motion for a new trial has not been seriously pressed, so that we shall now consider the motion in arrest of judgment.

Until the passage of The Penal Code of 1939, above referred to, the sale or keeping for sale of contraceptives was governed in Pennsylvania by the Act of March 16, 1870, P. L. 39, sec. 2, 18 PS §777, and the Act of May 12, 1897, P. L. 63, sec. 2, 18 PS §778.
The Act of 1870 prohibited the advertisement and the sale, and keeping for sale, of any secret drug or nostrum purporting to be for the use of females, and also the publishing of an account or description of any drug, medicine, instrument or apparatus for the purpose of preventing conception.
The Act of May 12, 1897, prohibited the possession, with the intent to sell, lend or give away, any instrument or article for the prevention of conception, and also the advertising
or representation that it could be so used.
During the period over which the Act of May 12, 1897, was effective, therefore, it was a
misdemeanor for any one to have in his possession, with the intent to sell, lend, or give
away contraceptives. In this case, due to the large quantity of contraceptives found in
defendant’s possession, the intent to lend, sell, or give away could be presumed.
However, The Penal Code of 1939, first above referred to, repealed both the Act of 1870
and the Act of 1897, and it is earnestly contended by defendant that the sale and
keeping for sale *33 of contraceptives is no longer prohibited in Pennsylvania,
provided the articles are not publicized or exhibited in any manner.
**2 The Penal Code of 1939 reads as follows (sec. 525): "Whoever prints or publishes,
or causes to be printed or published, in any newspaper, pamphlet, book or circular, any
advertisement of, or sells or keeps for sale, or gives away or publishes an account or
description of, or by writing, publishes or circulates any notice of any secret drug,
nostrum, medicine, recipe or instrument, purporting to be for the use of females for the
purpose of preventing conception, or procuring abortion or miscarriage, is guilty of a
misdemeanor." An exception is made in favor of teaching in medical colleges and
publication of standard medical books.
It is contended by defendant that the prohibition contained in this section of selling or
keeping for sale applies to the "account or description of" the drug, nostrum, medicine,
recipe or instrument. It is contended by the Commonwealth that the selling or keeping
for sale, which is prohibited, applies to the drug, nostrum, medicine, recipe or instrument
itself.
Had there been a comma after the word "away" in the phrase "or gives away", and a
comma after the word "of" in the phrase "any notice of any secret drug", the construction
contended by the Commonwealth might possibly be sustained. However, in the absence
of this punctuation it is difficult to construe the language as contended for by the
Commonwealth. This is a penal statute and must be strictly construed. The best that can
be said for it from the Commonwealth’s viewpoint is that it is ambiguous. This is not
sufficient upon which to base a conviction under the criminal law.
We are not called upon to pass on the question as to whether defendant could be found
guilty of a common-law offense for the reason that the Commonwealth has chosen to rely
solely on the statute. In this case, however, *34 it is difficult to see how even a
common-law offense could have been perpetrated, inasmuch as the contraceptives were
found in defendant’s truck and garage. Had they been openly exposed to sale, we would
be met with an entirely different situation, in which event a common-law prosecution
could probably be sustained.
We must, therefore, enter the following
Decree
And now, May 15, 1942, after argument and upon due consideration, defendant's motion
for a new trial is denied, defendant's motion in arrest of judgment is sustained and
defendant is discharged, the county to pay the costs.
Commonwealth v. Mosholder
END OF DOCUMENT
GENERAL LAWS
OF
RHODE ISLAND
1956

The General Laws of 1956 as Enacted by the General Assembly at
the January Session, 1957, Chapter 34, Revised Public Laws
of 1957, Effective December 31, 1956

Completely Annotated

VOLUME 3
Prepared under the Supervision
of the Statute Consolidation Commission

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SECTION.
11-31-3. Reproduction of obscene pictures or sounds by use of mechanical contrivances.
11-31-4. Promotion of indecent shows.
11-31-5. Seizure and forfeiture of instruments used for indecent shows.
11-31-6. Immunity of officer from costs or damages.

SECTION.
11-31-8. Entry of premises by sheriff or deputies.
11-31-10. Sale or exhibition to minors of indecent publications, pictures, or articles.

11-31-1. Circulation of obscene publications.—Every person who shall import, print, publish, sell, or distribute any book, pamphlet, ballad, printed paper, or other thing containing obscene, indecent, or impure language, or manifestly tending to the corruption of the morals of youth, or any print, picture, figment, or other description which is indecent, impure, or manifestly tending to the corruption of the morals of youth, or shall introduce into any family, school, or place of education, or shall buy, procure, receive, or have in his possession any such book, pamphlet, ballad, printed paper, or other thing, either for the purpose of sale, exhibition, loan, or circulation, or with intent to introduce the same into any family, school, or place of education, shall be imprisoned not exceeding two (2) years or be fined not exceeding one thousand dollars ($1,000) nor less than one hundred dollars ($100).

History of Section.

Comparative Legislation.
Obscene literature and books:

Collateral References.
Entrapment to commit offense of selling obscene matter. 18 A. L. R. 171; 86 A. L. R. 503; 86 A. L. R. 269.

Exclusion from evidence of parts of publication, or mail matter, other than those charged to be obscene, or oral testimony relating to purpose of effect of publication as a whole. 69 A. L. R. 644.

Scientific, educational or instructive publications regarding sex relations as within statutes relating to obscene or immoral publications. 76 A. L. R. 1099.

What amounts to an obscene play or book within prohibition of statute. 81 A. L. R. 801.

NOTES TO DECISIONS

ANALYSIS
1. Character of devices.
2. Intent.
3. Indictment.
4. Sale contract.

Court could find devices so obviously indecent and obscene as to leave no question for the jury as to their character.

Manes Co. v. Glass (1918), 41 R. I. 135, 102 Atl. 964.

2. Intent.
If the defendant possessed obscene material with intent to exhibit such matter, whether for sale or any other reason, he was guilty of the offense charged.
Evidence that book dealer had purchased obscene literature in large quantities and kept it in his store tended to prove intent to exhibit. State v. Ephraim (1953), 80 R. I. 321, 96 Atl. (2d) 641.

3. Indictment.

Indictment under this section must allege the manner of distribution. State v. Smith (1891), 17 R. I. 371, 22 Atl. 282.


Indictment need not set forth specifically the obscene language if it recites that the language is too objectionable to be set forth in the record.

11-31-2. Seizure and destruction of obscene publications.—Any justice or clerk of a district court, upon complaint being made to him under oath, may issue a search warrant for the purpose of searching for any obscene book, pamphlet, ballad, printed paper, or other thing mentioned in § 11-31-1, and such warrant may be issued to any officer authorized to make an arrest for any criminal offense in the city or town where such search is to be made, and all such things as shall be found by any such officer in executing any such search warrant, or which shall be produced and brought into court, shall be safely kept so long as shall be necessary, for the purpose of being used as evidence in any case, and as soon as may be afterwards, shall be destroyed by order of the court before which the same shall be brought.

History of Section.

Compiler’s Note.
The provisions of the previous law have been divided into two parts, and language not applicable to the offense described in § 11-31-1 has been omitted from this section. The provision applicable for searches for advertising pertaining to services or drugs designed to procure miscarriage may be found in § 11-3-5 herein.

11-31-3. Reproduction of obscene pictures or sounds by use of mechanical contrivances.—Every person who shall in connection with any show, exhibition, or entertainment, whether public or private, either as owner, manager, or director, or in any other capacity, use, or cause, or permit to be used a phonograph or other contrivance, instrument, or device which utters or gives forth any language which is obscene, impure, or manifestly tending to the corruption of the morals of youth; or who shall, as aforesaid, use, or cause, or permit to be used a vitascope, biograph, mutoscope, stereopticon, or other contrivance or instrument, or device which exhibits pictures or views
GENERAL LAWS
OF
RHODE ISLAND

1956

Reenactment of 1994

Completely Annotated

VOLUME 3

THE MICHIE COMPANY
Law Publishers
CHARLOTTESVILLE, VIRGINIA
1994
CHAPTER 31

OBSCENE AND OBJECTIONABLE PUBLICATIONS AND SHOWS

SECTION
11-31-1. Circulation of obscene publications and shows. — Every person who willfully or knowingly promotes for the purpose of commercial gain within the community any show, motion picture, performance, photograph, book, magazine, or other material which is obscene shall, upon conviction, be punished by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or by imprisonment for not more than two (2) years or both.

(b) For the purpose of this section:

(1) In determining whether or not a show, motion picture, performance, photograph, book, magazine, or other material is obscene the trier of the fact must find: (A) that the average person, applying contemporary community standards would find that the work, taken as a whole, appeals to the prurient interest; and (B) that the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by this chapter; and (C) that the work, taken as a whole, lacks serious literary, artistic, political, or scientific value.

(2) (A) “Community standards” means the geographical area of the state of Rhode Island and Providence Plantations.

(B) “Knowingly” means having knowledge of the character and content of the material or failure on notice to exercise reasonable inspection which would disclose the content and character of the same.

(C) “Material” means anything tangible which is capable of being used or adapted to arouse prurient interest through the medium of reading, or observation.

(D) “Patently offensive” means so offensive on its face as to affront current standards of decency.

(E) “Performance” means any play, motion picture, dance or other exhibition performed before an audience.

(F) “Promote” means to manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, present, exhibit, or advertise or to offer or agree to do the same for resale.
(G) "Sexual conduct" means:

(i) An act of sexual intercourse, normal or perverted, actual or simulated, including genital-genital, anal-genital, or oral-genital intercourse, whether between human beings or between a human being and an animal.

(ii) Sado-masochistic abuse, meaning flagellation or torture by or upon a person in an act of apparent sexual stimulation or gratification.

(iii) Masturbation, excretory functions, and lewd exhibitions of the genitals.

(H) "Standards of decency" means community standards of decency.

(c) If any of the depictions and descriptions of sexual conduct described in this subdivision are declared by a court of competent jurisdiction to be unlawfully included because such depictions or descriptions are constitutionally protected or for any other reason such declaration shall not invalidate this chapter as to other sexual conduct included herein.

History of Section.

Reenactment. The 1994 Reenactment (P.L. 1994, ch. 134, § 1) added the subsection designations, rearranged the definitions in subsection (b) in alphabetical order, and made minor punctuation and stylistic changes throughout the section.


NOTES TO DECISIONS

Analysis

1. Constitutionality.
2. Effect of license.
3. Defenses.
5. Intent.
6. Arrest.

1. Constitutionality.

Whereas § 11-31-1 reaches conduct that may be constitutionally protected because it is not legally obscene, the entire statute was declared unconstitutional on the ground that it improperly defined what constitutes "an obscene work" in defining the broader concept of "patently offensive sexual conduct," rather than the narrower term "sexual conduct," and thus established a conclusive presumption and predetermined "patently offensive sexual conduct" rather than leaving that determination to the jury as required by the United States Supreme Court in Miller v. California, 413 U.S. 15, 93 S. Ct. 2607, 37 L. Ed. 2d 419, rehearing denied, 414 U.S. 881, 94 S. Ct. 26, 38 L. Ed. 2d 128 (1973). D & J Enterprises, Inc. v. Michaelson, 401 A.2d 440 (R.I. 1979).

2. Effect of License.

It is clear from a reading of § 5-22-5 that the legislature delegated its police power to regulate obscenity to the cities and towns in accordance with the procedural safeguards delineated in Freedman v. Maryland, 380 U.S. 51, 55 S. Ct. 734, 13 L. Ed. 2d 649 (1965). State v. Berberian, 427 A.2d 1298 (R.I. 1981).

The issuance of a license by the local licensing board under § 5-22-5 for the subject films constituted an official and express assurance from which, absent a final judicial determination that the films were obscene, no criminal prosecutions against defendants under § 11-31-1 could attach. State v. Berberian, 427 A.2d 1298 (R.I. 1981).

3. Defenses.

A general license to exhibit films, issued in
the absence of established procedures for determining obscenity, was not a defense to a prosecution for violating this section. State v. Tavone, 482 A.2d 693 (R.I. 1984), cert. denied, 471 U.S. 1010, 105 S. Ct. 1879, 85 L. Ed. 2d 171 (1985).


5. Intent. If the defendant possessed obscene material with intent to exhibit such material, whether for sale or any other reason, he was guilty of the offense charged. State v. Ephraim, 80 R.I. 321, 96 A.2d 841 (1953) (decided under prior law).

Evidence that book dealer had purchased obscene literature in large quantities and kept it in his store tended to prove intent to exhibit. State v. Ephraim, 80 R.I. 321, 96 A.2d 841 (1953) (decided under prior law).

6. Arrest. Where officers who made arrest without warrant had been informed of possession and defendant has stated to an officer "I have the film, *** show me some identification and I will give you the film. *** for all I know you may be John Law. I could be handing you the film and you put the handcuffs on me," such arrest was held to have been made upon mere suspicion with no overt act by defendant and therefore there were no grounds of probable cause that a felony had been committed or that defendant was committing one and the arrest was unlawful. State v. Dufour, 99 R.I. 120, 206 A.2d 82 (1965) (decided under prior law).

Collateral References. Entrapment to commit offense against obscenity laws. 77 A.L.R.2d 792.

Entrapment to commit offense of selling obscene matter. 18 A.L.R. 171; 66 A.L.R. 478; 86 A.L.R. 263.

Exclusion from evidence of parts of publication, or mail matter, other than those charged to be obscene, or oral testimony relating to purpose of effect of publication as a whole. 69 A.L.R. 544.

Modern concept of obscenity. 5 A.L.R.2d 1158.

Scientific, educational or instructive publications regarding sex relations as within statutes relating to obscene or immoral publications. 76 A.L.R. 1099.

What amounts to an obscene play or book within prohibition of statute. 81 A.L.R. 801.

11-31-2. Forfeiture of obscene publications. — Any obscene book, pamphlet, ballad, printed paper, or other thing mentioned in § 11-31-1 found by any officer in executing a search warrant or which shall be produced and brought into court shall be forfeited to the state, and further proceedings shall be had thereon for their forfeiture as is prescribed by law in chapter 21 of title 12, and upon entry of final judgment of forfeiture the item shall be destroyed by order of the court; provided, however, that if any book, pamphlet, ballad, printed paper or other thing mentioned in § 11-31-1 is seized by any officer in executing a search warrant it shall not be forfeited to the state unless the person, firm, corporation, or association claiming a proprietary interest in and to it or in whose possession it is found has been accorded the opportunity for a hearing on the question of whether it is obscene as provided by § 12-5-8.

History of Section.

Reenactments. The 1994 Reenactment (P.L. 1994, ch. 134, § 1) made several substitutions for the word "such", and made minor punctuation and stylistic changes throughout the section.
THE REVISED STATUTES
OF
SOUTH CAROLINA.

VOL. 2.

CONTAINING THE
CODE OF CIVIL PROCEDURE,
AND
THE CRIMINAL STATUTES.

Approved by the General Assembly of 1893.

Also

The Constitutions of the United States and of the State,

AND

THE RULES OF THE SUPREME AND OF THE
CIRCUIT COURTS OF THE STATE.

COLUMBIA, S. C.
CHARLES A. CALVO, JR., STATE PRINTER.
1894.
Sec. 252. (1599.) Adultery is the living together and carnal intercourse with each other, or habitual carnal intercourse with each other without living together, of a man and woman, when either is lawfully married to some other person.

Sec. 253. (1600.) Fornication is the living together and carnal intercourse with each other, or habitual carnal intercourse with each other without living together, of a man and woman, both being unmarried.

"Habitual carnal intercourse" means more than occasional intercourse, but it is for the jury to say how frequent it must be to make it "habitual."—State v. Cordeil, 30 S. C. 68.

The words "without living together" are not elements in the offense of adultery, and may be omitted from indictment.—Ib.

Sec. 254. (1601.) Whoever shall commit the abominable crime of buggery, whether with mankind or with beast, shall, on conviction, be deemed guilty of felony, and shall be imprisoned in the Penitentiary for five years, or shall pay a fine of not less than five hundred dollars, or both, at the discretion of the Court.

Sec. 255. Whoever knowingly imports, prints, publishes, sells or distributes any book, pamphlet, ballad, printed paper or thing containing obscene, indecent or improper print, picture, figure or description manifestly tending to the corruption of the morals of youth, or introduces into a family, school or place of education, or brings, procures, receives or has in his possession any book, pamphlet, printed paper, picture or ballad, or other thing, either for the purpose of sale, exhibition, or in a circulation, or with intent to introduce the same into a family, school or place of education, shall be punished by imprisonment not exceeding two years or by a fine not exceeding one thousand dollars, or both, at the discretion of the Court.

Sec. 256. Whoever posts or exhibits in any public place any advertisement or signboard, or other printed or written picture of an indecent or obscene character shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment not exceeding two years or by a fine not exceeding one thousand dollars, or both, at the discretion of the Court.

Sec. 257. It shall be a misdemeanor for any person to engage in or be present at cock fighting within three (3) miles of any chartered institution of learning in this State, and any person found guilty shall be fined not exceeding one hundred dollars or imprisonment not exceeding thirty days.

Sec. 258. Any person who shall have carnal intercourse with each other within the following degrees of relationship, to wit:

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OF SOUTH CAROLINA.
CODE OF LAWS

OF

South Carolina,

1902.

IN TWO VOLUMES.

VOLUME II.

Code of Civil Procedure

AND

Criminal Code.

COLUMBIA, S. C.
THE STATE COMPANY, STATE PRINTERS.
1902.
five hundred dollars or imprisonment for not less than twelve months, or both, in the discretion of the Court. Any clergyman, minister of the gospel, Magistrate, or other person authorized by law to perform the marriage ceremony, who shall knowingly and wilfully unite in the bonds of matrimony any persons of different races, as above prohibited, shall be guilty of a misdemeanor, and upon conviction thereof shall be liable to the same penalty or penalties as provided in this Section.

Sec. 294. Whoever shall commit the abominable crime of buggery, whether with mankind or with beast, shall, on conviction, be deemed guilty of felony, and shall be imprisoned in the penitentiary for five years, and shall pay a fine of not less than five hundred dollars, or both, at the discretion of the Court.

Sec. 295. Any persons who shall have carnal intercourse with each other within the following degrees of relationship, to wit: A man with his mother, grandmother, daughter, granddaughter, stepmother, sister, grandfather's wife, son's wife, grandson's wife, wife's mother, wife's grandmother, wife's daughter, wife's granddaughter, brother's daughter, sister's daughter, father's sister, or mother's sister; a woman with her father, grandfather, son, grandson, stepfather, brother, grandmother's husband, daughter's husband, granddaughter's husband, husband's father, husband's grandfather, husband's son, husband's grandson, brother's son, sister's son, father's brother, or mother's brother, shall be deemed guilty of incest, and shall be punished by a fine of not less than five hundred dollars, or imprisonment not less than one year in the Penitentiary, or both such fine and imprisonment.

State may show crime was committed seven years before date alleged in the indictment.—State v. Reynolds, 48 S. C., 384; 46 S. E., 769. —Wife may testify against husband.—16.

Sec. 296. Whoever knowingly imports, prints, publishes, sells or distributes any book, pamphlet, ballad, printed paper or other thing containing obscene, indecent or improper print, picture, figure or description manifestly tending to the corruption of the morals of youth, or introduces into a family, school or place of education, or brings, procures, receives or has in his possession any such book, pamphlet, printed paper, picture or ballad, or other thing, either for the purpose of sale, exhibition, to aid in a circulation, or with intent to introduce the same into a family, school or place of education, shall be
punished by imprisonment not exceeding two years or by a fine not exceeding one thousand ($1,000) dollars, or both, at the discretion of the Court.

Sec. 297. Whoever posts or exhibits in any public place any advertisement, show bill or other printed or written picture of an indecent or obscene character shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by imprisonment not exceeding two years or by a fine not exceeding one thousand dollars, or both, in the discretion of the Court.

Sec. 298. It shall be a misdemeanor for any person to engage, in or be present at cock-fighting within three (3) miles of any chartered institution of learning in this State, and any person found guilty shall be fined not exceeding one hundred dollars, or imprisoned not exceeding thirty days.

Sec. 299. Any person or persons who shall be found on any highway or at any public place or public gathering in a grossly intoxicated condition and conducting himself or herself in a disorderly manner, who shall use obscene or profane language, accompanied with disorderly conduct, on any highway or at any public place or gathering, shall be deemed guilty of a misdemeanor, and upon conviction of either of said offenses shall be fined not less than five dollars, nor more than fifty dollars, or imprisoned not less than five days nor more than thirty days.

All fines collected for any and all of the offenses enumerated in this Section shall be paid to the County Treasurer and become a part of the public school fund of such County.

CHAPTER XV.

Offenses Against the Public Health.

Sec. 300. Penalties for practicing medicine without the proper qualifications.

Sec. 301. Penalty for practicing dentistry without proper qualifications.

Sec. 302. Pharmacists and druggists must have license.

Sec. 303. Unlawful for one not licensed to make up prescriptions.

Sec. 304. State Association to prosecute.

Sec. 305. Selling diseased or injured meats.

Sec. 306. Adulteration of food or drink, or selling or offering for sale.

Sec. 307. Adulteration of candy.

Sec. 308. Adulteration of milk.

Sec. 309. Coloring matter in butter and cheese.

Sec. 310. Combinations of certain ingredients prohibited.

Sec. 311. Imitation butter or cheese.

Sec. 312. Substitute for butter or cheese to be so marked.

Sec. 313. Possession of unmarked imitations.

Sec. 314. Sale of imitations as genuine prohibited.

Sec. 315. Hotels and restaurants using imitations to advertise the same.
CODE OF LAWS
OF
SOUTH CAROLINA
1932
IN FOUR VOLUMES

Prepared, edited, annotated, and printed under the supervision, direction, and assistance of the Code Commissioner, and the Committee on Statutory Laws of the General Assembly of South Carolina

Volume I

Code of Civil Procedure
Code of Criminal Procedure
Criminal Code
Constitution of the United States
Constitution of the State of South Carolina, 1895
Rules of Court for United States District Courts, and the State Courts

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THE STATE OF SOUTH CAROLINA

THE MICHIE COMPANY, PRINTERS
CHARLOTTESVILLE, VA.
1932
§ 1442. Felony to Expose Person Indecently.—Any person who shall be guilty of wilful and malicious indecent exposure of his person on any street or highway, or in any place of resort, shall be guilty of a felony, and, on conviction, shall be punished by fine or imprisonment, or both, in the discretion of the court.

Cr. C. '22, § 388; Cr. C. '12, § 390; 1606, XXV, 84.

§ 1443. Penalty for Publishing, Etc., Obscene Books, Papers, Etc.—Whoever knowingly imports, prints, publishes, sells or distributes any book, pamphlet, ballad, printed paper or other thing containing obscene, indecent or improper print, picture, figure or description manifestly tending to the corruption of the morals of youth, or introduces into a family, school, or place of education, or brings, procures, receives, or has in his possession, any such book, pamphlet, printed paper, picture, or ballad, or other thing, either for the purpose of sale, exhibition, to aid in a circulation, or with intent to introduce the same into a family, school, or place of education, shall be punished by imprisonment not exceeding two years, or by a fine not exceeding one thousand dollars, or both, in the discretion of the court.

Cr. C. '22, § 384; Cr. C. '12, § 391; Cr. C. '02, § 396; R. S. 255; 1885, XIX, 334.

§ 1444. Exhibiting Indecent Pictures a Misdemeanor.—Whoever posts or exhibits in any public place any advertisement, show bill, or other printed or written picture of an indecent or obscene character, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by imprisonment not exceeding two years, or by a fine not exceeding one thousand dollars, or both, in the discretion of the court.

Cr. C. '22, § 385; Cr. C. '12, § 392; Cr. C. '02, § 297; R. S. 256; 1885, XIX, 334.

§ 1445. Cockfighting a Misdemeanor.—It shall be a misdemeanor for any person to engage in or be present at cockfighting in this State, and any person found guilty shall be fined not exceeding one hundred dollars, or imprisonment not exceeding thirty days.

Cr. C. '22, § 384; Cr. C. '12, § 323; Cr. C. '02, § 298; R. S. 257; 1887, XIX, 801; 1917, XXVII, 47.

§ 1446. Misdemeanor to Give Negro Permanent Custody of White Child.—It shall be unlawful for any parent, relative, or other white person in this State, ship, nature; child person; Any person or misde- mear of the pres- nted so a nurse.

Cr. C. '22

§ 1447. Felony.—Training S of a felon; changing whithin the

1924, XX

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1469-74. Cr
1475. Empl
1476. Wate

§ 1448. Misdemeanor—Claimed; owned by made; not a chemist once ever biologist to drawn fre- ance with health; an oath of ti newspaper receipt th.

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THE

COMPiled LAws

1910

STATE OF SOUTH DAKOTA

Vol. 2


30770

Printed by
THE HIPPLE PRINTING COMPANY
PIERRE, SOUTH DAKOTA

All matter not new laws or amended sections in same type as Codes of 1903
chapter

§ 371. Every person who, wilfully and lewdly, either:
1. Exposes his person, or the private parts thereof, in any public
   place, or in any place where there are present other persons to be offended
   or amoyed thereby; or,
2. Procures, counsels or assists any person so to expose himself, or
to take any part in any model artist exhibition, or to make any other exhibit-
on of himself to public view, or to the view of any number of persons,
such as is offensive to decency, or is adapted to excite to vicious or lewd
thoughts or acts; or,
3. Writes or composes, stereotypes, prints, publishes, sells, distrib-
utes or keeps for sale, or exhibits any obscene or indecent writing, pa-
per or book, or designs or copies, draws or engraves, paints or otherwise
prepares any obscene or indecent picture or print of any description, or
holds, cuts, casts, or otherwise makes any obscene or indecent figure or
form, is guilty of a misdemeanor.
§ 372. Every person who is authorized or enjoined to arrest any per-
son for a violation of subdivision 3 of the last section, is equally author-
ized and enjoined to seize any obscene or indecent writing, paper, book, pic-
ture, print or figure found in possession or under the control of the person
so arrested, and to deliver the same to the magistrate before whom the
person so arrested is required to be taken.
§ 373. The magistrate to whom any obscene or indecent writing, pa-
per, book, picture, print or figure, is delivered pursuant to the foregoing
section, shall, upon the examination of the accused, or if the examination
is delayed or prevented, without awaiting such examination, determine the
character of such writing, paper, book, picture, print or figure, and if he
finds it to be obscene or indecent, he shall cause the same to be destroyed,
or to be delivered to the state's attorney of the county in which the ac-
cused is liable to indictment or trial, as the interests of justice in his judg-
ment require. But not more than two copies of any one writing, paper,
book, picture, print or figure, shall be delivered to the state's attorney.
§ 374. Upon the conviction of the accused, such state's attorney shall
cause any writing, paper, book, picture, print or figure, in respect whereof
the accused stands convicted and which remains in the possession or under
the control of such state's attorney, to be destroyed.
§ 375. Any person who keeps any bawdy house, house of ill
fame, of assignation, or of prostitution, or any other house or place for
persons to visit for unlawful sexual intercourse, or for any other lewd,
obscene or indecent purpose, is guilty of a misdemeanor.

CHAPTER 33.
INDECENT EXPOSURE, OBSCENE EXHIBITIONS, BOOKS AND PRINTS, AND
BAWDY AND OTHER DISORDERLY HOUSES.

§ 376. Indecent exposure of body or pictures.

§ 377. Selves of indecent articles.

§ 378. Their character summarily determined.

§ 379. Destruction of articles.

§ 380. Keeping of bawdy house.

CHAPTER 154, LAWS OF 1908
§ 1. Keeping Houses of Ill-Fame|Every person who keeps a house of ill-fame, resorted to for the purpose of prostitution or lewdness, shall
be punished by imprisonment in the state prison not less than six months
nor more than five years.
THE

South Dakota Revised Code

1919

Prepared and Annotated by a Code Commission Consisting of
Dick Haney, Chief Reviser, John B. Hanten and
G. N. Williamson, Assistant Revisers,
and Enacted at the Sixteenth
Legislative Session

The Constitution of the United States, the Enabling Act, the
Constitution of the State of South Dakota, a
Description of County Boundaries
and Rules of Court

Published by Authority of the Legislature Under the Supervision of
the Chief Reviser

In Two Volumes

VOL. 1

Pierre, S. Dak.
HIPPLE PRINTING COMPANY,
1919.
§ 3840. Punishment of Profane Swearing. Every person guilty of profane swearing is punishable by a fine of one dollar for each offense.

Source: § 33, Pen. C.; § 6234, C. L.; § 36, Rev. Pen. C.

§ 3841. Summary Conviction of Profane Swearing. Whenever any profane swearing is committed in the presence and hearing of any magistrate while holding a court, or under any other circumstances such as in the opinion of the magistrate amounts to a gross violation of public decency, such magistrate may, in his discretion, immediately convict the offender without any other proof.

Source: § 36, Pen. C.; § 6236, C. L.; § 36, Rev. Pen. C.

§ 3842. Penalties, How Collected. If the offender does not forthwith pay the penalties incurred, with the costs, or give security for their payment within six days, he shall be committed by warrant to the county jail for every offense, or for any number of offenses whereof he was convicted at one and the same time, for not less than one day nor more than three days; there to be confined in a room separate from all other prisoners.

Source: § 37, Pen. C.; § 6236, C. L.; § 37, Rev. Pen. C.


§ 3843. Obscene Language, How Punished. If any person shall utter or speak any obscene or lascivious language in any public place, or in the presence of females, or in the presence of children under ten years of age, he shall be deemed guilty of a misdemeanor, and upon conviction thereof he shall be punished by a fine of not more than one hundred dollars, or by imprisonment in the county jail for not more than thirty days, or both, in the discretion of the court.

Source: § 1, Ch. 87, 1883; § 6237, C. L.; § 28, Rev. Pen. C.

Disorderly language as disturbance of public peace. 22 L. R. A. (N. S.) 566.

Carrier's liability for obscene language by employes to passengers. 14 L. R. A. 719.

Necessity of use of words per se obscene to constitute offense under statute relating to obscenity. 22 L. R. A. (N. S.) 225.

Use of profane or offensive language while on one's own premises as an offense. 49 L. R. A. (N. S.) 919.

§ 3844. The Sabbath. The first day of the week being by very general consent set apart for rest and religious uses, the law forbids to be done on that day certain acts deemed useless and serious interruptions of the repose and religious liberty of the community.


Criminal liability for Sabbath breaking by agent or servant. 4 L. R. A. 658, 676.

Criminal liability of children for Sabbath desecration. 36 L. R. A. 208.

Municipal ordinance regulating observance of Sunday, which is also regulated by state law. 17 L. R. A. (N. S.) 51.

Right of both state and municipality to convict of violation of Sunday closing laws. 31 L. R. A. (N. S.) 701.

As to similar provision in Cal. Pen. Code, § 209, see Ex parte Burke, 26 Cal. 5, 45 Am. Rep. 331; Ex parte Kosse, 59 Cal. 177.

§ 3845. Day Defined. Under the term "day" as employed in the phrase "first day of the week," in the seven sections following, is included all the time from midnight to midnight.

Source: § 40, Pen. C.; § 6240, C. L.; § 41, Rev. Pen. C.

§ 3846. Sabbath Breaking Defined. The following acts are forbidden to be done on the first day of the week, the doing of any of which is Sabbath breaking:

1. Servile labor.
2. Public sports.

959
§ 3883. Injury to Cemetery or Tomb. Every person who shall wilfully destroy, mutilate, deface, injure or remove any tomb, monument or grave stone, or other structure placed in any cemetery or private burying ground, or any fence, railing, or other work for the protection or ornament of any such cemetery or place of burial of any human being, or tomb, monument or grave stone, memento or memorial, or other structure aforesaid, or of any lot within a cemetery, or shall wilfully destroy, cut, break or injure any tree, shrub or plant within the limits thereof, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be punished by a fine of not less than five dollars nor more than five hundred dollars, or by imprisonment in the county jail for a term not to exceed six months, or by both such fine and imprisonment.

Source: § 364, Pen. C.; § 6565, C. L.; § 369, Rev. Pen. C.

ARTICLE 4.
INDECENT EXHIBITIONS AND CONDUCT

§ 3884. Indecent Exposure of Body or Pictures. Every person who wilfully and lewdly:
1. Exposes his or her person, or the private parts thereof, in any public place or in any place where there are present other persons to be offended or annoyed thereby; or,
2. Procures, counsels or assists any person so to expose himself or herself, or to take any part in any model artist exhibition, or to make any other exhibition of himself to public view, or to the view of any number of persons, such as is offensive to decency or is adapted to excite vicious or lewd thoughts or acts; or,
3. Writes or composes, stereotypes, prints, publishes, sells, distributes or keeps for sale, or exhibits, by moving pictures or otherwise, any obscene or indecent writing, paper, book or design, or copies, drawings, engravings, paints or otherwise prepares, or exhibits by moving pictures or otherwise any obscene or indecent picture or print of any description, or molds, cuts, casts, or otherwise makes or exhibits any obscene or indecent figure or form such as is offensive to decency or is adapted to excite vicious or lewd thoughts or acts, or is filthy or vile; or,
4. Presents by or with moving pictures, or in any other manner, any stories or scenes illustrating illicit love, infidelity in family relations, murder, striking an officer of the law, which are suggestive of crime and immorality, is guilty of a misdemeanor.


§ 3885. Seizure of Indecent Articles. Every person who is authorized or required to arrest any person for a violation of subdivision 3 of the preceding section is equally authorized and required to seize any obscene or indecent writing, paper, book, picture, print, film or figure found in possession or under the control of the person so arrested, and to deliver the same to the magistrate before whom the person so arrested is required to be taken.

Source: § 367, Pen. C.; § 6568, C. L.; § 244, Rev. Pen. C.
South Dakota
Compiled Laws
1929


In Two Volumes

VOL. I.

"The annotations contained in this work subsequent to Volume 169, Northwestern Reporter, are the literary property of the West Publishing Company of St. Paul, Minnesota, and used herein under license."

This compilation is made by the Hipple Printing Company, Pierre, S. D., publishers of the 1919 Revised Code, by using the original type slugs used in the official code publication, with original slugs used in printing the official Session Laws since, thus being the original law as appearing in all official state law publications up to and including 1929 Session Laws. Annotations subsequent to those appearing in 1919 Revised Code made by Hon. John Howard Gates of the South Dakota Supreme Court and West Publishing Company, St. Paul, Minnesota, for the Constitution, and by West Publishing Company for Code and Session Law sections up to and including Vol. 220 Northwestern Reporter.

Pierre, South Dakota
HIPPLE PRINTING COMPANY
1929

Copyright, 1929
the destruction or withholding is alleged in the indictment or information and established on the trial, the misdescription of the instrument is immaterial.


§ 4732. Charging Perjury. In an indictment or information for perjury, or subornation of perjury, it is sufficient to set forth the substance of the controversy or matter in respect to which the offense was committed, and in what court or before whom the oath alleged to be false was taken, and that the court or person before whom it was taken had authority to administer it, with proper allegations of the falsity of the matter on which the perjury is assigned; but the indictment or information need not set forth the pleadings, record or proceedings with which the oath is connected, nor the commission or authority of the court or person before whom the perjury was committed.


Conviction of perjury cannot be sustained except on immaterial testimony not sustained without proof of materiality of false testimony upon which prosecution is predicated. State v. Faulk, 34 N. D. 220, 159 N. W. 10.

Assignments of perjury need not set forth what truth was, in addition to alleging that testimony given was false, as required by Rev. Code 1919, § 4722, subd. 6, relating to sufficiency of offense charged, section 4722, relating to information for perjury, section 4717 providing when information is sufficient, section 4726, relating to defects, and Const. art. 6, § 7, providing that accused shall have right to demand nature and cause of accusation. State v. Reidt, 222 N. W. 677.

Information charging that defendant falsely testified that he had not been engaged in handling intoxicating liquors and as to other matters mentioned after having taken oath in an action pending in circuit court in H. county, with named judge presiding, in an action entitled "State v. South Dakota v. H. and others," and that false testimony related to material in cause pending held sufficient, under Rev. Code 1919, § 4724, subd. 6, relating to sufficiency of offense charged, section 4722, relating to information for perjury, section 4717 providing when information is sufficient, section 4726, relating to defects, and Const. art. 6, § 7, providing that accused shall have right to demand nature and cause of accusation. State v. Reidt, 222 N. W. 677.

§ 4733. Charging Larceny or Embezzlement. In an indictment or information for the larceny or embezzlement of money, bank notes, certificates of stock or valuable securities, or for a conspiracy to cheat and defraud a person of any such property, it is sufficient to allege the larceny or embezzlement, or the conspiracy to cheat and defraud, to be of money, bank notes, certificates of stock or valuable securities, without specifying the coin, number, denomination or kind thereof.


Description of stolen property in information as one and same, current as money in this state of value of $5, is sufficient. State v. Faulk, 34 N. D. 141, 159 N. W. 72. As to variance between information and proof in prosecution for embezzlement, State v. Lasehelt, 18 N. D. 98, 118 N. W. 240.

Character of occupation of premises as affecting correct wording of indictment in prosecution for embezzlement. 4 L. R. A. (N. S.) 767.


§ 4734. Description of Money. In any prosecution for robbery or larceny of the money of any person, it shall be sufficient to allege generally in the indictment or information a robbery or larceny of money, and it shall be sufficient to maintain the charge in the indictment or information that any money was obtained by robbery or stolen without regard to a particular description of the money stolen or obtained as aforesaid.

Sources: § 1, Ch. 126, 1907.

§ 4735. Charging Sale of Obscene Books. An indictment or information for exhibiting, publishing, passing, selling or offering to sell, or having in possession with such intent, any lewd or obscene book, pamphlet, picture, print, film, card, paper or writing, need not set forth

1325
any portion of the language used or figures shown upon such book, pamphlet, picture, print, film, card, paper or writing, but it is sufficient to state generally the fact of the lewdness or obscenity thereof.


§ 4736. When There are Several Defendants. Upon an indictment or information against several defendants, any one or more may be convicted or acquitted.


§ 4737. Accessaries and Principals. The distinction between an accessory before the fact and a principal, and between principals in the first and second degree, in cases of felony, is abrogated, and all persons concerned in the commission of a felony, whether they directly commit the act constituting the offense or aid and abet in its commission, though not present, must be prosecuted, tried and punished as principals, and no additional facts need be alleged in any indictment or information against such an accessory than are required in an indictment against his principal.


§ 4738. Accessory Tried. An accessory to the commission of a felony may be prosecuted, tried and punished, though the principal be neither prosecuted nor tried, and though the principal may have been acquitted.


§ 4739. Compounding a Felony. A person may be prosecuted for having, with the knowledge of the commission of a public offense, taken money or property of another, or a gratuity or reward, or an engagement or promise therefor, upon the agreement or understanding, express or implied, to compound or conceal the offense or to abstain from a prosecution therefor, or to withhold any evidence thereof, though the person guilty of the original offense has not been prosecuted or tried.


CHAPTER 2.

ARRAIGNMENT AND PLEAS

Article 2. Setting aside Indictment or Information.
Article 3. Demurrer.
Article 4. Plea.
Article 5. Indigent Defendant.
Article 6. Inquiring into Insanity of Defendant.
Article 7. Compromising Misdemeanor.
Article 8. Dismissal of Action.
Article 9. Change of Place of Trial.

1326
SUPPLEMENT TO THE
SOUTH DAKOTA CODE OF 1939

VOLUME I

CONTAINING:

All of the effective laws of a general nature appertaining to Code Titles 1 to 31, both inclusive, and Titles 38 to 65, both inclusive, enacted by and at the general and special sessions of the Legislature of the state of South Dakota, beginning with the twenty-eighth session began and held in 1939, to and including the thirty-sixth session begun and held in 1959, except any laws enacted in 1939 and already included in said South Dakota Code of 1939.

CITATION:

Cite SDC 1960 Supp., followed by the number of title, chapter, or section to be cited.
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by

LEO D. HECK

Revisor of Statutes for and in behalf
of the state of South Dakota
CRIME

13.1727

(2) "Emergency" means a situation in which property or human life are in jeopardy, and the prompt summoning of aid is essential.

Source: § 1, Ch. 49, 1959.


13.1630 Securing line by falsely stating emergency: misdemeanor; penalty. Any person who shall secure the use of a party line by falsely stating that such line is needed for an emergency shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not exceeding five hundred dollars, or imprisoned in the county jail not exceeding six months, or both.

Source: § 3, Ch. 49, 1959.


CHAPTER 13.17

CRIMES AGAINST PUBLIC MORALS


13.1715 Incest: defined; penalty. Persons who, being within the degrees of consanguinity within which marriages are by the laws of the state declared incestuous and void, intermarry with each other or commit adultery or fornication with each other are punishable by imprisonment in the State Penitentiary not exceeding ten years, provided that any person committing incest with a female child under the age of ten years or a female incapable of consent through lunacy or unsoundness of mind shall be punishable by imprisonment in the State Penitentiary for not less than ten years.

Source: § 1, Ch. 36, 1953.

13.1726 Prophylactic: circulation of advertisement; exhibition; definition; penalty. No person, firm or corporation shall publish, distribute or circulate any circular, card, advertisement or notice of any kind offering or advertising any prophylactic for sale, nor shall exhibit or display any prophylactic to the public.

No person, firm or corporation shall manufacture, purchase, or rent, or have in his or its possession or under his or its control, any vending machine, or other mechanism or means so designed and constructed as to contain and hold any prophylactic and to release the same upon the deposit therein of a coin or other thing of value.

As used in this section the word "prophylactic" means any article or device of whatsoever nature intended or having special utility for preventing pregnancy or venereal disease.

Any person, firm or corporation violating any provision of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed one hundred dollars or thirty days in the county jail, or by both such fine and imprisonment. In addition thereto, any license, permit or registration certificate issued under any law or ordinance to any such persons, firm or corporation shall be canceled or revoked.

Source: §§ 1, 2, 3, 4, Ch. 44, 1949.

13.1727 Indecent molestation of minor: felony: penalty: mental treatment. Any person who shall willfully and unlawfully commit any lewd or lascivious act upon or with the body, or any part or member thereof, of a child under the age of fifteen years, with the intent of arousing, appealing to, or gratifying the lust or passion or sexual desires of such person, or of such child, shall be guilty of the crime of indecent molestation of a child.

Every person guilty of indecent molestation of a child is punishable by imprisonment in the South Dakota State Penitentiary for not more than twenty years, provided, however, that if death results to a minor child as a result of such indecent molestation the offense shall be deemed murder, and punishable as such.

It shall be the duty of the trial judge immediately after passing sentence, to order such person to be mentally examined at the South Dakota State Hospital to ascertain if mental treatment is necessary during such period of confinement. A certified copy of the order, together with a certified copy of the judgment and official statement, shall be delivered to the Warden of the South Dakota State Penitentiary at the time the prisoner is delivered. Thereupon, the Warden shall
SOUTH DAKOTA
COMPILED LAWS
1967

ANNOTATED

Comprising Statutes of a General and Permanent Nature
Including the Laws Passed at the Forty-second
Session (1967) of the Legislature of
the State of South Dakota

VOLUME 8
Titles 22 to 24

Cite as SDCL 1967

PUBLISHED BY AUTHORITY OF THE LEGISLATURE
UNDER THE SUPERVISION OF
SOUTH DAKOTA STATUTE COMPILATION COMMISSION

THE ALLEN SMITH COMPANY
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Indianapolis, Indiana
tient as ground for disciplinary meas-
ure against, 15 ALR 3d 1179.
Radio act, provisions in, against
use of obscene language, 76 ALR
1277; 171 ALR 780.
Vagrancy, lewdness as, 14 ALR
1498.

22-24-2. Procuring indecent exposure—Artist model exhibition
—Felony.—Every person who willfully and immorally procures,
counsels, or assists any person so to expose himself or herself or to
take any part in any artist model exhibition or to make any other
exhibition of himself to public view or to the view of any number
of persons, such as is offensive to decency or is adapted to excite
vicious or lewd thoughts or acts, is guilty of a felony.

Source: PenC 1877, § 366, subdiv 2; CL 1887, § 6567, subdiv 2; RPenC
1903, § 371, subdiv 2; SL 1912, ch 241; RC 1919, § 3384 (3); SDC 1939, § 13-
1722 (2); SL 1967, ch 25, § 1.

Cross-References.
Definition of "person," § 22-1-2 (4).
Definition of "willfully," § 22-1-2
(1) (e).

22-24-3. Distribution of obscene material—Felony.—Every per-
son who willfully and immorally writes or composes, stereotypes,
prints, publishes, sells, distributes, by means of United States mail
or otherwise or keeps for sale or exhibit by moving pictures or
otherwise, any obscene or indecent writing, paper, book, or design,
or copies, draws, or engraves, paints or otherwise prepares, or ex-
hibits by moving pictures or otherwise, any obscene or indecent
picture or print of any description, or molds, casts, or otherwise
makes or exhibits any obscene or indecent figures or form such
as is offensive to decency or is adapted to excite vicious or lewd
thoughts or acts, or is filthy or vile, is guilty of a felony.

Source: PenC 1877, § 366, subdiv 3; CL 1887, § 6567, subdiv 3; RPenC
1903, § 371, subdiv 3; SL 1913, ch 241; RC 1919, § 3384 (3); SDC 1939, § 13-
1722 (3); SL 1967, ch 25, § 1.

Cross-References.
Completion of crime involving dis-
patch of letter, § 22-1-7.
Municipal power to suppress ob-
scene publications, § 9-29-9.
Seizure of indecent articles on ar-
rest, § 23-18-51.
Suppression of obscene objects,
Chapter 23-18.

Collateral References.
Obscenity⇒5, 7.
33 AmJur, Lewdness, Indecency and
Obscenity, §§ 9-12.
67 CJS, Obscenity, § 7.

22-24-2
CRIMES

Wearing apparel or lack of it, va-
lidity, construction and application of
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ALR 1233.
What amounts to an obscene play
or book within prohibition of statute,
81 ALR 801.

Entrapment to commit offense of
selling obscene matter, 18 ALR 171;
66 ALR 503; 86 ALR 269.
Exclusion from evidence of parts of
publication, or mail matter, other than
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testimony relating to purpose or ef-
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ALR 644.
Obscenity, modern concept of, 5
ALR 3d 1158.
Obscenity, validity of procedures
designed to protect the public against,
5 ALR 3d 1214.
Scientific, educational or instructive
publication regarding sex relations as
within statutes relating to obscene or
immoral publications, 75 ALR 1099.
Selling obscene literature as breach
of peace bond, 54 ALR 393.
Validity and construction of federal statutes (18 USC §§1463, 1713) which declare nonmailable matter, otherwise mailable, because of what appears upon envelope, outside cover, wrapper, or on postal card, 11 ALR 3d 1276.

What amounts to an obscene play or book within prohibition of statute, 81 ALR 801.

Law Reviews.

22-24-4. Punishment.—Any person violating the provisions of § 22-24-1 to 22-24-3, inclusive, shall be guilty of a felony and upon conviction shall be punishable by a fine of not more than two thousand dollars or by imprisonment in the state penitentiary not to exceed three years, or by both such fine and imprisonment.


22-24-5. Obscene language in presence of females or children—Public telephone—Punishment.—If any person shall utter or speak any obscene or lascivious language in any public place or in the presence of females or in the presence of children under ten years of age or over any public telephone line in this state, he shall be guilty of a misdemeanor and upon conviction thereof he shall be punished by a fine of not more than five hundred dollars or by imprisonment in the county jail for not more than ninety days or both.


22-24-6. Outrages public decency—Misdemeanor.—Every person who willfully and wrongfully commits any act which openly outrages public decency and is injurious to public morals, although no punishment is expressly provided therefor is guilty of a misdemeanor.

Source: PenC 1877, § 742; CL 1887, § 6834; RPenC 1903, § 768; RC 1919, § 4211; SDC 1939, § 13.1701.

Cross-References.
Invasions of privacy, Chapter 22-21.
Penalty for misdemeanor, § 22-6-2.

22-24-7. Advertising or displaying prophylactic devices.—No person, firm or corporation shall publish, distribute or circulate any circular, card, advertisement or notice of any kind offering or advertising any prophylactic for sale, nor shall exhibit or display any prophylactic to the public.

SOUTH DAKOTA CODIFIED LAWS

1979 REVISION

Comprising Statutes of a General and Permanent Nature
Including the Laws Passed at the Fifty-fourth
Session (1979) of the Legislature of
the State of South Dakota

VOLUME 8
1979 REVISION
Titles 22 to 24

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THE ALLEN SMITH COMPANY
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22-24-2. 

DECISIONS UNDER FORMER LAW


22-24-8. Prophylactic vending machines. No person shall have in his possession or under his control any vending machine or means so designed and constructed as to contain and hold any prophylactic and to release the same upon the deposit therein of a coin or other thing of value in a place to which minors have lawful access. As used in this section “prophylactic” means any article or device intended or having special utility for preventing pregnancy or venereal disease. A violation of this section is a Class 2 misdemeanor.


Commission Note.
The code commission considers the paragraph enacted as a part of § 22-24-42 by § 24-10, ch 158, SL 1976, as set forth above, to have been intended to supersede former § 22-24-8, even though § 22-24-8 was not specifically repealed.

Constitutionality.
States may not totally prohibit the distribution of nonprescription contraceptives to persons under sixteen, nor may they restrict the sale of contraceptives to adults to licensed pharmacists. Carey v. Population Services International (1977) 431 US 678, 52 LEd 2d 675, 97 Sup Ct 2010, distinguished in 441 FSupp 1247.


22-24-25. Municipal and county power to regulate obscene materials not pre-empted. Except as provided in §§ 22-24-36 and 22-24-37, nothing contained in these chapters shall limit the regulation of obscene materials by municipalities or counties within their power. However the municipalities and counties shall follow the procedural requirements of this chapter.


Cross-References.
Municipal power to suppress obscene publications, § 9-29-9.
THE

CODE OF TENNESSEE,

BEING A COMPILATION

OF THE

STATUTE LAWS

OF THE

STATE OF TENNESSEE.

PART 5

OF 4

GENERAL NATURE, IN FORCE JUNE 1, 1884.

BY

W. A. MILLIKEN AND JOHN J. FORTEES

NASHVILLE TENN.

MARSHALL & RICE, PRINTERS AND PUBLISHERS.

1884.
Except in prosecutions for bigamy and crime, cons. actions, marriage may be presumed or established by refusal after lapse of years. 1 Cold., 537; 11 Lea, 51; 3 Heis., 667.
A certified copy of the license and the return are competent, but not conclusive evidence. 7 Hun., 14-15.
Without violating the bill of rights. 7 Cold., 96.
As to marriage and cohabitation of white and colored, see 33291-2.

5653. Crimes against nature, either with mankind or any beast, are punishable by imprisonment in the penitentiary not less than five nor more than fifteen years.

ARTICLE II.
LEWDNESS AND IMMORALITY.

5654. If any person shall be guilty of begetting an illegitimate child on the body of his wife's sister, he is guilty of a felony, and shall be imprisoned in the penitentiary not less than two nor more than ten years.

5655. Any person who inveigles or entices any female, before reputed virtuous, to a house of ill-fame, or knowingly conceals or aids and abets in concealing such female so declined or enticed, for the purpose of prostitution or lewdness, shall be punished by imprisonment in the penitentiary not less than two nor more than ten years.

5656. When the lessee of a dwelling-house is convicted of keeping the same as a house of ill-fame, the lease or contract for letting such house is, at the option of the lessor, void; and such lessor may thereupon have the like remedy to recover possession as against a tenant holding over after the expiration of his term.

A bawdy house is a common nuisance, and to rent it, to be used for that purpose, is indictable. 3 Sneed, 357; 4 Lea, 232.
But not where it is rented merely with the knowledge that it was to be so used. 7 Yer., 482.

Frequenting bawdy houses is indictable when open and notorious. 2 Yer., 482.

5657. If any person print, publish, import, sell, or distribute any book, pamphlet, ballad or printed paper containing obscene language or obscene prints, pictures, or descriptions, manifestly tending to corrupt the morals; or introduce the same into any family, school or place of education; or have the same in his possession for the purpose of loan, sale, exhibition or circulation, or with intent to introduce the same into any family, school, or place of education, he shall be guilty of a misdemeanor.

The indictment need not describe the picture particularly. It is sufficient to allege the introduction of an obscene picture, to the corruption of the public morals of the school. 5 Lea, 507.

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DISTURB!
THOMPSON'S
SHANNON'S CODE OF TENNESSEE
1917

Containing the
Public and Permanent Statutes
of a
GENERAL NATURE

With Annotations Showing the
CONSTRUCTION OF THE STATUTES AND CONSTITUTION OF THE
STATE BY THE COURTS, AND ALSO THE DECISIONS UPON KINDRED SUBJECTS.

Being a Revision of
SHANNON'S CODE OF 1896

Revised and Annotated to Date By

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PUBLISHERS
THE BALDWIN LAW BOOK COMPANY
Incorporated
LOUISVILLE, KENTUCKY
1917

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§ 6768. Enticing female to house of ill fame.—Any person who inveigles or entices any female, before reputed virtuous, to a house of ill fame, or knowingly conceals, or aids and abets in concealing, such female so deluded or enticed, for the purpose of prostitution or lewdness, shall be punished by imprisonment in the penitentiary not less than two nor more than ten years.

§ 6769. Lease of house of ill fame, void on conviction.—When the lessee of a dwelling house is convicted of keeping the same as a house of ill fame, the lease or contract for letting such house is, at the option of the lessor, void, and such lessor may thereupon have the like remedy to recover possession as against a tenant holding over after the expiration of his term.

1. Renting house for bawdy house.—A bawdy house is a common nuisance, and to rent it to be used for that purpose is indictable, but not where it is rented merely with the knowledge that it was to be so used. 3 Sneed 357; 4 Len 232.

2. Frequenting bawdy houses.—Frequenting bawdy houses is indictable when open and notorious and with knowledge of their character. 2 Yer. 482.

3. Inquisitorial powers as to frequenting bawdy houses.—Grand juries have inquisitorial powers in regard to the offense of frequenting bawdy houses, and may send for witnesses and examine them without any order of court in such cases. 5 Len 399.

§ 6770. Obscene books.—If any person print, publish, import, sell, or distribute any book, pamphlet, ballad, or printed paper containing obscene language or obscene prints, pictures, or descriptions, manifestly tending to corrupt the morals, or introduce the same into any family, school, or place of education, or have the same in his possession for the purpose of loan, sale, exhibition, or circulation, or with intent to introduce the same into any family, school, or place of education, he shall be guilty of a misdemeanor.

Indictment for obscene pictures put in school.—It is indictable to introduce obscene pictures into a school, and the indictment need not describe the picture particularly. It is sufficient to allege the introduction of an obscene picture, to the corruption of the public morals of the school. 5 Len 507.

ARTICLE III.

VIOLATING GRAVES AND DEAD BODIES.

§ 6771. Exposing dead body.—Any person who willfully and unnecessarily, and in an improper manner, indecently exposes, throws away, or abandons, any human body, or the remains thereof, in any public place, or in any river, stream, pond, or other place, is guilty of a misdemeanor.

§ 6772. Removing dead body.—So, also, is every person who removes the dead body of any human being, without lawful authority, from its place of interment, or assists in so doing.

See sec. 6775a.

Condemnation of cemetery company’s land.—See note 13 under section 1844.

§ 6773. Purchasing same.—Any person who purchases or receives from any other person the dead body of any human being, knowing the same to have been disinterred contrary to law, is also guilty of a misdemeanor.

§ 6774. Opening graves with intent to steal.—So, also, is any person who opens any place of interment with intent to steal the coffin or other coverings of the corpse, or any part thereof, or anything deposited therewith, or who wantonly mutilates a dead body.

§ 6775. Exceptions.—The provisions of these sections do not apply to regular physicians to whom the bodies of deceased criminals are delivered pursuant to law, or to dissection of persons by consent of their relatives.
THE

CODE OF TENNESSEE

1932

ENACTED BY

THE GENERAL ASSEMBLY OF 1931

PREPARED

BY

THE CODE COMMISSION

SAMUEL C. WILLIAMS, Chairman, Johnson City
ROBERT T. SHANNON, Nashville
GEORGE HARSH, Memphis

PUBLISHED BY AUTHORITY OF

THE LEGISLATURE

KINGSPORT, TENN.
SOUTHERN PUBLISHERS, INC.
1931
any, or to emigrate to another state or territory of the United States, for the purpose of embracing, or adopting, or practicing the same.

11189 6766. Punishment.—Any person convicted, upon presentment or indictment, of either of the offenses mentioned in the last section, shall be punished by fine or imprisonment, or by both fine and imprisonment, the fine not to exceed five hundred dollars, with imprisonment not to exceed two years at hard labor in the penitentiary, in the discretion of the jury. (1b., sec. 3.)

ARTICLE II
LEWDNESS AND IMMORALITY

11187 6767 (4844). Begetting child on wife's sister.—If any person shall be guilty of begetting an illegitimate child on the body of his wife's sister, he is guilty of a felony, and shall be imprisoned in the penitentiary not less than two nor more than ten years. (1880, ch. 134, sec. 1.)

11188 6768 (4845). Enticing female to house of ill fame.—Any person who entices, or entices any female, before repudiated virtue, to house of ill fame, or knowingly conceals, or aids and abets in concealing, such female so deluded or enticed, for the purpose of prostitution or lewdness, shall be punished by imprisonment in the penitentiary not less than two nor more than ten years.

11189 6769 (4846). Lease of house of ill fame, void on conviction.—When the lessee of a dwelling house is convicted of keeping the same as a house of ill fame, the lease or contract for letting such house is, at the option of the lessor, void, and such lessor may thereupon have the like remedy to recover possession as against a tenant holding over after the expiration of his term.

11190 6770 (4847). Obscene books.—If any person print, publish, import, sell, or distribute any book, pamphlet, ballad, or printed paper containing obscene language or obscene prints, pictures, or descriptions, manifestly tending to corrupt the morals, or introduce the same into any family, school, or place of education, or have the same in his possession for the purpose of loan, sale, exhibition, or circulation, or with intent to introduce the same into any family, school, or place of education, he shall be guilty of a misdemeanor.

ARTICLE III
VIOLATING GRAVES AND DEAD BODIES

11191 6771 (4848). Exposing dead body.—Any person who willfully and unnecessarily, and in an improper manner, indecently exposes, throws away, or abandons, any human body, or the remains thereof, in any public place, or in any river, stream, pond, or other place, is guilty of a misdemeanor.