

**THE  
PENAL CODE  
OF THE  
STATE OF CALIFORNIA**

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Primary sex laws

Title IX, Chapters I .. VIII: Sect 261 .. 318

Title XV, Chapter II: Sect 645 .. 647a

Approved February 14, 1872

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**With Amendments to and Including the Fifty-Seventh  
Session of the California Legislature**

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**1947**

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**Including  
Legislative History — References — Annotations  
Appendix Covering Certain Penal Statutes Not  
Incorporated in Penal Code**

thousand dollars, or imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment. Words uttered in the proper discharge of an official duty, or in any legislative or judicial proceeding, or in any other official proceeding authorized by law, shall be privileged and shall never be deemed a slander within the meaning of this section.—1929:1174.

§258. **Leg. Hist.:** En.1899:28; R.1915:761; En.1929:1174.

See post, §784a.

**References:** Libel and Slander: McK.Dig. §104. Cal.Pac.D. §144.

C.J. §§632, 639. 16 Cal.Jur. §129. 33 Am.Jur. 291.

**259. Presumption.** The injurious utterance of slander is presumed to have been malicious save when it is a communication to a person interested therein, by one who is also interested, or by one who stands in such relation to the person interested as to afford a reasonable ground for supposing the motive for the communication innocent, or who is requested by the person interested to give the information.

§259. **Leg. Hist.:** En.1899:155; R.1917:174; En.1929:1174.

**References:** Libel and Slander: McK.Dig. §114. Cal.Pac.D. §§143, 144.

C.J. §§643, 687. 16 Cal.Jur. §131.

**260. Truth of statement.** In all criminal prosecutions for slander, the truth may be given in evidence to the jury, and if it appears to the jury that the matter charged as slanderous is true, and was uttered with good motives and for justifiable ends, the party shall be acquitted.—1929:1175.

§260. **Leg. Hist.:** En.1929:1175.

**References:** Libel and Slander: McK.Dig. §114. Cal.Pac.D. §149.

C.J. §§646, 686. 16 Cal.Jur. §133. 33 Am.Jur. 299.

## TITLE IX.

### CRIMES AGAINST THE PERSON AND AGAINST PUBLIC DECENCY AND GOOD MORALS.

#### Chapter I. Rape, Abduction, Carnal Abuse of Children, and Seduction.

II. Abandonment and Neglect of Children.

III. Abortions.

IV. Child Stealing.

V. Bigamy, Incest, and the Crime against Nature.

VI. Violating Sepulture and the Remains of the Dead.

VII. Crimes against Religion and Conscience, and Other Offenses against Good Morals.

VIII. Indecent Exposure, Obscene Exhibitions, Books and Prints, and Bawdy and Other Disorderly Houses.

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XI. Pawnbrokers.

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## CHAPTER I.

### Rape, Abduction, Carnal Abuse of Children, and Seduction.

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## Section

## Section

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261. Rape defined. Rape is an act of sexual intercourse, accomplished with a female not the wife of the perpetrator, under either of the following circumstances:

1. Where the female is under the age of eighteen years;
2. Where she is incapable, through lunacy or other unsoundness of mind, whether temporary or permanent, of giving legal consent;
3. Where she resists, but her resistance is overcome by force or violence;
4. Where she is prevented from resisting by threats of great and immediate bodily harm, accompanied by apparent power of execution, or by any intoxicating narcotic, or anaesthetic, substance, administered by or with the privity of the accused;
5. Where she is at the time unconscious of the nature of the act, and this is known to the accused;
6. Where she submits under the belief that the person committing the act is her husband, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce such belief.—1913:212.

§261. Leg. Hist.: A.1889:223; 1897:201; 1913:212.

References: Rape: McK.Dig. §2-7. Cal.Pac.D. §1. C.J. §§1-13.  
22 Cal.Jur. §2. 44 Am.Jur. 897-902.

262. When physical ability must be proved. No conviction for rape can be had against one who was under the age of fourteen years at the time of the act alleged, unless his physical ability to accomplish penetration is proved as an independent fact, and beyond a reasonable doubt.

§262. References: Rape: McK.Dig. §§3, 46. Cal.Pac.D. §3. C.J. §14.  
22 Cal.Jur. §21. 44 Am.Jur. 925.

263. Penetration sufficient. The essential guilt of rape consists in the outrage to the person and feelings of the female. Any sexual penetration, however slight, is sufficient to complete the crime.

§263. References: Rape: McK.Dig. §§2, 56. Cal.Pac.D. §§7, 51. C.J. §24.  
22 Cal.Jur. §6. 44 Am.Jur. 902.

264. Punishment for rape. Rape is punishable by imprisonment in the state prison not more than fifty years, except where the offense is under subdivision one of section two hundred sixty-one of the Penal Code, in which case the punishment shall be either by imprisonment in the county jail for not more than one year or in the state prison for not more than fifty years, and in such case the jury shall recommend by their verdict whether the punishment shall be by imprisonment in the county jail or in the state prison; provided, that when the defendant pleads guilty of an offense under subdivision one of section 261 of the Penal Code the punishment shall be in the discretion of the trial court, either by imprisonment in the county jail for not more than one year or in the state prison for not more than fifty years.—1923:271.

§264. Leg. Hist.: A.1913:213; 1923:271.

See post, §645.

References: Rape: McK.Dig. §87. Cal.Pac.D. §64. C.J. §166.  
44 Am.Jur. 985.

265. Abduction of women. Every person who takes any woman unlawfully, against her will, and by force, menace, or duress, compels her to marry him, or to marry any other person, or to be defiled, is punishable by imprisonment in the state prison not less than two nor more than fourteen years.

§265. References: Abduction: McK.Dig. §§3-5. Cal.Pac.D. §§1, 17. C.J. §§4-21.  
1 Cal.Jur. §§1-6. 1 Am.Jur. 125.

**266. Enticing, etc.** Every person who inveigles or entices any unmarried female, of previous chaste character, under the age of eighteen years, into any house of ill-fame, or of assignation, or elsewhere, for the purpose of prostitution, or to have illicit carnal connection with any man; and every person who aids or assists in such inveiglement or enticement; and every person who, by any false pretenses, false representation, or other fraudulent means, procures any female to have illicit carnal connection with any man, is punishable by imprisonment in the state prison not exceeding five years, or by imprisonment in a county jail not exceeding one year, or by a fine not exceeding one thousand dollars, or by both such fine and imprisonment.—Code amend.—1874:429.

§266. **Leg. Hist.:** A.1873:429.

**References:** Abduction: McK.Dig. §§3-5. Cal.Pac.D. §11. C.J. §15.

Seduction: McK.Dig. §1. Cal.Pac.D. §29. C.J. §§153-161.

Prostitution: McK.Dig. §3. Cal.Pac.D. §1. C.J. §17. 1 Am.Jur. 127.

**266a. Taking female for purpose of prostitution.** Every person who, within this state, takes any female person against her will and without her consent, or with her consent procured by fraudulent inducement or misrepresentation, for the purpose of prostitution, is punishable by imprisonment in the state prison not exceeding five years, and a fine not exceeding one thousand dollars.—1905:655.

§266a. **Leg. Hist.:** En.1905:655.

**References:** Abduction: McK.Dig. §§3-5. Cal.Pac.D. §1. C.J. §15.

1 Cal.Jur. §3.

Prostitution: Cal.Pac.D. §1. C.J. §17.

Pandering and P.: McK.Dig. §2. 1 Am.Jur. 127.

**266b. Taking a female by force, duress, etc., to live in an illicit relation.** Every person who takes any female person unlawfully, and against her will, and by force, menace, or duress, compels her to live with him in an illicit relation, against her consent, or to so live with any other person, is punishable by imprisonment in the state prison not less than two nor more than four years.—1905:655.

§266b. **Leg. Hist.:** En.1905:655.

**References:** Abduction: McK.Dig. §4. Cal.Pac.D. §1. C.J. §16.

1 Cal.Jur. §1.

Pandering and P.: McK.Dig. §2. 20 Cal.Jur. §§1-10.

Prostitution: Cal.Pac.D. §1. C.J. §17.

**266c. Bringing or landing Chinese or Japanese women for the purpose of selling.** Every person bringing to, or landing within this state, any female person born in the empire of China or the empire of Japan, or the islands adjacent thereto, with intent to place her in charge or custody of any other person, and against her will to compel her to reside with him, or for the purpose of selling her to any person whomsoever, is punishable by a fine of not less than one nor more than five thousand dollars, or by imprisonment in the county jail not less than six nor more than twelve months.—1905:656.

§266c. **Leg. Hist.:** En.1905:656.

See ante, §§173-175.

**References:** Abduction: McK.Dig. §4. Cal.Pac.D. §1. C.J. §15.

Aliens: McK.Dig. §61. Cal.Pac.D. §§18-31. C.J. §§73-75.

**266d. Placing female in custody for the purpose of cohabitation.** Any person who receives any money or other valuable thing for or on account of his placing in custody any female for the purpose of causing her to cohabit with any male to whom she is not married, is guilty of a felony.—1905:656.

§266d. **Leg. Hist.:** En.1905:656.

Also L. 1921, p. 26.

**References:** Abduction: McK.Dig. §§3-5. C.J. §15.

Prostitution: Cal.Pac.D. §1. C.J. §18.

Pandering and P.: McK.Dig. §2.

**266e. Paying for female for the purpose of prostitution.** Every person who purchases, or pays any money or other valuable thing for any female person for the purpose of prostitution, or for the purpose of placing her, for immoral purposes, in any house or place against her will, is guilty of a felony.—1905:656.

§266e. **Leg. Hist.:** En.1905:656.

Also L. 1921, p. 26.

**References:** Pandering and P.: McK.Dig. §2. 20 Cal.Jur. §3.

Prostitution: Cal.Pac.D. §1. C.J. §§18, 22.

**266f. Selling female for immoral purposes.** Every person who sells any female person or receives any money or other valuable thing for or on account of his placing in custody, for immoral purposes, any female person, whether with or without her consent, is guilty of a felony.—1905:656.

§266f. **Leg. Hist.:** En.1905:656.

**References:** Pandering and P.: McK.Dig. §2.

**Prostitution:** Cal.Pac.D. §1. C.J. §§16-24.

**266g. Placing or permitting the placing of one's wife in house of prostitution.** Every man who, by force, intimidation, threats, persuasion, promises, or any other means, places or leaves, or procures any other person or persons to place or leave, his wife in a house of prostitution, or connives at or consents to, or permits, the placing or leaving of his wife in a house of prostitution, or allows or permits her to remain therein, is guilty of a felony and punishable by imprisonment in the state prison for not less than three nor more than ten years; and in all prosecutions under this section a wife is a competent witness against her husband.—1905:656.

§266g. **Leg. Hist.:** En.1905:656.

**References:** Husband and W.: McK.Dig. §223. Cal.Pac.D. §3. C.J. §320.

**Pandering and P.:** McK.Dig. §2.

**Prostitution:** Cal.Pac.D. §1. C.J. §§20, 21.

**267. Abduction.** Every person who takes away any female under the age of eighteen years from her father, mother, guardian, or other person having the legal charge of her person, without their consent, for the purpose of prostitution, is punishable by imprisonment in the state prison not exceeding five years, and a fine not exceeding one thousand dollars.

§267. **References:** Abduction: McK.Dig. §§3-5. Cal.Pac.D. §1. C.J. §15.

1 Cal.Jur. §1. 1 Am.Jur. 125.

**268. Seduction. Penalty.** Every person who, under promise of marriage, seduces and has sexual intercourse with an unmarried female of previous chaste character, is punishable by imprisonment in the state prison for not more than five years, or by a fine of not more than five thousand dollars, or by both such fine and imprisonment.—1889:12.

§268. **Leg. Hist.:** En.1889:12.

(See Civ. Code §3339, Code Civ. Pro. §374.)

**References:** Seduction: McK.Dig. §2. Cal.Pac.D. §34. C.J. §§156-161.

23 Cal.Jur. §§6, 7. 47 Am.Jur. 632.

**269. Intermarriage, when a bar to prosecution.** The intermarriage of the parties subsequent to the commission of the offense is a bar to a prosecution for a violation of the last section; provided, such marriage take place prior to the finding of an indictment or the filing of an information charging such offense.—1889:12.

§269. **Leg. Hist.:** En.1889:12.

**References:** Seduction: McK.Dig. §3. Cal.Pac.D. §36. C.J. §171.

47 Am.Jur. 641; 1 Am.Jur. 687.

**269a. Adultery.** Every person who lives in a state of cohabitation and adultery is guilty of a misdemeanor and punishable by a fine not exceeding one thousand dollars, or by imprisonment in the county jail not exceeding one year, or by both.—1911:426.

§269a. **Leg. Hist.:** En.1905:657; A.1911:426.

(See Civ. Code §93.)

**References:** Adultery: McK.Dig. §§1-4. Cal.Pac.D. §§1-3. C.J. §§4-12.

1 Cal.Jur. §§1-7. 1 Am.Jur. 683.

**269b. Adultery of married persons.**

If two persons, each being married to another, live together in a state of cohabitation and adultery, each is guilty of a misdemeanor. A recorded certificate of marriage or a certified copy thereof, there being no interlocutory decree of divorce, proves the marriage of a person for the purpose of this section.—1933:1678.

§269b. **Leg. Hist.:** En.1905:657; A.1911:426; 1933:1678.

(See Civ. Code §93.)

**References:** Adultery: McK.Dig. §4. Cal.Pac.D. §3. C.J. §5.

1 Cal.Jur. §§1-7. 1 Am.Jur. 684.

## CHAPTER II.

## Abandonment and Neglect of Children.

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271. Desertion of minor.	273f. Sending children to immoral places.
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273. Repealed 1937.	

270. Omitting to provide child with necessaries. A father of either a legitimate or illegitimate minor child who willfully omits without lawful excuse to furnish necessary food, clothing, shelter or medical attendance or other remedial care for his child is guilty of a misdemeanor and punishable by imprisonment in the county jail not exceeding two years or by a fine not exceeding one thousand dollars, or by both.

If the father, during such violation, remains out of the state for thirty days, or if he fails or refuses to comply with the order of a court of competent jurisdiction, requiring him to make any provision for the maintenance, support, medical treatment or other remedial care of such minor child and remains out of the state for ten days without doing so, he is guilty of a felony. This statute shall not be construed so as to relieve such father from the criminal liability defined herein for such omission merely because the mother of such child is legally entitled to the custody of such child nor because the mother of such child, or any other person or organization, voluntarily or involuntarily furnishes such necessary food, clothing, shelter or medical attendance or other remedial care for such child, or undertakes to do so.

Proof of abandonment or desertion of a child by such father, or the omission by such father to furnish necessary food, clothing, shelter or medical attendance or other remedial care for his child is prima facie evidence that such abandonment or desertion or omission to furnish necessary food, clothing, shelter or medical attendance or other remedial care is willful and without lawful excuse.

In the event that the father of either a legitimate or illegitimate minor child is dead or unable by reason of physical or mental infirmity to furnish the necessary food, clothing, shelter or medical attendance or other remedial care for his minor child, the mother of said child shall become subject to the provisions of this section and be criminally liable for the support of said minor child during the period of inability on the part of the father to the same extent and in the same manner as the father would have been had it not been for his physical or mental infirmity.

The provisions of this section are applicable whether the parents of such child are married or divorced, and regardless of any decree made in any divorce action relative to alimony or to the support of the child. A child conceived but not yet born is to be deemed an existing person in so far as this section is concerned.

§270. *Leg. Hist.*: A.1905:758; 1909:258; 1915:572; 1917:252; 1921:1723; 1923:592; 1925:544; 1931:1438; 1939:2783.

(See Civ. Code §§196-210.)

*References*: Parent and C.: McK.Dig. §§30-33. Cal.Pac.D. §17. C.J. §§208-211. 20 Cal.Jur. §§20-24. 7 Am.Jur. 679.

**270a. Non-support of wife.** Every husband having sufficient ability to provide for his wife's support, or who is able to earn the means of such wife's support, who willfully abandons and leaves his wife in a destitute condition, or who refuses or neglects to provide such wife with necessary food, clothing, shelter or medical attendance, unless by her misconduct he was justified in abandoning her, is punishable by imprisonment in the state prison, or in the county jail, not exceeding two years, or by fine not exceeding one thousand dollars, or by both.—1909:258.

§270a. **Leg. Hist.:** En.1907:91; A.1909:258.

**References:** Husband and W.: McK.Dig. §222. Cal.Pac.D. §§302-305.  
C.J. §926. 20 Cal.Jur. §93. 27 Am.Jur. 41.

**270b. Surety for support.** After arrest and before plea or trial, or after conviction or plea of guilty and before sentence under either section 270 or 270a of this code, if the defendant shall appear before the court and enter into an undertaking with sufficient sureties to the people of the State of California in such penal sum as the court may fix, to be approved by the court, and conditioned that the defendant will pay to the person having custody of such child or to such wife, such sum per month as may be fixed by the court in order to thereby provide said minor child or said wife, as the case may be, with necessary food, shelter, clothing, or medical attendance, or other remedial care, then the court may suspend proceedings or sentence therein; and said undertaking is valid and binding for two years, or such lesser time as the court shall fix; and upon the failure of defendant to comply with said undertaking, he may be ordered to appear before the court and show cause why further proceedings should not be had in said action or why sentence should not be imposed, whereupon the court may proceed with said action, or pass sentence, or for good cause shown may modify the order and take a new undertaking and further suspend proceedings or sentence for a like period.—1931:1386.

§270b. **Leg. Hist.:** En.1907:92; A.1909:259; 1931:1386.

**References:** Parent and C.: McK.Dig. §45. Cal.Pac.D. §17. C.J. §229.

20 Cal.Jur. §28.

Husband and W.: McK.Dig. §222. Cal.Pac.D. §317. C.J. §956.  
27 Am.Jur. 55.

**270c. Adult child, duty of to provide.** Every adult child, who having the ability so to do, fails to provide necessary food, clothing, shelter, or medical attendance for an indigent parent, is guilty of a misdemeanor.—1909:166.

§270c. **Leg. Hist.:** En.1909:166.

**References:** Parent and C.: McK.Dig. §15. Cal.Pac.D. §§4, 17. C.J. §74.  
20 Cal.Jur. §3. 39 Am.Jur. 710.

**270d. Fine may be paid to wife of defendant.** In any case where there is a conviction and sentence under the provisions of either section 270 or section 270a, of this code, should a fine be imposed such fine may be directed by the court to be paid in whole or in part to the wife of the defendant or guardian or custodian of the child or children of such defendant.—1911:687.

§270d. **Leg. Hist.:** En.1911:687.

**References:** Parent and C.: McK.Dig. §45. Cal.Pac.D. §17. C.J. §229.

Husband and W.: McK.Dig. §222. Cal.Pac.D. §316. C.J. §§961-963.  
39 Am.Jur. 750.

**270e. Proof of marriage, etc. Confidential communications. Proof of abandonment.** No other evidence shall be required to prove marriage of husband and wife, or that a person is the lawful father or mother of a child or children, than is or shall be required to prove such facts in a civil action. In all prosecutions under either section 270 or 270a of this code any existing provisions of law prohibiting the disclosure of confidential communications between husband and wife shall not apply, and both husband and wife shall be competent to testify to any and all relevant matters, including the fact of marriage and the parentage of a child or children. Proof of the abandonment and non-support of a wife, or of the omission to furnish necessary food, clothing, shelter, or of medical attendance for a child or children is prima facie evidence that such abandonment and non-

support or omission to furnish necessary food, clothing, shelter or medical attendance is willful.—1911:688.

§270e. **Leg. Hist.:** En.1911:688.

**References:** Parent and C.: McK.Dig. §43. Cal.Pac.D. §17. C.J. §225.

20 Cal.Jur. §22.

Husband and W.: McK.Dig. §222. Cal.Pac.D. §313. C.J. §948.

39 Am.Jur. 762-790.

★ 271. **Desertion of minor.** Every parent of any child under the age of fourteen years, and every person to whom any such child has been confided for nurture, or education, who deserts such child in any place whatever with intent to abandon it, is punishable by imprisonment in the state prison or in the county jail not exceeding one year or by fine not exceeding five hundred dollars (\$500) or by both.

§271. **Leg. Hist.:** A. 1909:297; 1945, ch.250.

(See Civ. Code §196.)

Change made by the 1945 amendment in the text of this section as it stood is to strike out the word "wholly" following the words "with intent."

**References:** Parent and C.: McK.Dig. §§30-33. Cal.Pac.D. §17.

C.J. §§205-208. 20 Cal.Jur. §§20-24. 39 Am.Jur. 773.

271a. **Maintenance of minor.** Every person who knowingly and willfully abandons, or who, having ability so to do, fails or refuses to maintain his or her minor child under the age of fourteen years, or who falsely knowing the same to be false, represents to any manager, officer or agent of any orphan asylum or charitable institution for the care of orphans, that any child for whose admission into such asylum or institution application has been made is an orphan, is punishable by imprisonment in the state prison, or in the county jail not exceeding one year, or by fine not exceeding five hundred dollars, or by both.

§271a. **Leg. Hist.:** En.1905:758; A.1909:297.

(See Civ. Code §196.)

**References:** Parent and C.: McK.Dig. §§30-33. Cal.Pac.D. §17.

C.J. §§205-208. 20 Cal.Jur. §14.

Infants: McK.Dig. §29. Cal.Pac.D. §20. C.J. §13. 39 Am.Jur. 773.

272. **Person selling, apprenticing, etc., children.** Repealed. Stats. 1937; Chap. 90. [Superseded by Labor Code.]

273. **Person receiving, hiring, etc., children.** Repealed. Stats. 1937; Chap. 90. [Superseded by Labor Code.]

273a. **Unjustifiable punishment causing child to suffer.** Any person who willfully causes or permits any child to suffer, or who inflicts thereon unjustifiable physical pain or mental suffering, and whoever, having the care or custody of any child, causes or permits the life or limb of such child to be endangered, or the health of such child to be injured, and any person who willfully causes or permits such child to be placed in such situation that its life or limb may be endangered, or its health likely to be injured, is guilty of a misdemeanor.

§273a. **Leg. Hist.:** En.1905:759.

**References:** Infants: McK.Dig. §29. Cal.Pac.D. §15. C.J. §18.

Parent and C.: McK.Dig. §8. 27 Am.Jur. 832.

273b. **Child not to be confined with adult. Exception.** No child under the age of sixteen years must be placed in any place of confinement, or in any courtroom, or in any vehicle for transportation to any place, in company with adults charged with or convicted of crime, except in the presence of a proper official.

§273b. **Leg. Hist.:** En.1905:760; A.1941, ch.106.

**References:** Delinquent C.: McK.Dig. §§14-19.

Infants: McK.Dig. §29. Cal.Pac.D. §16. C.J. §§226, 242.

273c. **Fines, how appropriated.** All fines, penalties, and forfeitures imposed and collected under the provisions of the five preceding sections, or under the provisions of any law relating to, or affecting, children, in every case where the prosecution is instituted or conducted by a society incorporated under the laws of this state for the prevention of cruelty to children, inure to such society in aid of the purposes for which it is incorporated.—1905:760.

§273c. **Leg. Hist.:** En. 1905:760.

**References:** Infants: McK.Dig. §29. Cal.Pac.D. §§13, 17. C.J. §§22, 24.

273d. Court may commit child to charitable institution. Repealed. Stats. 1937; Chap. 369. Superseded by Welfare and Institutions Code.

★ 273d. Infliction of corporal injury by husband upon wife or upon child, felony. Any husband who wilfully inflicts upon his wife corporal injury resulting in a traumatic condition, but not constituting a felonious assault or attempted murder, and any person who wilfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition, but not constituting a felonious assault or attempted murder, is nevertheless guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the State prison for not more than two years or in the county jail for not more than one year.

§273d. Leg. Hist.: En. 1945, ch.1312.

273e. Minor not to deliver messages, etc., to certain places. Every telephone, special delivery company or association, and every other corporation or person engaged in the delivery of packages, letters, notes, messages, or other matter, and every manager, superintendent, or other agent of such person, corporation, or association, who sends any minor in the employ or under the control of any such person, corporation, association, or agent, to the keeper of any house of prostitution, variety theater, or other place of questionable repute, or to any person connected with, or any inmate of, such house, theater, or other place, or who permits such minor to enter such house, theater, or other place, is guilty of a misdemeanor.—1905:760.

§273e. Leg. Hist.: En.1905:760.

References: Delinquent C.: McK.Dig. §22, 24.  
Infants: Cal.Pac.D. §13. C.J. §15. 14 Cal.Jur. §9.

273f. Sending children to immoral places. Any person, whether as parent, guardian, employer, or otherwise, and any firm or corporation, who as employer or otherwise, shall send, direct, or cause to be sent or directed to any saloon, gambling-house, house of prostitution, or other immoral place, any minor under the age of eighteen, is guilty of a misdemeanor.—1907:565.

§273f. Leg. Hist.: Origin §273. En.1905:74. §273f.—En.1907:565.

References: Delinquent C.: McK.Dig. §22, 24.  
Infants: Cal.Pac.D. §13, 20. C.J. §19.

273g. Immoral practices in presence of children. Any person who in the presence of any child indulges in any degrading, lewd, immoral or vicious habits or practices, or who is habitually drunk in the presence of any child in his care, custody or control, is guilty of a misdemeanor.—1907:756.

§273g. Leg. Hist.: En.1907:756.

References: Delinquent C.: McK.Dig. §20-24.  
Infants: Cal.Pac.D. §13, 20. C.J. §17.

273h. Sentence to road work. Payment to dependents. In all prosecutions under the provisions of either section 270, section 270a, section 270b, section 271 or section 271a, of this code, where a conviction is had and sentence of imprisonment in the county jail or in the city jail is imposed, the court may direct that the person so convicted shall be compelled to work upon the public roads or highways, or any other public work, in the county or in the city where such conviction is had, during the term of such sentence. And it shall be the duty of the board of supervisors of the county where such person is imprisoned in the county jail, and of the city council of the city where such person is imprisoned in the city jail, where such conviction and sentence are had and where such work is performed by a person under sentence to the county jail or to the city jail, to allow and order the payment out of any funds available, to the wife or to the guardian, or to the custodian of a child or children, or to an organization, or to an individual, appointed by the court as trustee, at the end of each calendar month, for the support of such wife or children, a sum not to exceed two dollars for each day's work of such person so imprisoned.—1927:433.

§273h. Leg. Hist.: En.1911:688; A.1927:433.

References: Husband and W.: McK.Dig. §222. Cal.Pac.D. §317.  
C.J. §961-963.

Parent and C.: McK.Dig. §45. Cal.Pac.D. §17. C.J. §229.

## CHAPTER III.

## Abortions.

## Section

## Section

274. Administering drugs, etc., with intent to produce miscarriage.

275. Submitting to an attempt to produce miscarriage.

274. Administering drugs, etc., with intent to produce miscarriage.

Every person who provides, supplies, or administers to any woman, or procures any woman to take any medicine, drug, or substance, or uses or employs any instrument or other means whatever, with intent thereby to procure the miscarriage of such woman, unless the same is necessary to preserve her life, is punishable by imprisonment in the State prison not less than two nor more than five years.—1935:

§274. Leg. Hist.: A.1935:1605.

References: Abortion: McK.Dig. §1. Cal.Pac.D. §§1-3. C.J.S. §§1-14.

1 Cal.Jur. §2. 1 Am.Jur. 132.

275. Submitting to an attempt to produce miscarriage. Every woman who solicits of any person any medicine, drug, or substance whatever, and takes the same, or who submits to any operation, or to the use of any means whatever, with intent thereby to procure a miscarriage, unless the same is necessary to preserve her life, is punishable by imprisonment in the state prison not less than one nor more than five years.

§275. References: Abortion: McK.Dig. §1. Cal.Pac.D. §§1-3. C.J.S. §7.

1 Cal.Jur. §1.

## CHAPTER IV.

## Child Stealing.

## Section

278. Child stealing. Penalty.

278. Child stealing. Penalty. Every person who maliciously, forcibly, or fraudulently takes or entices away any minor child with intent to detain and conceal such child from its parent, guardian, or other person having the lawful charge of such child, is punishable by imprisonment in the state prison not exceeding twenty years.

§278. Leg. Hist.: A.1901:269.

See ante, §§207-209. See post, §646.

References: Infants: McK.Dig. §29. Cal.Pac.D. §20. C.J. §§8, 15.

Parent and C.: McK.Dig. §5. Cal.Pac.D. §18. C.J. §244.

Kidnaping: McK.Dig. §3. Cal.Pac.D. §§1-3. C.J. §§1-14. 15 Cal.Jur. §3.

31 Am.Jur. 811-818.

## CHAPTER V.

## Bigamy, Incest, and the Crime against Nature.

## Section

## Section

281. Bigamy defined.

288. Crimes against children, a felony.

282. Exceptions.

288a. Sex perversions.

283. Bigamy, punishment of.

288.1. Same. Restriction on suspended sentence or parole.

284. Marrying a husband or wife of another; punishment.

290. Registration with sheriff or police chief by persons convicted of certain crimes. Change of address. Violation of section. Inspection of statements, photographs and fingerprints.

285. Penalty for incest.

286. Penalty for crime against nature.

287. Penetration sufficient to complete the crime.

281. Bigamy defined. Every person having a husband or wife living, who marries any other person, except in the cases specified in the next section, is guilty of bigamy.

§281. References: Bigamy: McK.Dig. §§1-4. Cal.Pac.D. §1. C.J. §§3-17.

C.J.S. §1. 4 Cal.Jur. §1. 7 Am.Jur. 749.

**282. Exceptions.** The last section does not extend—

1. To any person by reason of any former marriage, whose husband or wife by such marriage has been absent for five successive years without being known to such person within that time to be living; nor,

2. To any person by reason of any former marriage which has been pronounced void, annulled, or dissolved by the judgment of a competent court.

§282. **References:** Bigamy: McK.Dig. §§1-4. Cal.Pac.D. §2. C.J. §20.  
C.J.S. §7. 4 Cal.Jur. §§2, 6.

**283. Bigamy, punishment of.** Bigamy is punishable by a fine not exceeding five thousand dollars and by imprisonment in the state prison not exceeding ten years.—1905:245.

§283. **Leg. Hist.:** A.1905:245.  
(See Civ. Code §61.)  
**References:** Bigamy: McK.Dig. §§1-4. Cal.Pac.D. §17. C.J. §60.  
C.J.S. §23. 4 Cal.Jur. §12.

**284. Marrying a husband or wife of another; punishment.** Every person who knowingly and willfully marries the husband or wife of another, in any case in which such husband or wife would be punishable under the provisions of this chapter, is punishable by fine not less than five thousand dollars, or by imprisonment in the state prison not exceeding ten years.—1905:245.

§284. **Leg. Hist.:** A.1905:245.  
**References:** Bigamy: McK.Dig. §§1-4. Cal.Pac.D. §17. C.J. §60.  
4 Cal.Jur. §12.

**285. Penalty for incest.** Persons being within the degrees of consanguinity within which marriages are declared by law to be incestuous and void, who intermarry with each other, or who commit fornication or adultery with each other, are punishable by imprisonment in the state prison not less than one year nor more than fifty years.—1921:96.

§285. **Leg. Hist.:** A.1921:96.  
(See Civ. Code §59.)  
**References:** Incest: McK.Dig. §§1, 2. Cal.Pac.D. §§1-8½. C.J. §§1-16.  
13 Cal.Jur. §§1-5.

**286. Penalty for crime against nature.** Every person who is guilty of the infamous crime against nature, committed with mankind or with any animal, is punishable by imprisonment in the state prison not less than one nor more than ten years.—1921:87.

§286. **Leg. Hist.:** A.1921:87.  
See ante, §220.  
**References:** Sodomy: McK.Dig. §§1-3. Cal.Pac.D. §§1, 8. C.J. §§2-8.  
23 Cal.Jur. §§1-11. 48 Am.Jur. 549.

**287. Penetration sufficient to complete the crime.** Any sexual penetration, however slight, is sufficient to complete the crime against nature.

§287. **References:** Sodomy: McK.Dig. §2. Cal.Pac.D. §§1-3. C.J. §5.  
23 Cal.Jur. §3.

**288. Crimes against children, a felony.**

Any person who shall wilfully and lewdly commit any lewd or lascivious act including any of the acts constituting other crimes provided for in part one of this code upon or with the body, or any part or member thereof, of a child under the age of fourteen years, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of such person or of such child, shall be guilty of a felony and shall be imprisoned in the State prison for a term of from one year to life.—1937; Chap. 545.

§288. **Leg. Hist.:** En.1901:630; A.1933:1028; 1937:1562.  
**References:** Lewdness: McK.Dig. §§2-6. Cal.Pac.D. §§1-3. C.J. §§3-9.  
16 Cal.Jur. §1.  
Infants: Cal.Pac.D. §20. C.J. §15. 33 Am.Jur. 16.

**288a. Sex perversions.** Any person participating in the act of copulating the mouth of one person with the sexual organ of another is punishable by imprisonment in the state prison for not exceeding fifteen years.—1921:1633.

§288a. **Leg. Hist.:** En.1915:1022; R.1921:1633; En.1921:1633.  
**References:** Sodomy: McK.Dig. §2. Cal.Pac.D. §§1-4. C.J. §§2-8.  
23 Cal.Jur. §3. 48 Am.Jur. 549.

**288.1. Same. Restriction on suspended sentence or parole.** Any person convicted of committing any lewd or lascivious act including any of the acts constituting other crimes provided for in Part 1 of this code upon or with the body, or any part or member thereof, of a child under the age of 14 years shall not have his sentence suspended until the court obtains a report from a reputable psychiatrist as to the mental condition of such person, and such person shall not be paroled from prison until a report is received from the prison psychiatrist setting forth the mental condition of the prisoner and stating that the prisoner was under observation while confined in prison.

§288.1. Leg. Hist.: En.1941, ch.1201.

★ **290. Registration with sheriff or police chief by persons convicted of certain crimes. Change of address. Violation of section. Inspection of statements, photographs and fingerprints.**

[Any person who, since the first day of July, 1944, has been or is hereafter convicted in the State of California of any offense defined in Sections 266, 267, 268, 285, 286, 288, 288a, 647a, subdivision 3 or 4 of Section 261, or subdivision 1 or 2 of Section 311 of this code, or of any offense involving lewd and lascivious conduct under Section 702 of the Welfare and Institutions Code, or has been since said date or is hereafter convicted in any other state of any offense which, if committed in this State, would have been punishable under one or more of the above-mentioned sections shall within 30 days after the effective date of this section or within 30 days of his coming into any county in which he resides or is temporarily domiciled for such length of time register with the sheriff of or a chief of police in such county.

Such registration shall consist of (a) a statement in writing signed by such person, giving such information as may be required by the State Bureau of Criminal Identification, and (b) the fingerprints and photograph of such person. Within three days thereafter the sheriff or chief of police shall forward such statement, fingerprints and photograph to the State Bureau of Criminal Identification and Investigation.

Any person required hereby to register shall upon changing his address within the county in which he is required to register promptly inform the sheriff or chief of police in writing of his new address, and such sheriff or chief of police shall within three days after receipt of such information forward it to the State Bureau of Criminal Identification and Investigation.

Any person required to register under the provisions of this section who shall violate any of the provisions thereof is guilty of a misdemeanor.

The statements, photographs and fingerprints herein required shall not be open to inspection by the public or by any person other than a regularly employed peace or other law enforcement officer.]

§290. Leg. Hist.: En.1947, ch.1124, §1.

## CHAPTER VI.

### Violating Sepulture and the Remains of the Dead.

Comprising Sections 290-297. Repealed. Stats. 1939; Chap. 60.

[Superseded by Health and Safety Code.]

## CHAPTER VII.

### Crimes against Religion and Conscience, and Other Offenses against Good Morals.

Section	Section
302. Disturbing religious meetings.	305. Limitation of preceding section.
303. Sale of liquor on commission.	307. Repealed 1937.
304. Selling liquors at camp meeting.	308. Selling tobacco to minors. Dealers to post copy of act. Secretary of state to furnish.

Section

Section

309. To prevent admission of minors to houses of prostitution. 310. Repealed 1933.  
310a. Repealed 1933.

302. Disturbing religious meetings. Every person who willfully disturbs or disquiets any assemblage of people met for religious worship, by profane discourse, rude or indecent behavior, or by any unnecessary noise, either within the place where such meeting is held, or so near it as to disturb the order and solemnity of the meeting, is guilty of a misdemeanor.—1905:657.

§302. Leg. Hist.: A.1905:657.

See ante, §59. See post, §403.

References: Disorderly Conduct: McK.Dig. §1. Cal.Pac.D. §1. C.J. §6.  
9 Cal.Jur. §2.

Disturbance of P.A.: Cal.Pac.D. §§1-4. C.J. §§2-15. 17 Am.Jur. 121.

303. Sale of liquor on commission.

It shall be unlawful for any person engaged in the sale of alcoholic beverages, other than in the original package, to employ upon the premises where the alcoholic beverages are sold any person for the purpose of procuring or encouraging the purchase or sale of such beverages, or to pay any person a percentage or commission on the sale of such beverages for procuring or encouraging such purchase or sale. Violation of this section shall be a misdemeanor.—1935:

§303. Leg. Hist.: R.1905:657; En.1935:1576.

References: Intox. Liq.: McK.Dig. §42. Cal.Pac.D. §146 (2). C.J. §15; also Alcoholic Bev. Cont. Act, §57.

304. Selling liquors at camp meeting. Every person who erects or keeps a booth, tent, stall, or other contrivance for the purpose of selling or otherwise disposing of any wine, or spirituous, or intoxicating liquors, or any drink of which wines, spirituous, or intoxicating liquors form a part, or for selling or otherwise disposing of any article of merchandise, or who peddles, or hawks about any such drink or article, within one mile of any camp or field meeting for religious worship, during the time of holding such meeting, is punishable by fine of not less than five nor more than five hundred dollars.

§304. See ante, §172.

References: Intox. Liq.: McK.Dig. §42. Cal.Pac.D. §162. C.J. §228.

305. Limitation of preceding section. The provisions of the preceding section do not apply to any person carrying on a regular business in the sale of liquors or other articles, which business was established prior to the appointment of the meeting referred to in such section.

§305. References: Intox. Liq.: McK.Dig. §42. Cal.Pac.D. §162. C.J. §228.

307. Repealed. Stats. 1937; Chap. 382. See Appendix—State Narcotic Act.

308. Selling tobacco to minors. Dealers to post copy of act. Secretary of state to furnish. Every person, firm or corporation which sells or gives or in any way furnishes to another person who is in fact under the age of eighteen years any tobacco, cigarette or cigarette papers or any other preparation of tobacco is guilty of a misdemeanor and upon conviction thereof shall be punished for the first offense by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment for not more than sixty days; and for the second offense by a fine of not less than fifty dollars nor more than two hundred dollars, or by imprisonment for not more than ninety days; and for each subsequent offense by a fine of not less than one hundred dollars and not more than three hundred dollars, or by imprisonment for not less than ninety days nor more than six months, or by both such fine and imprisonment.

Every person, firm or corporation which sells, or deals in tobacco or any preparation thereof shall, within ninety days after this act becomes effective, post conspicuously and keep so posted in his or their place of business a copy of this act, and any such person failing to do so shall upon conviction be punished by a fine of five dollars for

the first offense and twenty-five dollars for each succeeding violation of this provision, or by imprisonment for not more than thirty days.

The secretary of state is hereby authorized to have printed sufficient copies of this act to enable him to furnish dealers in tobacco with copies thereof upon their request for the same.—1911:481.

§308. *Leg. Hist.*: En.1891:64; A.1911:481.

*References*: Infants: McK.Dig. §29. Cal.Pac.D. §§12-14, 20. C.J. §17.

309. To prevent admission of minors to houses of prostitution. Any proprietor, keeper, manager, conductor, or person having the control of any house of prostitution, or any house or room resorted to for the purpose of prostitution, who shall admit or keep any minor of either sex therein; or any parent or guardian of any such minor, who shall admit or keep such minor, or sanction, or connive at the admission or keeping thereof, into, or in any such house, or room, shall be guilty of a misdemeanor.—Code amend.—1880:36.

§309. *Leg. Hist.*: En.1880:36.

See ante, §§272, 273e, f, g.

*References*: Infants: McK.Dig. §29. Cal.Pac.D. §§12-14, 20. C.J. §15.  
14 Cal.Jur. §9.

310. Desecration of national flag. Repealed. Stats. 1933; Chap. 975. Superseded by §614, Military and Veterans Code.

310a. Desecration of state flag. Repealed. Stats. 1933; Chap. 975. Superseded by §614, Military and Veterans Code.

## CHAPTER VIII.

### Indecent Exposure, Obscene Exhibitions, Books and Prints, and Bawdy and Other Disorderly Houses.

#### Section

- 311. Lewd conduct.
- 312. Seizure of indecent articles authorized.
- 313. Their character to be summarily determined.
- 314. Their destruction.
- 315. Keeping or residing in house of ill-fame. Proof.

#### Section

- 316. Keeping disorderly houses, etc.
- 317. Repealed 1937.
- 318. Prevailing upon any person to visit a place kept for gambling or prostitution, a misdemeanor.

#### 311. Lewd conduct.

Every person who wilfully and lewdly, either:

One—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 annoyed thereby; or,

Two—Procures, counsels, or assists any person so to expose himself, or to take 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 to vicious or lewd thoughts or acts; or,

Three—Writes, composes, stereotypes, prints, publishes, sells, distributes, keeps for sale, or exhibits any obscene or indecent writing, paper, or book; or designs, copies, draws, engraves, paints, or otherwise prepares any obscene or indecent picture or print; or molds, cuts, casts, or otherwise makes any obscene or indecent figure; or,

Four—Writes, composes, or publishes any notice or advertisement of any such writing, paper, book, picture, print, or figure; or,

Five—Sings or speaks any lewd or obscene song, ballad, or other words, in any public place, or in any place where there are persons present to be annoyed thereby, is guilty of a misdemeanor. The provision of subdivision five of this section shall not apply to any person participating in violation thereof only as an actor, unless and until the proper court shall have passed upon the matter and found the actor to have violated the said subdivision five of this section, except where after a complaint has been filed against the owner, manager, producer or director charging a violation of said subdivision five of

this section, and pending the determination thereof an actor or actress utters the particular word or words complained against or other word or words of the same or similar import, in connection with such performance, act, play, drama, exhibition or entertainment.

§311. **Leg. Hist.:** A.1873:429; 1931:1597.

**References:** Lewdness: McK.Dig. §§1-6. Cal.Pac.D. §§1-3. C.J. §§3-8.  
16 Cal.Jur. §2.

Obscenity: Cal.Pac.D. §§1-9. C.J. §§3-23. 33 Am.Jur. 15.

**312. Seizure of indecent articles authorized.** Every person who is authorized or enjoined to arrest any person for a violation of subdivision 3 of the last section, is equally authorized and enjoined to seize any obscene or indecent writing, paper, book, picture, 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.

§312. **References:** Lewdness: McK.Dig. §§2, 3. Cal.Pac.D. §12. C.J. §31.

Search and Seizure: McK.Dig. §1. Cal.Pac.D. §2. C.J. §221.

Obscenity: Cal.Pac.D. §22. C.J. §45. 12 Am.Jur. 358.

**313. Their character to be summarily determined.** The magistrate to whom any obscene or indecent writing, paper, book, picture, print, or figure is delivered, pursuant to the foregoing section, must, 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 must deliver one copy to the district attorney of the county in which the accused is liable to indictment or trial, and must at once destroy all the other copies.

§313. **References:** Lewdness: McK.Dig. §§2, 3. Cal.Pac.D. §12. C.J. §31.

Search and Seizure: McK.Dig. §1. Cal.Pac.D. §2. C.J. §221.

Obscenity: Cal.Pac.D. §22. C.J. §45.

#### **314. Their destruction.**

Upon the conviction of the accused, such district attorney must 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 district attorney, to be destroyed. (Amendment 1901:452 held unconstitutional, 134 Cal. 291.)

§314. **References:** Lewdness: McK.Dig. §§2, 3. Cal.Pac.D. §12. C.J. §31.

Search and Seizure: McK.Dig. §1. Cal.Pac.D. §12. C.J. §221.

Obscenity: Cal.Pac.D. §22. C.J. §45.

**315. Keeping or residing in house of ill-fame. Proof.** Every person who keeps a house of ill-fame in this state, resorted to for the purposes of prostitution or lewdness, or who willfully resides in such house, is guilty of a misdemeanor; and in all prosecutions for keeping or resorting to such a house common repute may be received as competent evidence of the character of the house, the purpose for which it is kept or used, and the character of the women inhabiting or resorting to it.—1905:668.

§315. **Leg. Hist.:** A.1905:668.

**References:** Disorderly H.: McK.Dig. §4. Cal.Pac.D. §§4-9. C.J. §§37-47.

Prostitution: McK.Dig. §3. Cal.Pac.D. §§1, 2. C.J. §§7, 9. 17 Am.Jur. 108.

**316. Keeping disorderly houses, etc.** Every person who keeps any disorderly house, or any house for the purpose of assignation or prostitution, or any house of public resort, by which the peace, comfort, or decency of the immediate neighborhood is habitually disturbed, or who keeps any inn in a disorderly manner; and every person who lets any apartment or tenement, knowing that it is to be used for the purpose of assignation or prostitution, is guilty of a misdemeanor.

§316. **Leg. Hist.:** A.1873:430.

**References:** Disorderly H.: McK.Dig. §4. Cal.Pac.D. §§4-9. C.J. §§37-40.

9 Cal.Jur. §§1-17.

Prostitution: McK.Dig. §3. Cal.Pac.D. §§1, 2. C.J. §7. 17 Am.Jur. 108.

#### **317. Repealed. Stats. 1937; Chap. 399.**

**318. Prevailing upon any person to visit a place kept for gambling or prostitution, a misdemeanor.** Whoever, through invitation or device, prevails upon any person to visit any room, building, or other

places kept for the purpose of gambling or prostitution, is guilty of a misdemeanor, and, upon conviction thereof, shall be confined in the county jail not exceeding six months, or fined not exceeding five hundred dollars, or be punished by both such fine and imprisonment.

§318. **Leg. Hist.:** En.1880:40.

**References:** Gaming: McK.Dig. §12. Cal.Pac.D. §77. C.J. §§155, 175.

Prostitution: McK.Dig. §3. Cal.Pac.D. §§1, 2. C.J. §16.

Pandering: McK.Dig. §§1-6.

## CHAPTER IX.

### Lotteries.

#### Section

- 319. Lottery defined.
- 320. Punishment for drawing lottery.
- 321. Punishment for selling lottery tickets.
- 322. Aiding lotteries.
- 323. Lottery offices. Advertising lottery offices.

#### Section

- 324. Insuring lottery tickets. Publishing offers to insure.
- 325. Property offered for disposal in lottery forfeited.
- 326. Letting building for lottery purposes.

319. **Lottery defined.** A lottery is any scheme for the disposal or distribution of property by chance, among persons who have paid or promised to pay any valuable consideration for the chance of obtaining such property or a portion of it, or for any share or any interest in such property, upon any agreement, understanding, or expectation that it is to be distributed or disposed of by lot or chance, whether called a lottery, raffle, or gift enterprise, or by whatever name the same may be known.

§319. **References:** Theater prizes on free tickets: 137 Cal.App. §790.

Lotteries: McK.Dig. §3. Cal.Pac.D. §§20, 26. C.J. §§2-8, 36. 16 Cal.Jur. §3.

Trading Stamps: C.J. §§1-11. 34 Am.Jur. 646-664.

320. **Punishment for drawing lottery.** Every person who contrives, prepares, sets up, proposes, or draws any lottery, is guilty of a misdemeanor.

§320. **References:** Lotteries: McK.Dig. §§1, 2. Cal.Pac.D. §21. C.J. §37. 16 Cal.Jur. §5.

321. **Punishment for selling lottery tickets.** Every person who sells, gives, or in any manner whatever, furnishes or transfers to or for any other person any ticket, chance, share, or interest, or any paper, certificate, or instrument purporting or understood to be or to represent any ticket, chance, share, or interest in, or depending upon the event of any lottery, is guilty of a misdemeanor.

§321. **References:** Lotteries: McK.Dig. §§1, 2. Cal.Pac.D. §23. C.J. §38. 34 Am.Jur. 670.

322. **Aiding lotteries.** Every person who aids or assists, either by printing, writing, advertising, publishing, or otherwise in setting up, managing, or drawing any lottery, or in selling or disposing of any ticket, chance, or share, or share therein, is guilty of a misdemeanor.

§322. **References:** Lotteries: McK.Dig. §§1-3. Cal.Pac.D. §22. C.J. §§37, 39.

323. **Lottery offices. Advertising lottery offices.** Every person who opens, sets up, or keeps, by himself or by any other person, any office or other place for the sale of, or for registering the number of any ticket in any lottery, or who, by printing, writing, or otherwise, advertises or publishes the setting up, opening, or using of any such office, is guilty of a misdemeanor.

§323. **References:** Lotteries: McK.Dig. §§1-3. Cal.Pac.D. §23. C.J. §38.

324. **Insuring lottery tickets. Publishing offers to insure.** Every person who insures or receives any consideration for insuring for or against the drawing of any ticket in any lottery whatever, whether drawn or to be drawn within this state or not, or who receives any valuable consideration upon any agreement to repay any sum, or deliver the same, or any other property, if any lottery ticket or number of

## CHAPTER II.

### Other and Miscellaneous Offenses.

Section	Section
638. Neglect or postponement of telegraphic or telephonic messages.	648a. Slugs resembling coins of United States. Definitions. Exceptions.
639. Employe using information contained in telegraphic or telephonic messages.	649. Repealed.
640. Fraudulent connection with telegraph, etc., wires. Penalty.	650. Sending letters threatening to expose another.
640a. Misuse of slot machines, etc.	650a. Exposure of paroled prisoners prohibited. Repealed 1941.
641. Bribing telegraph or telephone operator.	650½. Penalty for injuring person or property of another.
642. Removing and appropriating articles of value from dead human bodies.	651. Trafficking in Federal order stamps.
643. Repealed 1937.	652. Repealed 1933.
644. Habitual criminals.	652. Reward offer for "dead" or "dead or alive" forbidden.
645. Carnal abuse, additional penalty.	653b. Repealed 1929.
646. Repealed 1937.	653c. Repealed 1937.
647. Vagrants enumerated. Punishment.	653c-1. Repealed 1937.
647a. Annoying children or loitering where school children attend.	653d. Repealed 1937.
648. Issuing or circulating paper money.	653e. Repealed 1937.
	653f. Soliciting commission of a crime. Punishment. Proof.
	653g. Repealed 1937.
	653h. Dictograph. Installation of.
	653½. Appraisers of estates not to accept fee or reward.

638. Neglect or postponement of telegraphic or telephonic messages. Every agent, operator, or employe of any telegraph or telephone office, who willfully refuses or neglects to send any message received at such office for transmission, or willfully postpones the same out of its order, or willfully refuses or neglects to deliver any message received by telegraph or telephone, is guilty of a misdemeanor. Nothing herein contained must be construed to require any message to be received, transmitted, or delivered, unless the charges thereon have been paid or tendered, nor to require the sending, receiving, or delivery of any message counseling, aiding, abetting, or encouraging treason against the government of the United States or of this state or other resistance to the lawful authority, or any message calculated to further any fraudulent plan or purpose, or to instigate or encourage the perpetration of any unlawful act, or to facilitate the escape of any criminal or person accused of crime.—1905:690.

§638. Leg. Hist.: A.1905:690.  
(See Civ. Code §2161.)

References: Tel. & Tel.: McK.Dig. §4. Cal.Pac.D. §79. C.J. §§134, 376.  
24 Cal.Jur. §33. 52 Am.Jur. 96, 172.

639. Employe using information contained in telegraphic or telephonic messages. Every agent, operator, or employe of any telegraph or telephone office, who in any way uses or appropriates any information derived by him from any private message passing through his hands, and addressed to any other person, or in any other manner acquired by him by reason of his trust as such agent, operator, or employe, or trades or speculates upon any such information so obtained, or in any manner turns, or attempts to turn, the same to his own account, profit, or advantage, is punishable by imprisonment in the state prison not exceeding five years, or by imprisonment in the county jail not exceeding one year, or by fine not exceeding five thousand dollars, or by both such fine and imprisonment.—1905:690.

§639. Leg. Hist.: A.1905:690.  
See ante, §619.

References: Tel. & Tel.: McK.Dig. §4. Cal.Pac.D. §§40, 79. C.J. §§149, 377.  
24 Cal.Jur. §34. 52 Am.Jur. 96.

**640. Fraudulent connection with telegraph, etc., wires. Penalty.**

Every person who, by means of any machine, instrument, or contrivance, or in any other manner, willfully and fraudulently, or clandestinely taps, or makes any unauthorized connection with any telegraph or telephone wire, line, cable, or instrument under the control of any telegraph or telephone company; or who willfully and fraudulently, or clandestinely, or in any unauthorized manner, reads, or attempts to read, or to learn the contents or meaning of any message, report, or communication while the same is in transit or passing over any telegraph or telephone wire, line, or cable, or is being sent from, or received at any place within this state; or who uses, or attempts to use, in any manner, or for any purpose, or to communicate in any way, any information so obtained; or who aids, agrees with, employs, or conspires with any person or persons to unlawfully do, or permit, or cause to be done any of the acts or things hereinabove mentioned, is punishable as provided in section 639.—1915:210.

§640. **Leg. Hist.:** A.1905:691; 1915:210.

**References:** Tel. & Tel.: McK.Dig. §4. Cal.Pac.D. §79. C.J. §§147, 377.

24 Cal.Jur. §33. 52 Am.Jur. 96.

**640a. Misuse of slot machines, etc. 1.** Any person who shall knowingly and willfully operate, or cause to be operated, or who shall attempt to operate, or attempt to cause to be operated, any automatic vending machine, slot machine, coin-box telephone or other receptacle designed to receive lawful coin of the United States of America in connection with the sale, use or enjoyment of property or service, by means of a slug or any false, counterfeited, mutilated, sweated or foreign coin, or by any means, method, trick or device whatsoever not lawfully authorized by the owner, lessee or licensee of such machine, coin-box telephone or receptacle, or who shall take, obtain or receive from or in connection with any automatic vending machine, slot machine, coin-box telephone or other receptacle designed to receive lawful coin of the United States of America in connection with the sale, use or enjoyment of property or service, any goods, wares, merchandise, gas, electric current, article of value, or the use or enjoyment of any telephone or telegraph facilities or service, or of any musical instrument, phonograph or other property, without depositing in and surrendering to such machine, coin-box telephone or receptacle lawful coin of the United States of America to the amount required therefor by the owner, lessee or licensee of such machine, coin-box telephone or receptacle, shall be guilty of a misdemeanor.

**2.** Any person who, with intent to cheat or defraud the owner, lessee, licensee or other person entitled to the contents of any automatic vending machine, slot machine, coin-box telephone or other receptacle, depository or contrivance designed to receive lawful coin of the United States of America in connection with the sale, use or enjoyment of property or service, or who, knowing or having cause to believe that the same is intended for unlawful use, shall manufacture for sale, or sell or give away any slug, device or substance whatsoever intended or calculated to be placed or deposited in any such automatic vending machine, slot machine, coin-box telephone or other such receptacle, depository or contrivance, shall be guilty of a misdemeanor.

§640a. **Leg. Hist.:** En.1925:484.

**References:** Larceny: McK.Dig. §16. Cal.Pac.D. §14. C.J. §57.

32 Am.Jur. 877.

**641. Bribing telegraph or telephone operator.** Every person who, by the payment or promise of any bribe, inducement, or reward, procures or attempts to procure any telegraph or telephone agent, operator, or employe to disclose any private message, or the contents, purport, substance, or meaning thereof, or offers to any such agent, operator, or employe any bribe, compensation, or reward for the disclosure of any private information received by him by reason of his trust as such agent, operator, or employe, or uses or attempts to use any such information so obtained, is punishable as provided in section 639.—1905:691.

§641. **Leg. Hist.:** A.1905:691.

**References:** Bribery: McK.Dig. §§2-5. Cal.Pac.D. §2. C.J. §§2, 5-9.

Tel. & Tel.: 24 Cal.Jur. §34. 52 Am.Jur. 134.

**642. Removing and appropriating articles of value from dead human bodies.**

Every person who wilfully and maliciously removes and keeps possession of and appropriates for his own use articles of value from a dead human body, the theft of which articles would be petty theft is guilty of a misdemeanor, or if the theft of the articles would be grand theft, a felony. This section shall not apply to articles removed at the request or direction of one of the persons enumerated in section 7111 of the Health and Safety Code.—1939; Chap. 691.

§642. Leg. Hist.: R.1937:1184; En.1939:2209.

**643. Violations of the provisions of the chapter relating to police regulations of San Francisco harbor. Repealed. Stats. 1937; Chap. 372. Superseded by Harbors and Navigation Code.**

**★ 644. Habitual criminals.**

(a) Every person convicted in this State of *the crime of robbery, burglary of the first degree, burglary with explosives, rape with force or violence, arson as defined in Section 447a of this code, murder, assault with intent to commit murder, train wrecking, felonious assault with a deadly weapon, extortion, kidnaping, escape from a State prison by use of force or dangerous or deadly weapons, rape or fornication or sodomy or carnal abuse of a child under the age of 12 years, conspiracy to commit any one or more of the aforementioned felonies*, who shall have been previously twice convicted upon charges separately brought and tried, and who shall have served separate terms therefor in any State prison and/or Federal penitentiary, either in this State or elsewhere, of the crime of robbery, burglary, burglary with explosives, rape with force or violence, arson, murder, assault with intent to commit murder, grand theft, bribery of a public official, perjury, subornation of perjury, train wrecking, feloniously receiving stolen goods, felonious assault with a deadly weapon, extortion, kidnaping, mayhem, escape from a State prison, rape or fornication or sodomy or carnal abuse of a child under the age of 12 years, conspiracy to commit any one or more of the aforementioned felonies, shall be adjudged an habitual criminal and shall be punished by imprisonment in the State prison for life;

(b) Every person convicted in this State of *the crime of robbery, burglary of the first degree, burglary with explosives, rape with force or violence, arson as defined in Section 447a of this code, murder, assault with intent to commit murder, train wrecking, felonious assault with a deadly weapon, extortion, kidnaping, escape from a State prison by use of force or dangerous or deadly weapons, rape or fornication or sodomy or carnal abuse of a child under the age of 12 years, conspiracy to commit any one or more of the aforementioned felonies*, who shall have been previously three times convicted, upon charges separately brought and tried, and who shall have served separate terms therefor in any State prison and/or Federal penitentiary, either in this State or elsewhere, of the crime of robbery, burglary, burglary with explosives, rape with force or violence, arson, murder, assault with intent to commit murder, grand theft, bribery of a public official, perjury, subornation of perjury, train wrecking, feloniously receiving stolen goods, felonious assault with a deadly weapon, extortion, kidnaping, mayhem, escape from a State prison, rape or fornication or sodomy or carnal abuse of a child under the age of 12 years, conspiracy to commit any one or more of the aforementioned felonies, or any of the aforementioned felonies, shall be adjudged an habitual criminal and shall be punished by imprisonment in the State prison for life;

(c) Provided, however, that in exceptional cases, at any time not later than 60 days after the actual commencement of imprisonment, the court may, in its discretion, provide that the defendant is not an habitual criminal, and in such case the defendant shall not be subject to the provisions of this section or of Sections 3047 and 3048 of this code;

(d) Nothing in this section shall abrogate or affect the punishment by death in any and all crimes now or hereafter punishable by death.

§644. **Leg. Hist.:** R.1911:71; En.1923:237; A.1927:1066; 1931:1052; 1935:1699; 1939:1443; 1941, ch.106; 1945, ch.934, §1.

See post, §§666-668.

Matter added by 1945 amendment is in italics.

The 1945 amendment deletes from this section the words "any felony" which occurred respectively in subdivisions (a) and (b) following the words "convicted in this State".

**References:** Crim. Law.: McK.Dig. §1459. Cal.Pac.D. §§1200, 1211, 1212. C.J. §§3150, 3184. C.J.S. §§1958-1973. 7 Cal.Jur. Vol. 8, §614.

645. **Carnal abuse**, additional penalty. Whenever any person shall be adjudged guilty of carnal abuse of a female person under the age of ten years, the court may, in addition to such other punishment or confinement as may be imposed, direct an operation to be performed upon such person, for the prevention of procreation.—1923:448.

§645. **Leg. Hist.:** R.1907:307; En.1923:448.

**References:** Crim. Law.: McK.Dig. §1476. Cal.Pac.D. §1213. C.J. §3198.

646. **Aiding apprentices to run away or harboring them.** Repealed. Stats. 1937; Chap. 90. See Labor Code, §3091.

★ 647. **Vagrants** enumerated. Punishment.

1. Every person (except a California Indian) without visible means of living who has the physical ability to work, and who does not seek employment, nor labor when employment is offered him; or,

2. Every beggar who solicits alms as a business, or,

3. Every person who roams about from place to place without any lawful business; or,

4. Every person known to be a pickpocket, thief, burglar or confidence operator, either by his own confession, or by his having been convicted of either of such offenses, and having no visible or lawful means of support, when found loitering around any steamboat landing, railroad depot, banking institution, broker's office, place of amusement, auction room, store, shop or crowded thoroughfare, car, or omnibus, or any public gathering or assembly; or,

5. Every idle, or **lewd, or dissolute** person, or associate of known thieves; or,

6. Every person who wanders about the streets at late or unusual hours of the night, without any visible or lawful business; or,

7. Every person who lodges in any barn, shed, shop, outhouse, vessel, or place other than such as is kept for lodging purposes, without the permission of the owner or party entitled to the possession thereof; or,

8. Every person who lives in and about houses of ill-fame; or,

9. Every person who acts as a runner or capper for attorneys in and about police courts or city prisons; or,

10. Every common prostitute; or,

11. Every common drunkard; or,

[12. Every person who loiters, prowls or wanders upon the private property of another, in the nighttime, without visible or lawful business with the owner or occupant thereof; or who while loitering, prowling or wandering upon the private property of another, in the nighttime, peeks in the door or window of any building or structure located thereon and which is inhabited by human beings, without visible or lawful business with the owner or occupant thereof;]

Is a vagrant, and is punishable by a fine of not exceeding five hundred dollars (\$500), or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

§647. **Leg. Hist.:** A.1891:130; 1903:96; 1911:508; 1929:78; 1931:696; 1939:3002; 1947, ch.989, §1.

Brackets indicate 1947 changes.

**References:** Vagrancy: McK.Dig. §§1-3. Cal.Pac.D. §§1-6. C.J. §§5-17.

25 Cal.Jur. §§1-7.

Prostitution: McK.Dig. §3. Cal.Pac.D. §§1, 2. C.J. §§4-9.

Lewdness: McK.Dig. §§1-3. Cal.Pac.D. §§1-3. C.J. §9. 55 Am.Jur. 445.

★ 647a. **Annoying children or loitering where school children attend.**

[(1) Every person who annoys or molests any child is a vagrant and is punishable upon first conviction by a fine of not exceeding five hundred dollars (\$500) or by imprisonment in the county jail for not exceeding six months or by both such fine and imprisonment and is punishable upon the second and each subsequent conviction by imprisonment in the state prison not exceeding five years.

(2) Every person who loiters about any school or public place at or near which school children attend, is a vagrant, and is punishable by a fine of not exceeding five hundred dollars (\$500) or by imprisonment in the county jail for not exceeding six months, or by both such fine and imprisonment.]

§647a. **Leg. Hist.:** En.1929:697; A.1947, ch.730, §1.

Section recast by 1947 amendment.

**References:** Vagrancy: McK.Dig. §1. Cal.Pac.D. §§1-6. C.J. §17.  
25 Cal.Jur. §§1-7. 55 Am.Jur. 445.

648. **Issuing or circulating paper money.** Every person who makes, issues, or puts in circulation any bill, check, ticket, certificate, promissory note, or the paper of any bank, to circulate as money, except as authorized by the laws of the United States, for the first offense, is guilty of a misdemeanor, and for each and every subsequent offense, is guilty of felony.

§648. **Punishment:** See post, §§654, 666, 667, 668.

**References:** Counterfeiting: McK.Dig. §2. Cal.Pac.D. §8. C.J. §§10-20.  
C.J.S. §§1-3. 7 Cal.Jur. §§1-10.

648a. **Slugs resembling coins of United States. Definitions. Exceptions.**

Every person who has in his possession for any illegal purpose or who makes, sells, issues, or puts in circulation any slug or token of the size and shape, or of a size and shape such that the radius, the diameter and the thickness thereof are each within six one-hundredths of an inch of that of any coin of the United States of America is guilty of a misdemeanor. The term "slug" and the term "token," as used herein, mean any piece of metal or other material not a coin of the United States or a foreign country. However, tokens sold by and accepted as fares by electric railways and lettered checks having a returnable trade value shall not be subject to the provisions of this act.—1931:2513.

§648a. **Leg. Hist.:** En.1931:2513.

**References:** Counterfeiting: McK.Dig. §2. Cal.Pac.D. §§1, 5. C.J. §§10, 15.  
C.J.S. §6. 7 Cal.Jur. §§1-10.

649. **Officers of fire department issuing false certificates of exemption.** Repealed. Stats. 1939; Chap. 60. [Superseded by Health and Safety Code.]

650. **Sending letters threatening to expose another.** Every person who knowingly and willfully sends or delivers to another any letter or writing, whether subscribed or not, threatening to accuse him or another of a crime, or to expose or publish any of his failings or infirmities, is guilty of a misdemeanor.

§650. See ante, §§257, 523. See post, §660.

**References:** Threats: Cal.Pac.D. §1. C.J. §§3-32.  
Extortion: McK.Dig. §§11-13.

650a. **Exposure of paroled prisoners prohibited.** Repealed. [Re-enacted as §3058. Stats. 1941; Chap. 106.]

650½. **Penalty for injuring person or property of another.** A person who willfully and wrongfully commits any act which seriously injures the person or property of another, or which seriously disturbs or endangers the public peace or health, or which openly outrages public decency, or who willfully and wrongfully in any manner, verbal or written, uses another's name for accomplishing lewd or licentious purposes, whether such purposes are accomplished or not, or who willfully and wrongfully uses another's name in any manner that will affect, or have a tendency to affect the moral reputation of the person whose name is used, generally, or in the estimation of the person or

persons to whom it is so used, or who with intent of accomplishing any lewd or licentious purpose, whether such purpose is accomplished or not, personifies any person other than himself, or who causes or procures any other person or persons to identify him, or to give assurance that he is any other person than himself to aid or assist him to accomplish any lewd or licentious purpose, for which no other punishment is expressly prescribed by this code, is guilty of a misdemeanor.—1921:74.

§650½. **Leg. Hist.:** En.1903:235; R.1921:74; En.1921:74.

**References:** Civil Rights: McK.Dig. §5. Cal.Pac.D. §15. C.J. §4.  
Privacy: McK.Dig. §1. 5 Cal.Jur. §§1-6. 22 Am.Jur. 448.

**651. Trafficking in Federal order stamps.** It is a misdemeanor for any person to buy, receive, sell, give away, dispose of, exchange or barter any Federal order stamps except for the foods or cotton goods for which they are issued.

This section does not apply to any person buying, receiving, selling, giving away, disposing of, exchanging or bartering any Federal order stamps subsequent to the redemption of such stamps in the manner provided by State or Federal law for the foods or cotton goods for which they are issued.

As used in this section, Federal order stamps refers to stamps issued by the United States Department of Agriculture or its duly authorized agent for food and surplus food or cotton and surplus cotton.

§651. **Leg. Hist.:** En.1941, ch.682.

**652. Officer or member of National Guard failing to attend parade, obey orders, or discharge duty.** Repealed. Stats. 1933, p. 2543. See Military Code, §164.

★ **652. Reward offer for "dead" or "dead or alive" forbidden.** It is unlawful to offer a reward which has, either as its sole object or as one of its objects, the apprehension or capture of a person either "dead," or, in the alternative, "dead or alive." Any person who violates this section is guilty of a misdemeanor.

§652. **Leg. Hist.:** En.1945:36.

**653b. Abuse of school teachers.** Repealed. Stats. 1929, p. 303. See School Code, §5.548.

**653c. Hours of labor on public works.** Report on emergency work. Record of employees and subcontractors. Stipulation for forfeiture. Collection of forfeiture. Penalties. Scope of section. Repealed. Stats. 1937; Chap. 90. Superseded by Labor Code, §§1810-1816.

**653c-1. Hours of labor on public work.** Repealed. Stats. 1937; Chap. 90. Superseded by Labor Code.

**653d. Retaining wages of employees.** Repealed. Stats. 1937; Chap. 90. Superseded by Labor Code, §1778.

**653e. Blacklisting of former employees prohibited. Fingerprints or photographs. Offense and penalty. Employer may furnish truthful statement. Civil action by aggrieved person.** Repealed. Stats. 1937; Chap. 90. Superseded by Labor Code, §§1050-1054.

**653f. Soliciting commission of a crime. Punishment. Proof.** Every person who solicits another to offer or accept or join in the offer or acceptance of a bribe, or to commit or join in the commission of murder, robbery, burglary, grand theft, receiving stolen property, extortion, rape by force and violence, perjury, subornation of perjury, forgery, or kidnaping, is punishable by imprisonment in the county jail not longer than one year or in the state prison not longer than five years, or by fine of not more than five thousand dollars. Such offense must be proved by the testimony of two witnesses, or of one witness and corroborating circumstances.—1929:612.

§653f. **Leg. Hist.:** En.1929:612.

**References:** Crim. Law: McK.Dig. §§50, 56. Cal.Pac.D. §§45, 63. C.J. §97.  
C.J.S. §§73-78.

653g. Employment on public work. Fee prohibited. Repealed. Stats. 1937; Chap. 90. Superseded by Labor Code.

653h. Dictograph. Installation of. Any person who, without consent of the owner, lessee, or occupant, installs or attempts to install or use a dictograph in any house, room, apartment, tenement, office, shop, warehouse, store, mill, barn, stable, or other building, tent, vessel, railroad car, vehicle, mine or any underground portion thereof, is guilty of a misdemeanor; provided, that nothing herein shall prevent the use and installation of dictographs by a regular salaried peace officer expressly authorized thereto by the head of his office or department or by a district attorney, when such use and installation are necessary in the performance of their duties in detecting crime and in the apprehension of criminals.

§653h. Leg. Hist.: En.1941, ch.525.

653j. Appraisers of estates not to accept fee or reward. Any appraiser, appointed by virtue of section 1444 of the Code of Civil Procedure, who shall accept any fees, reward, or compensation other than that provided for by law, from any executor, administrator, trustee, legatee, next of kin or heir of any decedent, or from any other person, is guilty of a misdemeanor.—1899:35.

§653j. Leg. Hist.: En.1899:35.

References: Executors and Ad.: Cal.Pac.D. §62. C.J. §§380-382.  
Extortion: McK.Dig. §2. Cal.Pac.D. §§2-10. C.J. §§2-17.  
Decedents' Estates: McK.Dig. §283.

## TITLE XVI.

### GENERAL PROVISIONS.

Section	Section
654. Acts made punishable by different provisions of this code.	664. Penalties for attempts. Offense punishable by more than five years in state prison. Offense punishable by less than five years in state prison. Offense punishable by fine. Offense punishable by imprisonment and fine.
654a. False advertising prohibited. Repealed 1941.	665. Restrictions upon the preceding sections.
654b. False advertisements concerning real estate a misdemeanor. Repealed 1941.	666. Petit larceny and petit theft. Second offenses, punishable in state prison, five years or more. Offenses punishable in state prison, five years or less. Petit theft. County jail sentence.
654c. Advertising sale of second-hand merchandise. Penalty. Repealed 1941.	667. Second offenses, petty theft.
654.1. Sale of transportation, etc., by uncertificated highway carrier unlawful.	668. Foreign conviction of former offense.
654.2. Same. Exceptions.	669. Second term of imprisonment. When to commence.
654.3. Same. Punishment. Subsequent convictions.	670. When term of imprisonment commences, etc. Repealed 1941.
655. Acts punishable under foreign law.	671. Imprisonment for life.
656. Foreign conviction or acquittal.	672. Fine may be added to imprisonment.
657. Contempts, how punishable.	673. Suspension of civil rights. Civil rights of paroled prisoner. Record of order. Repealed 1941.
658. Mitigation of punishment in certain cases.	
659. Aiding in misdemeanor.	
660. Sending letters, when deemed complete.	
661. Removal from office for violation or neglect of official duty by public officers.	
662. Omission to perform duty, when punishable.	
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