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CRIMINAL STATUTES ON BIRTH CONTROL

J. C. RUPPENTHAL¹

In the United States, laws relating to birth control seem to have been developed since about 1870. Congress, the legislatures of nineteen states and Porto Rico, and the commission of the Canal Zone, have enacted statutes that clearly and definitely refer to the prevention of conception in women as a practice to be declared a crime by such laws. In Canada, at least Ontario has such a law. Twenty-two more states of the Union, and also Hawaii have statutes which the courts, with liberality of construction or strictness, hold to apply or not apply criminally to the matter of birth control, at least through prevention of conception, or "contraception." The District of Columbia, and the states of Rhode Island and Florida have kindred enactments, relating in the states to causing miscarriage of a pregnant woman, and in the District to abortion. Four states, Georgia, New Hampshire, New Mexico, and North Carolina, and also Alaska, appear to have no legislation that either certainly or possibly may be held to apply to birth control. All the forty-nine sets of enactments referred to, are found in the statute books under "obscenity" and "offenses against morals," as headings. In most cases the phraseology relating to contraception is found embedded among many clauses relating to pornographic or non-mailable matter, to indecent and immoral printing, writing, painting and the like. Colorado, Indiana and Wyoming mention "self-pollution," and Massachusetts names "self-abuse" along with abortion and prevention of conception.

Clear and definite laws on contraception are found on the statute books of the states of Arizona, California, Colorado, Connecticut, Idaho, Indiana, Iowa, Kansas, Massachusetts, Minnesota, Montana, New Jersey, New York, North Dakota, Ohio, Oklahoma, Washington and Wyoming—eighteen—as well as Porto Rico, Ontario, the Canal Zone and the United States. The federal laws are quite full in expression, and perhaps served as model for most of the states.

If a court regards written matter relating to contraception or means to accomplish this, as "obscene, vulgar and indecent," then laws

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apply also in the states of Alabama, Arkansas, Delaware, Hawaii, Illinois, Kentucky, Louisiana, Maine, Maryland, Michigan, Mississippi, Missouri, Nebraska, Pennsylvania, Nevada, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, West Virginia and Wisconsin—twenty-five in number. In some states a limitation is “if they manifest a tendency to corrupt the morals of youth,” or morals generally.

“Articles and instruments of immoral use or purpose” are denounced, but no specific purpose or object of such is set out, in the laws of Connecticut, Illinois, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Nebraska, Oregon, Pennsylvania, Rhode Island and Utah. In Maryland “obscene and indecent” books are mentioned, and “obscene” matters in South Carolina, with no more specific designation. In Ontario the law very widely includes the assertion or warranty of the offender, as the language is “any article intended or represented as a means of preventing conception or causing abortion.” To make prosecutions more easy, Idaho provides that the complaint need not set out any portion of the language alleged to have been unlawfully used. To aid in capture of contraband articles, instruments and literature or other things, search warrants or seizure, or both, are authorized in Arizona, California, Colorado, Idaho and Nevada.

Where advice or information as to abortion is forbidden, though some states, as Minnesota and New York, carefully discriminate against “unlawful abortion,” others, as Kansas and Iowa, say, “procuring abortion,” with no intimation that such could, in any case, be lawful. Kansas, however, in another statute—as to manslaughter of a woman pregnant or her child—excepts “when it shall be necessary to save the life of the mother,” and thus inferentially distinguishes acts as of two classes.

While some statutes are word for word alike in several states, most of them vary in scope. Among the forbidden acts, in connection with articles, instruments, books, papers, etc., are to “exhibit” (United States law and Colorado); “bring into the state” (Alabama); “import” (Hawaii); “buy,” “sell,” “lend,” “keep for sale,” “have in possession,” (Iowa); “have in possession with intent to sell,” “have possession with or without intent to sell” (Indiana); “advertise,” “distribute” (New York); “manufacture,” (Missouri, New York); “has possession with intent to utter or expose to view or to sell,” “for gratuitous distribution” (in Ohio, drug or nostrum; in Kansas, literature); “conveying notice, hint or reference to,” under “real or fictitious name” (Rhode

Island); "give information orally" (New York, Minnesota, Indiana); "write, compose, or publish" (notice or advertisement, in Arizona); "manifesting a tendency to the corruption of the morals of youth or of morals generally," (Hawaii); "cautions females against its use when in pregnancy" (Ohio); "drug or nostrum purporting to be exclusively for the use of females" (Ohio). To meet the ingenuity of evasive devices, New Jersey includes all persons "who shall in any manner, by recommendation against its use or otherwise give or cause to be given, or aid in giving any information, how or where any of the (literature, instruments, medicines, etc.) may be had or seen or bought or sold." Whatever is prohibited directly to anyone is usually expanded in terms to include aiding in any way toward the forbidden end.

A few exceptions from the sweeping provisions are incorporated. In Ontario the offense must be "knowingly, without lawful excuse or justification;" in New Jersey, "without just cause." In some states the law provides that it "shall not be construed to affect teaching in medical colleges" (Colorado, Indiana, Ohio); "nor standard medical books" (Colorado, Indiana, Kansas, Ohio); "nor the practice of regular practitioners of medicine and druggists (Colorado) in their legitimate business" (Ohio); "nor works of scientific character, or on anatomy, surgery or obstetrics" (Kentucky); "article or instrument used or applied by physicians is not . . . indecent." In Connecticut possession of the things forbidden is unlawful "unless with intent to aid in their suppression or in enforcing the provisions" of the law.

Almost everything denounced under any of these laws is non-mailable under the laws of the United States, Colorado, Illinois, Indiana, Iowa, Missouri, Nebraska, Ohio, and New York. Delivery of such to express or railroad companies is forbidden by the United States, Illinois, Indiana and New York. Besides forbidding the deposit of such matters in the mails, Colorado adds "or with any person."

From the foregoing it may be seen that no general principle runs through the statutes of all the states, etc. As with laws everywhere that impinge upon sex matters in any way, there is more of tabu and superstition in the choice and chance, the selection and caprice, the inclusions and exclusions of these several enactments than any clear, broad, well-defined principle or purpose underlying them. Without such principle, well-defined and generally accepted, the various laws must remain largely haphazard and capricious.

ABSTRACT OF THE CRIMINAL LAWS OF THE UNITED STATES,
THE SEVERAL STATES THEREOF, AND CANADA,
RELATING TO BIRTH CONTROL

UNITED STATES. Every obscene, lewd, or lascivious, and every filthy book, pamphlet, picture, paper, letter, writing, print, or other publication of an indecent character, and every article or thing designed, adapted, or intended for preventing conception or producing abortion, or for any indecent or immoral use and every article, instrument, substance, drug, medicine, or thing which is advertised or described in a manner calculated to lead another to use or apply it for preventing conception or producing abortion, or for any indecent or immoral purpose and every written or printed card, letter, circular, book, pamphlet, advertisement, or notice of any kind giving information directly or indirectly, where, or how, or from whom, or by what means any of the hereinbefore-mentioned matters, articles, or things may be obtained or made, or where or by whom any act or operation of any kind for the procuring or producing of abortion will be done or performed, or how or by what means conception may be prevented or abortion produced, whether sealed or unsealed; and every letter, packet, or package, or other mail matter containing any filthy, vile, or indecent thing, device, or substance; and every paper, writing, advertisement, or representation that any article, instrument, substance, drug, medicine, or thing may, or can be, used or applied for preventing conception or producing abortion, or for any indecent or immoral purpose; and every description calculated to induce or incite a person to so use or apply any such articles, instrument, substance, drug, medicine, or thing, is hereby declared to be nonmailable matter and shall not be conveyed in the mails or delivered from any postoffice or by any letter carrier. Whoever shall knowingly deposit, or cause to be deposited for mailing or delivery, anything declared by this section to be nonmailable, or shall knowingly take, or cause the same to be taken, from the mails for the purpose of circulating or disposing thereof, or of aiding in the circulation or disposition thereof, shall be fined not more than \$5,000, or imprisoned not more than five years, or both.—Act of Congress, March 4, 1909, sec. 211; 35 Statutes at Large, p. 1129; Criminal Code of the United States.

Whoever shall sell, lend, give away, or in any manner exhibit, or offer to sell, lend, give away, or in any manner exhibit, or shall otherwise publish or offer to publish in any manner, or shall have in his possession for any such purpose, any obscene book, pamphlet, paper, writing, advertisement, circular, print, picture, drawing, or other representation, figure, or image on or of paper or other material, or any cast, instrument, or other article of an immoral nature, or any drug or medicine, or any article* whatever, for the prevention of conception, or for causing unlawful abortion, or shall advertise the same for sale, or shall write or print, or cause to be written or printed, any card, circular, book, pamphlet, advertisement, or notice of any kind, stating when, where, how, or of whom, or by what means, any of the articles above-mentioned can be purchased or obtained,

*A similar statute of Colorado here has "instrument" also.

or shall manufacture, draw, or print, or in anywise make any of such articles, shall be fined not more than \$2,000 or imprisoned not more than five years, or both. *Ib.*, sec. 312, p. 1149.

Whoever shall bring or cause to be brought into the United States or any place subject to the jurisdiction thereof, from any foreign country, or shall therein knowingly deposit or cause to be deposited with any express company or other common carrier, for carriage from one state, territory, or district of the United States, or place non-contiguous to, but subject to the jurisdiction thereof, to any other state, territory, or district of the United States, or place non-contiguous to, but subject to the jurisdiction thereof, or from any place in or subject to the jurisdiction of the United States through a foreign country to any place in or subject to the jurisdiction thereof, or from any place in or subject to the jurisdiction of the United States to a foreign country, any obscene, lewd, or lascivious, or any filthy book, pamphlet, picture, paper, letter, writing, print, or other matter of indecent character, or any drug, medicine, article, or thing designed, adapted, or intended for preventing conception, or producing abortion, or for any indecent or immoral use, or any written or printed card, letter, circular, book, pamphlet, advertisement, or notice of any kind giving information, directly or indirectly, where, how, or of whom, or by what means any of the hereinbefore-mentioned articles, matters or things may be obtained or made; or whoever shall knowingly take or cause to be taken from such express company or other common carrier any matter or thing the depositing of which for carriage is herein made unlawful, shall be fined not more than \$5,000, or imprisoned not more than five years, or both. *Ib.*, 245, p. 1138.

ALABAMA. "Any person who brings or causes to be brought into this state, for sale, or advertises, or prints, or sells, or offers to sell, or receives subscriptions for any indecent or obscene book, pamphlet, print, picture, or paper, must, on conviction be fined" (\$50 to \$1,000).—Act of December 3, 1884; Section 7428, Code of 1907, Alabama.

ALASKA. (Alaska does not seem to have any laws upon the subject of Birth Control, or that can be construed as such.)

ARIZONA. Every person who writes, composes, prints, publishes, sells, distributes, or keeps for sale, gives or loans to any person, or exhibits any obscene or indecent writing, paper, or book, etc., or writes, composes, or publishes any notice or advertisement of any such . . . is guilty of a misdemeanor . . . (such) may be seized and destroyed.—Section 313, Revised Statutes of Arizona of 1913.

Every person who wilfully writes, composes,* or publishes any notice or advertisement, or any medicine or means for producing or facilitating miscarriage or abortion, or for the prevention of conception, or who offers his services by any notice, advertisement or otherwise, to assist in the accomplishment of any such purpose is guilty of a misdemeanor.—Sec. 318, Rev. Stat. Arizona, 1913. *Cp.*, California, § 317; Montana, § 8399.

ARKANSAS. The sale, circulation, or attempted circulation, etc., of obscene, vulgar and indecent papers, books and periodicals, in which are

*Idaho, in a similar statute, omits "writes, composes."

illustrated any indecent or vulgar pictures, is forbidden.—Sec. 2099, Kirby's Digest of Statutes of Arkansas, 1916.

Every person publicly exhibiting any obscene or indecent picture or figures shall be deemed guilty of misdemeanor.—Sec. 2103, *ibid.*

CALIFORNIA. Penal Code of California, 1915, section 311, is similar to Arizona, § 313, and was enacted February 14, 1872. The act was amended by "Code Amendments, 1873-4" by omitting "or any notice or advertisement for producing or facilitating miscarriage."

Sec. 317, Code Amendments, 1873-4, is the same as § 318 of Arizona, except that violation of the act is made a felony.

CANAL ZONE. Penal Code 1904, sec. 213. Every person who wilfully writes, composes or publishes any notice or advertisement of any medicine, or means for producing or facilitating a miscarriage or abortion, or for the prevention of conception, or who offers his services by any notice, advertisement, or otherwise, to assist in the accomplishment of any such purpose is guilty of a felony.

Section 228 is similar to section 313 of Arizona, with a further summary provision in section 230, like section 373 of South Dakota.

COLORADO. Whoever exhibits, lends, gives away, sells or offers to . . . or in any manner publishes or offers to publish, or has in his possession for any such purpose, any obscene, lewd or indecent or lascivious book, pamphlet, circular, paper, drawing, print, picture, advertisement, writing, circular, or other representation, figure or image . . . for procuring abortion, or for self-pollution, or for preventing conception . . . (then follows language similar to U. S. Criminal Code, § 312, and a penalty of \$20 to \$2,000, or one month to one year prison, or both, and a further limitation that the law shall be) "not construed to affect teaching in regularly chartered medical colleges, or the publication and sale of standard medical books, or the practice of regular practitioners of medicine or druggists in their legitimate business."—Act of 1885, p. 172, section one; section 1778 Revised Statutes of Colorado, 1908.

Sec. 1779, *ib.*, makes it a crime to deposit in the mails or with any person any of the things denounced in sec. 1777.

Sec. 1780 authorizes search for such forbidden matter with a search warrant for authority, and the destruction of the material when found.

CONNECTICUT. Every person who shall buy, sell, advertise, give, lend, offer or show, or have in his possession with intent to sell, etc. . . . , containing obscene, indecent or impure language, or any picture, . . . of like character, or any article or instrument of indecent or immoral use or purpose, unless with intent to aid in their suppression or in enforcing the provisions hereof, etc. (punishable by sentence of not over two years, or fine up to \$1,000, or both).—General Statutes of Connecticut, 1902, section 1325; Gen. Stat., 1918, section 6397.

Every person who shall use any drug, medicinal article or instrument for the purpose of preventing conception, shall be fined not less than \$50, or imprisoned not less than 60 days nor more than one year, or both.—Gen. Stat., 1902, Connecticut, section 1327; Gen. Stat., 1918, section 6399.

DELAWARE. Whoever prints, etc., . . . a book, etc., . . . containing any obscene or indecent picture of any description tending to corrup-

tion of the morals of youth, is guilty of a misdemeanor. Sec. 2231 Rev. Statutes, Delaware, 1915.

DISTRICT OF COLUMBIA. Forbids "obscene books, pamphlets, etc., and "articles of indecent or immoral use . . . or any drug, etc., . . . intended to produce abortion." Sec. 872, Code of March 3, 1901, Dist. of Columbia.

FLORIDA. Whoever knowingly advertises, prints, publishes, distributes or circulates, books, papers, etc., . . . "for the purpose of causing or procuring the miscarriage of any woman pregnant with child," punishable in state prison up to one year, or fine to \$1,000. Sec. 3539 Compiled Laws of Fla., 1914.

Sec. 3540. Whoever imports, prints, publishes, sells, or distributes any book, pamphlet, ballad, printed paper or other thing containing obscene language, or any obscene prints, figures, pictures or descriptions manifestly tending to the corruption of the morals of youth, or introduces into any family, school or place of education, or buys, procures, receives or has in his possession any such book, pamphlet, ballad, printed paper or other thing, either for the purpose of sale, exhibition, loan, or circulation, or with the intent to introduce the same into any family, school or place of education, shall be punished by imprisonment in the state prison," etc.

GEORGIA. (Parks' Annotated Code of Georgia, 1914, seems to contain nothing relating to birth control, directly or indirectly.)

HAWAII. The importing, printing, publishing, selling, offering for sale, putting into circulation, distributing, lending, exhibiting publicly, or introducing into any family, school or place of education, any obscene picture, or pamphlet, sheet or other thing, containing obscene language, obscene prints, figures, descriptions, or representations, manifestly tending to the corruption of the morals of youth, or of morals generally; or buying, procuring, receiving or having in possession, any such picture, book, pamphlet, sheet, or other thing, with intent to sell, circulate, distribute, lend or exhibit the same, or to introduce the same into any family, school, or place of education, is a common nuisance. Section 4129, Revised Laws of Hawaii, 1915; Penal Code, 1869, ch. 36. Section 4130 provides for seizure of such things upon warrant.

IDAHO. Idaho Revised Codes of 1908, sec. 7695 (same in Rev. Stat., 1887), provides that in proceeding in court against this class of offenses, the complaint "need not set forth any portion of the language," etc.

Idaho Rev. Code, sec. 6840, of 1908 (same as R. S. 1887), is the same as California Penal Code of 1872, and Arizona Code, except that clause 4, after "or," omits the provision about miscarriage.

Idaho Code, 1908, sec. 6841, provides how officials "may seize any obscene or indecent writing, paper, book, picture, print, or figure, found in the possession of, or under the control of a person so arrested (for violation of the preceding section), and to deliver same to the magistrate before whom the person so arrested is taken."

Idaho Code, 1908, sec. 6843, is like R. S. Arizona, sec. 318.

ILLINOIS. Forbids to "bring in or sell, etc., any book, pamphlet, etc., . . . instrument, or article of indecent or immoral use . . . or (states) where such indecent or obscene articles and things may be pur-

chased or otherwise obtained or (to) manufacture . . . any such articles."—Illinois Statutes Annotated, 1913, sec. 3861.

Sec. 3862, *ibid.*, forbids to "deposit (such) in postoffice or in express office or with a common carrier or other person."

INDIANA. Whoever sells or lends, or offers to sell or lend, or gives away, or offers to give away, or in any manner exhibits, or has in his possession with or without intent to sell, lend or give away, any obscene, lewd, indecent or lascivious book, pamphlet, paper, drawing, lithograph, engraving, picture, daguerreotype, photo, stereoscopic picture, model, cast, instrument or article of indecent or immoral use, or instrument or article for procuring abortion, or for self-pollution, or medicine for procuring abortion or preventing conception, or advertising the same, or any of them for sale, or writes or prints any letter, circular, handbill, card, book, pamphlet, advertisement, or notice of any kind, or gives information orally, stating when, how, where, or by what means or of whom any of the obscene, lewd, indecent or lascivious articles or things hereinbefore mentioned can be purchased, borrowed, presented, or otherwise obtained, or are manufactured; or whoever manufactures, draws, prints," etc. (such things), shall be fined \$10 to \$5,000, and may be further imprisoned ten days to six months, "but this shall not affect teaching in regularly chartered medical colleges," etc.—Burns' Annotated Indiana Statutes, 1914, section 2359.

Sec. 2360, *ibid.*, forbids depositing any of the things denounced in section 2359, in postoffice or express office, or in charge of any person or corporation to be carried or conveyed.

Sec. 2362 is the same as sec. 13034 of Ohio.

IOWA. "Whoever sells, or offers to sell, or gives away, or has in his possession with intent to sell or give away any obscene, lewd book, etc., or any instrument or article of indecent or immoral use, or any medicine or thing designed or intended for procuring abortion or preventing conception, or advertising the same" . . . shall be fined \$50 to \$1,000, or sentenced to jail not over one year, or both fine and jail.—Code of Iowa, 1897, sec. 4952, being act 21 General Assembly, ch. 177, sec. 1, amended by ch. 170 of 34 G. A. 1911.

Sec. 4953, Code Iowa, forbids depositing such things in the postoffice, or in charge of any one to be carried or conveyed, as are forbidden in the preceding section, 4952.

KANSAS. "If any publisher or other person shall, by printing, writing, or in any other way, publish, or cause to be published, or expose to sale any obscene pictures; an account, advertisement or description of any drug, medicine, instrument or apparatus used or recommended to be used, for the purpose of preventing conception, or procuring abortion or miscarriage; or shall by writing or printing in any circular, newspaper, pamphlet, or book, or in any way, publish or circulate any advertisement or obscene notice herein recited; or shall within the state of Kansas keep for sale or for gratuitous distribution any newspaper, circular, book or pamphlet containing such notice, or advertisement of such drugs, medicines, instrument or apparatus; or shall keep for sale any secret nostrum, drug, medicine, instrument or apparatus named; . . . such publisher or other person

. . . shall be fined \$50 to \$1,000 or 30 days to six months in jail, or both. Provided, That nothing in this act shall be so construed as to prevent the publication and sale of standard medical works.—General Statutes of Kansas, 1915, sec. 3676, being laws of 1874, chapter 89, section one.

“Every person or persons who shall bring or cause to be brought into the state, or shall buy, sell, or cause to be sold, or shall advertise, lend, give away, offer, show, exhibit, or have in his possession, with the intent to sell, lend, give away, offer, show, exhibit, distribute, or cause to be distributed, or shall design, copy, draw, photograph, print, etch, or engrave, cut, carve, make, publish, or otherwise prepare or assist in preparing, or shall receive subscriptions for any indecent or obscene book, pamphlet, paper, picture, print, drawing, figure, image, or other engraved, printed or written matter, or any article or instrument of immoral use, or any book, pamphlet, magazine, or paper devoted principally or wholly to the publication of criminal news or pictures, or stories of deeds of bloodshed or crime, shall be guilty of a misdemeanor . . . (penalty, \$5 to 300, or not over 30 days in jail, or both).—Sec. 3677 Gen. Stat., 1915, being chapter 101, section 1, laws of 1886.

KENTUCKY. Section 1352 of Carroll's Kentucky Statutes, 1915, forbids the sale, etc., . . . of any immoral or obscene book, etc., . . . “or any article or instrument of indecent or immoral use” . . . (No allusion is made to the purpose of such article or instrument.—Act of Jan. 27, 1894.

Sec. 1355 provides that the preceding sections do not apply to works of a scientific character, or on anatomy, surgery and obstetrics, or other scientific publications, nor prevent issuing and selling such books.

LOUISIANA. If any person shall bring or cause to be brought into this state, for sale or exhibition or shall sell or offer to sell, or shall give away or offer to give away, or, having possession thereof, shall knowingly exhibit to another, any indecent pictorial newspaper, tending to debauch the morals, or any indecent or obscene book, pamphlet, paper, drawing, lithograph, engraving, daguerreotype, photograph, picture, or any model, cast, instrument or article of indecent and obscene use, or shall advertise any of said articles or things for sale, by any form of notice, printed, written, or verbal, or shall manufacture, draw or print any of said articles, with intent to sell or expose, or to circulate the same, such person so offending shall be guilty of a misdemeanor. Revised Statutes of Louisiana, 1915, Marr's annot., vol. 1, sec. 2088; Laws, 1884, p. 148, act 111.

MAINE. Revised Statutes of Maine, 1916, chapter 126, section 23, forbids publications tending to corruption of the morals of youth. The same as Florida, sec. 3540. Section 24 authorizes seizure of such when an arrest is made.

MASSACHUSETTS. Chapter 212, section 20, Revised Statutes of Massachusetts, 1902, penalizes “whoever imports, prints, etc., . . . any book, paper, pamphlet, etc., . . . tending to corrupt the morals of youth.” The same as Florida, sec. 3540.

Chap. 212, sec. 26, penalizes “whoever sells, lends, gives away, exhibits or offers to sell, lend or give away an instrument or other article intended to be used for self-abuse, or any drug for self-abuse, or any drug, medi-

cine, instrument or article whatever for prevention of conception, or for causing unlawful abortion, or advertises the same, or writes, prints, or causes to be written or printed a card, circular, book, pamphlet, advertisement or notice of any kind stating when, where, how, of whom or by what means such article can be purchased or obtained, or manufactures or makes any such article, shall be punished by imprisonment in the state prison," etc.

MARYLAND. Public General Laws of Maryland, 1914, Bagby, vol. 3, article 27, sec. 372, forbids to "bring into the state, sell, lend, etc., . . . obscene or indecent books, etc., or any article or instrument of indecent or immoral use, or shall design . . . or prepare such . . . article, or shall (give) written information or orally, stating when, where, how, or of whom, or by what means such a lewd, indecent, or obscene article or thing can be purchased, seen, or obtained, shall be guilty of a misdemeanor . . . ; provided that this section shall not apply to any person committing the acts thereby prohibited with intent to prevent violations of this subtitle, or to procure the punishment of offenses against the same. (No specific purpose is mentioned.)

MICHIGAN. Howell's Michigan Statutes, 1913, chapter 406, section 14785, prohibits anyone to "import, print, etc. (matter), tending to corrupt the morals of youth." The same as Florida, sec. 3540.

Section 14786 authorizes a search warrant to seek such. Section 14787 refers to "prints, articles, instruments," etc., but no specific purpose thereof is denounced.

MINNESOTA. Section 8705, General Statutes, Minnesota, 1913, is the same as California, section 311.

Sec. 8706 makes it a crime to "sell, lend, . . . etc., have in possession to sell, advertise to sell, or distribute, any instrument or article, or any drug or medicine for the prevention of conception or for causing unlawful abortion, . . ." or to give oral information where such can be obtained or who manufactures such articles, etc.

MISSISSIPPI. Hemingway's Annotated Code of Mississippi of 1917, section 1025, forbids persons to sell, lend, etc., articles, etc., of indecent or obscene use, but names no specific purpose of such articles, etc.

Section 1026 is the same as Section 8706 of Minnesota.

MISSOURI. Revised Statutes of Missouri, 1909, section 4737, forbids anyone to manufacture, print, publish, buy, sell, etc., indecent or immoral articles, etc. (but names no specific purpose of such articles).

Section 4738 penalizes the deposit of any such forbidden things in the postoffice, or placing them in charge of any person to be carried or conveyed.

MONTANA. Section 8399 of the Revised Statutes of Montana, 1907, is the same as Arizona, § 318, and California, § 317.

NEBRASKA. Whoever sells, etc., things of obscene or immoral nature is punishable, but no special purpose of such articles is named.—Revised Statutes of Nebraska, 1913, sec. 8787. Sec. 8788 is the same as sec. 4738 of Missouri.

NEVADA. Revised Laws of Nevada, 1912, section 6461, is the same as section 313 of Arizona and section 311 of California.

Section 7069 provides that in prosecuting the exact language used by the defendant need not be set out in the complaint, etc.

NEW HAMPSHIRE. The Public Statutes of New Hampshire, 1901, Supplement of 1913 and Laws of 1915 and 1917, appear to contain nothing relating to birth control.

NEW JERSEY. "Any person who, without just cause, shall utter or expose to view of another, or have in his possession (with such intent) or to sell, any obscene or indecent book, pamphlet, etc., or any instrument, medicine, or other thing designed or purporting to be designed for the prevention of conception or the procuring of abortion, or shall in anywise advertise the same or in any manner by recommendation against its use or otherwise, give or cause to be given, or aid in giving any information, how or where any of the same may be had or seen or bought or sold, shall be guilty of a misdemeanor."—Compiled Statutes of New Jersey, 1910, vol. 2, p. 1762, sec. 53; P. L. 1898, p. 808.

NEW MEXICO. New Mexico Annotated Statutes, 1915, and Laws, 1917 and 1918, appear to contain no enactment relating to Birth Control, or kindred matters.

NEW YORK. Section 1141, of the Penal Law of New York, Laws of 1909, ch. 88, forbids anyone to sell, lend, etc., . . . anything immoral, etc., but names no especial purpose of such thing forbidden.

Section 1142, same statute of New York: "A person who sells, lends, gives away, or in any manner exhibits or offers to sell, lend or give away, or has in his possession with intent to sell, lend or give away, or advertises, or offers for sale, loan or distribution, any instrument or article, or any recipe, drug or medicine for the prevention of conception, or for causing unlawful abortion, or purporting to be for the prevention of conception, or for causing unlawful abortion, or advertises, or holds out representations that it can be so used or applied, or any such description as will be calculated to lead another to so use or apply any such article, recipe, drug, medicine or instrument, or who writes or prints, or causes to be written or printed a card, circular, pamphlet, advertisement or notice of any kind, or gives information orally, stating when, where, how, of whom or by what means such an instrument, article, recipe, drug or medicine can be purchased or obtained, or who manufactures any such instrument, article, recipe, drug or medicine, is guilty of a misdemeanor, and shall be liable to the same penalties," etc.

Sec. 1143 penalizes depositing any such thing, etc., in a post office, express office, or with a common carrier, or other person for transportation.

Sec. 1145. "An article or instrument, used or applied by physicians lawfully practising, or by their direction and prescription, for the cure or prevention of disease, is not an article of indecent or immoral nature or use within this article. The supplying of such articles to such physicians, or by their direction or prescription, is not an offense under this article.

NORTH CAROLINA. Pell's Revisal of North Carolina Statute Laws, 1908, Gregory's Supplement, 1913, and Laws, 1915 and 1917, appear to contain no law on matters like Birth Control.

NORTH DAKOTA. Section 9652, Compiled Laws North Dakota, 1913, similar to section 313 Arizona.

Section 9654 is the same as section 3677 of Kansas.

OHIO. "Whoever sells, gives away, or keeps for sale or gratuitous distribution, a secret drug or nostrum, purporting to be exclusively for the use of females, or for preventing conception, or procuring abortion or miscarriage, shall be fined" not over \$1,000, or sentenced to six months, etc.—Page & Adams Annotated Ohio General Code, 1912, section 13033.

Section 13034. Whoever prints or publishes an advertisement of a secret drug or nostrum purporting to be for the exclusive use of females, or which cautions females against its use when in a pregnant condition, or publishes an account or description of a drug, medicine, instrument or apparatus for preventing conception, or for procuring abortion or miscarriage, or keeps for sale or gratuitous distribution a newspaper, circular, pamphlet, or book containing such advertisement, account or description, shall be fined not more than \$1,000 or imprisoned not more than six months, or both.

Section 13035. Whoever sells, lends, gives away, exhibits, or offers to sell, etc., or has in his possession for such purpose, a . . . figure, image, cast, instrument, or article of an indecent or immoral nature, or a drug, medicine, article or thing intended for the prevention of conception or for causing an abortion, or advertises any of them for sale, or gives information, or manufactures such articles or things, . . . shall be fined . . .

Sec. 13036 makes it an offense to deposit any such matter in a post office, or in charge of a person to be carried or conveyed, etc.

Section 13036 makes it an offense to deposit in a postoffice or place in charge of any person, to be carried or conveyed, any such matter or things.

Sec. 13037. The next preceding three sections (secs. 13034-5-6) shall not affect teaching in regularly chartered medical colleges, the publication of standard medical books, or regular practitioners of medicine or druggists in their legitimate business.

OKLAHOMA. Section 2463, Revised Laws of Oklahoma, 1910, are substantially the same as those of Arizona, omitting a clause after "or," as to miscarriage. The prohibited matter or articles may be seized.

ONTARIO, CANADA. Every one is guilty of an indictable offense and liable to two years' imprisonment, who knowingly, without lawful excuse or justification, offers to sell, advertises, publishes an advertisement of, or has for sale or disposal any medicine, drug or article intended or represented as a means of preventing conception or causing abortion.

OREGON. Lord's Oregon Laws, 1910, section 2094, being Laws 1864, sec. 637, forbids importing, printing, etc., obscene or immoral articles, but does not state any object of such articles.

PENNSYLVANIA. If any person shall bring or cause to be brought into this state for sale or exhibition, or shall sell, lend, give away, or offer to give away or show, or have in his or her possession, with intent to sell or give away, or to exhibit, show, advertise, or otherwise offer, for loan, gift, sale or distribution, any obscene or indecent book, magazine, pamphlet, newspaper, story paper, writing, paper, picture, card, drawing or photograph,

or any article or instrument of indecent or immoral use. (The rest, and in fact the entire section substantially like section 372 of Maryland.) Purdon's Digest of Pennsylvania, 1905, sec. 366, vol. 1, p. 988; act of May 6, 1887.

PHILIPPINE ISLANDS. These insular possessions do not seem to have legislated on these matters.

PORTO RICO. Revised Statutes of Porto Rico, 1911-1913, section 5725, is the same as California laws on matter of birth control, omitting after "or . . .," as to miscarriage.

RHODE ISLAND. Chapter 347, section 13, page 1277, General Laws of Rhode Island, 1909, forbids importation, etc., of articles and things to corrupt the morals (but gives no particulars). The same as section 3540 of Florida.

Sec. 24, page 1279, "Every person who shall advertise, print, etc., book, paper, etc., containing words or language giving or conveying any notice, hint or references to any person, or to the real or fictitious name of any person, from whom, or to any place, house, shop or office, where anything whatsoever, or any instrument or means whatsoever, or any advice, direction, information or knowledge may be obtained for the purpose of causing or procuring the miscarriage of any pregnant woman, shall be imprisoned not exceeding three years.

SOUTH CAROLINA. South Carolina Code, 1912, criminal code, sec. 391, is substantially the same as section 3540 of Florida if the acts be done "knowingly."

SOUTH DAKOTA. Compiled Laws of South Dakota, 1913, vol. 2, p. 602, sec. 371, is similar to sec 313 of Arizona. Section 372 authorizes seizing the prohibited matter. Section 373 requires a summary determination by a magistrate whether or not to destroy the material seized.

TENNESSEE. Thompson's Shannon's Code of Tennessee, 1918, section 6770, is similar to Florida, section 3540.

TEXAS. Vernon's Criminal Statutes of Texas, 1916, Penal Code, article 508, forbids printing, etc., designed to corrupt the morals of youth.

UTAH. Compiled Laws of Utah, 1907, section 4247, penalizes one who writes, etc., . . . obscene, immoral, indecent, etc., but no special purpose of the articles, things or instruments condemned is named.

Sections 4248 and 4249 are the same as sections 372 and 373 of South Dakota.

VERMONT. General Laws of Vermont, 1917, section 7021, is substantially like section 3540 of Florida.

VIRGINIA. "If any person import, print, etc., . . . any book, etc., . . . tending to corrupt morals of youth," he shall be punished, etc. Virginia Code, 1904, Pollard, section 3791, same as Florida, section 3540.

WASHINGTON. Code, 1912, title 135, sec. 413, is similar to sec. 313 of Arizona. This section and the next are similar to Minnesota's laws.

Section 415. Every person who shall expose for sale, loan or distribution, any instrument or article, or any drug or medicine, for the prevention of conception, or for causing unlawful abortion, or shall write,

print, distribute, or exhibit any card, circular, pamphlet, advertisement, or notice of any kind, stating when, where, how, or of whom such article or medicine can be obtained, shall be guilty of a misdemeanor.

WEST VIRGINIA. West Virginia Code, 1916, page 1221, chapter 149, section 11, being ch. 123, Act of 1889; Hogg's Code, 1913, sec. 5316, is substantially the same as the Virginia law.

WISCONSIN. Section 4590, Wisconsin Statutes, 1917, is practically like the law of Florida, Virginia, etc.

WYOMING. "Whoever sells, or lends, etc., . . . any book or article, etc., . . . for self-pollution or abortion or medicine to procure abortion or prevent conception" shall be punished.—Wyoming Compiled Statutes, 1910, section 5911, being laws, 1890, chapter 73, section 81.

Section 5912, *ibid.*, penalizes the deposit of any such things for delivery, by others.