

CHAPTER 613

OFFENSES AGAINST PUBLIC JUSTICE

613.01 DEFINITIONS.

Political crime and criminal evidence. 3 MLR 365.

BRIBERY AND CORRUPTION

613.02 BRIBERY OF PUBLIC OFFICER OR LEGISLATOR.

The evidence showed that Mills, engaged in an unlawful occupation, paid the money to Cohen, who, the state claimed, was acting for defendant in receiving same. Taking the evidence altogether, it was sufficient to justify the jury in finding that Cohen was acting for and in behalf of defendant, and that payment to Cohen was equivalent to a payment to Ames. *State v Ames*, 90 M 183, 96 NW 330.

Bribery as distinguished from extortion. 11 MLR 662.

613.07 ACCEPTING OR RECEIVING BRIBES.

Section 613.07 applies to employees of school boards in independent districts. OAG Feb. 18, 1946 (161-B-4).

613.09 BRIBING WITNESS.

The court correctly instructed the jury that the offense consisted in giving a bribe to the witness with intent to influence the witness not to give the facts as the witness knew them, and that defendant's belief in the truth of the statement, which, by the payment of money, he was influencing the witness to make, was not a defense. *State v Liss*, 145 M 45, 176 NW 51.

Effect on client's case of attorney's attempt to bribe a witness. 13 MLR 144.

613.11 INFLUENCING JUROR.

An information for bribery, averring the official character of the offeree and that the bribe was offered to him "as such officer," is good as against the objection that it did not charge that accused knew that the offeree was "such officer." This overrules *State v Howard*, 66 M 309, 68 NW 1096. *State v Lopes*, 201 M 20, 275 NW 374.

613.16 OFFENDER A COMPETENT WITNESS.

Promise of immunity from prosecution as a defense. 17 MLR 437.

613.19 MISCONDUCT OF PUBLIC OFFICERS.

An officer is not entitled to extra compensation for services performed in the line of his official duty. He is entitled to the compensation fixed by law and no other. The city clerk of the city of Eveleth was not entitled to additional compensation for services rendered as commissioner of registration. *Jerome v Burns*, 202 M 485, 279 NW 237.

613.251 BRIBERY BY PARTICIPANTS IN ANY GAME OR SPORT.

HISTORY. 1947 c. 57 s. 1.

RESCUES AND ESCAPES

613.28. ESCAPED PRISONER RECAPTURED.

When an inmate of the state training school for boys escapes and is captured, the expense of the capture and return to the school at Red Wing cannot be charged against the boy's money or credits on the books of the school. OAG March 4, 1946 (88-A-27-F).

613.29. ESCAPED PRISONERS.

A prisoner is guilty of felony where he escapes from the lawful custody of an officer. He may be accused either under the provisions of sections 613.29 or 641.19, but if prosecuted for the offense under section 641.19, he may be imprisoned in the county jail only. OAG March 29, 1946 (341-A).

A prisoner who after being sentenced to a reformatory and before being confined therein escapes from the county jail may be properly charged and sentenced under the provisions of section 613.29. OAG March 31, 1947 (341-k).

PERJURY

613.39. PERJURY.

Perjury may be proved by circumstantial evidence, if it establishes guilt beyond a reasonable doubt; and testimony tending to show defendant participated in the fruits of bribery in connection with the case in which he is alleged to have given false testimony was proper. *State v Storey*, 148 M 398, 182 NW 613.

Where respondent knowingly and wilfully testified falsely that he, respondent, signed the name of his wife to the note and mortgage involved in a legal action when in truth and in fact the same were signed by his wife personally, he committed perjury, and should be disciplined by the court for conduct unbecoming an attorney. *In re Priebe*, 207 M 97, 299 NW 552.

Where the evidence is conflicting, the question of guilt in perjury as well as in other cases is one of fact for the jury. The evidence in the instant case sustains the conviction. *State v Soltau*, 212 M 20, 2 NW(2d) 155.

The crime of perjury is complete when the witness makes the false statement under oath. Subsequent recantation does not purge him of the offense. A bankrupt who files his schedules which contain his false oath has committed perjury. *In re Schnobel*, 61 F. Supp. 386.

What happens to perjurers. 24 MLR 726.

613.45. PERJURY AND SUBORNATION.

Even if the defendant believed in the truth of the evidence he bribed the witness to give, such belief would be no defense. The offense consisted in bribing the witness to testify to facts other than the witness knew them. *State v Liss*, 145 M 45, 176 NW 51.

Where the evidence tends to show that the attorney and another acted in concert in procuring the perjurer to give the false testimony, the statements of such other in furtherance of the joint purpose are admissible. *State v Smith*, 153 M 167, 190 NW 48.

In prosecution of defendant for subornation of perjury the evidence was of doubtful character as to be insufficient to warrant conviction, and there must be a reversal. The principal witness against her was a detective who was a self-confessed perjurer. *State v Craighead*, 159 M 511, 199 NW 427.

Conviction on suborned evidence. 10 MLR 167.

613.47. DESTROYING EVIDENCE.

The wilful participation by an attorney in the destruction or suppression of evidence which he knows may be required upon a trial, hearing, or other legal pro-

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ceedings constitutes a breach of professional duty and subjects such attorney to discipline. In re Williams, 221 M 554, 23 NW(2d) 4.

613.48 PREVENTING WITNESS FROM ATTENDING.

Where an attorney encouraged a witness in a criminal case to continue in concealment and avoid attendance, when it was known he would be required as a witness, it was a breach of professional duty, subjecting him to discipline. State Board v Lane, 93 M 425, 101 NW 613; State ex rel v Sargent, 71 M 28, 73 NW 626; In re Ginsberg, 141 M 271, 169 NW 787; State v Danaher, 141 M 490, 169 NW 420; State v Kahner, 217 M 574, 15 NW(2d) 105.

Rules governing attorneys in the practice of their profession. 16 MLR 300.

OFFICIAL ACTS AND OMISSIONS

613.51 NEGLECT OF DUTY BY OFFICERS.

Defendant was convicted of the crime of malfeasance as an officer of the police force. Pamograph records obtained in wire-tapping operations which purported to record conversations in which the defendant advised and assisted gamblers in their illegal operations were properly received in evidence. State v Raasch, 201 M 158, 275 NW 620.

613.53 ARREST WITHOUT AUTHORITY.

Pleading false imprisonment. 17 MLR 214.

613.59 MISCONDUCT BY ATTORNEYS.

Rules governing attorneys in the practice of their profession. 16 MLR 270, 274.

613.60 DISCLOSURE OF TRANSACTIONS OF GRAND JURY.

Informations and indictments in felony cases. 8 MLR 379.

Libel; absolute privilege accorded in reporting misconduct of public official. 31 MLR 500.

LYNCHING, BARRATRY, SYNDICALISM, AND OTHER CRIMES

613.65 COMPOUNDING CRIMES.

A contract with one threatened with an indictment for a criminal offense whereby he agrees to investigate, or to get evidence, and to present the results of his work to the prosecuting officers in support of a contention that the prosecution should not be continued is valid. A contract contemplating the suppression of an investigation of the crime alleged, or the withholding of evidence of it, or the abandonment of the prosecution through persuasion or personal solicitation or influence, is against public policy as obstructing or tending to obstruct public justice. The contract between the plaintiff and the defendant is invalid within the rules stated. Wells v Floody, 155 M 126, 192 NW 939.

Cancellation of instruments, duress, agreements to stifle prosecution, parties in pari delicto. 7 MLR 56.

613.67 LYNCHING.

Governmental tort liability. 26 MLR 700, 727.

613.68 CRIMINAL SYNDICALISM.

Industrial disputes. 6 MLR 548.

License for operation of private schools. 7 MLR 347.

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Freedom of speech and right of assembly. 21 MLR 746.

613.69 CRIMINAL CONTEMPTS.

A proceeding instituted to punish the defendant in a criminal case for contempt of court committed by him in attempting to induce the complaining witness against him to leave the state and not appear before the grand jury, is one involving a constructive criminal contempt. *State ex rel v District Court*, 144 M 326, 175 NW 908.

Criminal and civil contempt. 5 MLR 459.

Pardon for criminal contempt. 10 MLR 432.

Pardon for criminal contempt; power of the governor. 13 MLR 506.

Fines for contempt as indemnity to party to the action. 16 MLR 791, 806.

613.70 CONSPIRACY; HOW PUNISHED.

In an action for conspiracy in inducing the wrongful breach of a contract between plaintiff and defendant, the jury properly found defendants acted with justification and in good faith in ousting plaintiff. *Wolfson v Northern States Co.* 210 M 504, 299 NW 676.

Everything said, written, or done by any conspirator in execution or furtherance of the common purpose of a conspiracy to commit a crime is deemed to be the act of everyone of them and is admissible against each. *State v Tennyson*, 212 M 158, 2 NW(2d) 833.

Acts and declarations of conspirators made out of the presence of other conspirators are admissible against all of them; and the fact of conspiracy, upon which the admissibility of the acts and declarations of the conspirators depend, need not be shown by direct evidence or any express, formal agreement among them, but may be proved by inference from other facts established by the evidence, and where the facts proved show that the conspirators, by their acts, pursued the same object, often by the same means, one performing one part and another another part of the same so as to accomplish a common purpose, the existence of the conspiracy is one of fact upon all the evidence. *State v Kahner*, 217 M 574, 15 NW(2d) 105.

On the issue of liability for fraud in procuring plaintiff's corporate stocks in defendant bakery, the evidence sustains the verdict. Since the corporation becomes the property of defendant by virtue of fraud, defendant may not use it as a corporate veil to serve as a shield to avoid his or its liability. *Fewell v Tappan*, 223 M 483, 27 NW(2d) 649.

Conspiracy is a joining of intentions to engage in, or further some unlawful action together, some step being taken by one or more of the parties toward effecting the object. It may be proved by evidence of conduct and relationship. A person may join in a conspiracy at any time. *Phelps v United States*, 160 F(2d) 860.

Defenses. 9 MLR 679.

Assisting others to accomplish object of conspiracy as co-conspirator. 12 MLR 77.

Labor injunction in Minnesota. 24 MLR 757, 762, 764.

Indictment for conspiracy to defraud by bribing district attorney. 25 MLR 793.

Conspiracy to commit several offenses as only one conspiracy. 27 MLR 405.

613.71 CONSPIRACY, WHEN PUNISHABLE; OVERT ACT.

Commission of the offense which was the object of the conspiracy is not necessary to complete the charge of conspiracy to accomplish the object. *State v Townley*, 142 M 326, 171 NW 930.

A combination for an unlawful purpose is the foundation of the offense and an overt act in furtherance of such purpose completes the offense. All who are parties to the combination incur guilt when one does such act. *State v Townley*, 149 M 5, 182 NW 773.

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Interference with contract. 12 MLR 147, 171.

Labor injunction in Minnesota. 24 MLR 765.

Agreement to commit acts constituting several statutory offenses as only one conspiracy. 27 MLR 405.

613.75 COMMON BARRATRY.

Rules governing attorneys in the practice of their profession. 16 MLR 297.

Advertising by bar association of offer to aid persons without charge in resisting illegal claims of money lenders as offense of barratry. 25 MLR 788.

613.78 PUNISHMENT FOR PROHIBITED ACTS.

Minnesota labor relations act; effect of an "unlawful act." 24 MLR 217, 233.

613.79 PRINTING AND CIRCULATING CERTAIN DOCUMENTS PROHIBITED; EXCEPTIONS.

Based upon 1 Thompson's Law of New York, Penal Law, Section 551-a, the act strikes at practice of certain parties to simulate legal pleadings to coerce payment of claims. 24 MLR 240, 247.