

included within the major charge. * * * This doctrine, however, has not favor in the decisions of the Supreme Court of this state."

To the same effect see *State vs. Billotto*, 104 O. S. 13; *State vs. Corwin*, 106 O. S. 638 and *Duwall vs. State*, 111 O. S. 657.

If the alleged act was committed forcibly and against the will of the prosecutrix the usual form of indictment contains two counts, in one of which the offense is charged to have been committed forcibly and against the will of the prosecutrix and in the other to have been done with her consent. With regard to an indictment so drawn the state need not elect upon which count of the indictment it will rely. To this effect see *State vs. Hensley*, 75 O. S. 255.

Answering your second question specifically it is my opinion that, if the facts warrant, indictments will lie in the case that you present charging the defendant with a violation of Sections 12413, 12414, 12423-1 and 13023, General Code. A conviction upon an indictment charging a violation of Section 12413, General Code, would preclude a prosecution upon an indictment charging a violation of Section 12414, and vice versa. Obviously, if the act was committed forcibly and against the will of the prosecutrix, it was not done with her consent. However, a conviction upon an indictment charging a violation of either Section 12413 or Section 12414, General Code, would not preclude a prosecution upon an indictment charging a violation of either Sections 12423-1 or 13023, General Code, or both, inasmuch as these several sections do not charge the "same offense" as those words are used in Article I, Section 10 of the Constitution of Ohio.

Respectfully,
EDWARD C. TURNER,
Attorney General.

1310.

DISAPPROVAL, ABSTRACT OF TITLE TO LAND IN THE VILLAGE OF
POINT PLEASANT, CLERMONT COUNTY, OHIO.

COLUMBUS, OHIO, November 29, 1927.

HON. GEORGE F. SCHLESINGER, *Director of Highways and Public Works, Columbus, Ohio.*

DEAR SIR:—Pursuant to an opinion of this department, bearing number 1155 and dated October 15, 1927, relative to certain real estate in the Village of Point Pleasant, Clermont County, Ohio, standing in the name of Carl E. Hostetter, you have now furnished a copy of the action of the Controlling Board approving the purchase of said real estate.

You have also submitted a deed from Elsie Hostetter, wife of Carl E. Hostetter, in which she conveys her dower interest in said real estate. This deed I find to be in proper legal form and properly executed and therefore approve the same.

You have also submitted copy of a letter from Mr. Allen B. Nichols of Batavia, Ohio, stating that Dr. Hostetter refuses to deliver his deed until he gets his money. No deed, either executed or unexecuted, from Carl E. Hostetter to the State of Ohio

has been submitted to me and I am therefore unable to pass upon the same. I would suggest that a deed be prepared for the purpose of conveying the title of said Carl E. Hostetter to the State of Ohio and the same be submitted to this office for approval as to form.

I am returning herewith all papers submitted in this connection.

Respectfully,
EDWARD C. TURNER,
Attorney General.

1311.

DENTIST—MAY MAINTAIN MORE THAN ONE OFFICE PROVIDED HE DISPLAYS A LICENSE IN CONFORMITY WITH SECTION 12711, GENERAL CODE.

SYLLABUS:

Under the laws of Ohio a person who is licensed to practice dentistry in this state may maintain more than one office for the practice of dentistry, provided said person displays a license in conformity with Section 12711, General Code.

COLUMBUS, OHIO, November 29, 1927.

DR. RAY R. SMITH, *Secretary, Ohio State Dental Board, Columbus, Ohio.*

DEAR SIR:—Receipt is acknowledged of a communication from you in which you submit the following question:

“If it is unlawful for a person or persons to practice, other than under his own name, how is it possible for one to own more than one office? Especially under Section 12711, wherein it states; ‘Whoever engages in the practice of dentistry and fails to keep displayed in a conspicuous place in the operating room in which he practices, and in such manner as to be easily seen and read, the license granted him pursuant to the laws of this state shall be fined not less than fifty dollars nor more than one hundred dollars.’”

The practice of dentistry is defined in Section 1329, General Code, as follows:

“A person shall be regarded as practicing dentistry who is a manager, proprietor, operator or conductor of a place for performing dental operations or who, for a fee, salary or other reward paid or to be paid either to himself or to another person, performs, or advertises to perform, dental operations of any kind, treats diseases or lesions of human teeth or jaws, or attempts to correct malpositions thereof, or who uses the word ‘dentist,’ ‘dental surgeon,’ the letters ‘D. D. S.,’ or other letters or title in connection with his name, which in any way represents him as being engaged in the practice of dentistry.”

In the question which you submit you evidently refer to Section 1329-1, General Code, which provides:

“It shall be unlawful for any person or persons to practice or offer to practice dentistry or dental surgery, under the name of any company, asso-