

**Editorial Notes**

## AMENDMENTS

1994—Pub. L. 103-322, §330016(2)(A), inserted “(notwithstanding section 3571)” before “fined not more than one-half” in second par.

Pub. L. 103-322, §330011(h), amended directory language of Pub. L. 101-647, §3502. See 1990 Amendment note below.

1990—Pub. L. 101-647, as amended by Pub. L. 103-322, §330011(h), substituted “15 years” for “ten years” in second par.

1986—Pub. L. 99-646 inserted “life imprisonment or” in second par.

**Statutory Notes and Related Subsidiaries**

## EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-322, title XXXIII, §330011(h), Sept. 13, 1994, 108 Stat. 2145, provided that the amendment made by that section is effective as of Nov. 29, 1990.

**§ 4. Misprision of felony**

Whoever, having knowledge of the actual commission of a felony cognizable by a court of the United States, conceals and does not as soon as possible make known the same to some judge or other person in civil or military authority under the United States, shall be fined under this title or imprisoned not more than three years, or both.

(June 25, 1948, ch. 645, 62 Stat. 684; Pub. L. 103-322, title XXXIII, §330016(1)(G), Sept. 13, 1994, 108 Stat. 2147.)

## HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C. 1940 ed., §251 (Mar. 4, 1909, ch. 321, §146, 35 Stat. 1114).

Changes in phraseology only.

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## AMENDMENTS

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$500”.

**§ 5. United States defined**

The term “United States”, as used in this title in a territorial sense, includes all places and waters, continental or insular, subject to the jurisdiction of the United States, except the Canal Zone.

(June 25, 1948, ch. 645, 62 Stat. 685.)

## HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§39, 133, 346, 381, 502, and 632, and section 40 of title 50, U.S.C., 1940 ed., War and National Defense (June 15, 1917, ch. 30, title XIII, §1, 40 Stat. 231).

Section consolidates the first sentence of section 39, all of sections 133, 346, and 632, and the second sentences, respectively, of sections 381 and 502, all of title 18, U.S.C., 1940 ed., and section 40 of title 50, U.S.C., 1940 ed., War and National Defense, with minor changes in phraseology.

All of these sections and parts of sections were derived from section 1 of title XIII of said act of June 15, 1917. Said section 40 of title 50, U.S.C., War and National Defense, has also been retained in that title, as it still relates to some sections therein which were not transferred to this title.

The remainder of said section 39 of title 18, U.S.C., 1940 ed., which was derived from sections 2, 3, and 4 of title XIII of the act of June 15, 1917, relating to juris-

diction and other matters, is almost entirely obsolete. The provisions still in force are incorporated in section 3241 of this title.

The remaining provisions of said sections 381 and 502 of title 18, U.S.C., 1940 ed., which were derived from sources other than said section 1 of title XIII of the act of June 15, 1917, are incorporated in sections 1364 and 2275 of this title.

## SENATE REVISION AMENDMENT

Words “, except the Canal Zone.” were substituted for the period in this section by Senate amendment. See Senate Report No. 1620, amendment No. 2, 80th Cong.

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## REFERENCES IN TEXT

For definition of Canal Zone, referred to in text, see section 3602(b) of Title 22, Foreign Relations and Inter-course.

**§ 6. Department and agency defined**

As used in this title:

The term “department” means one of the executive departments enumerated in section 1 of Title 5, unless the context shows that such term was intended to describe the executive, legislative, or judicial branches of the government.

The term “agency” includes any department, independent establishment, commission, administration, authority, board or bureau of the United States or any corporation in which the United States has a proprietary interest, unless the context shows that such term was intended to be used in a more limited sense.

(June 25, 1948, ch. 645, 62 Stat. 685.)

## HISTORICAL AND REVISION NOTES

This section defines the terms “department” and “agency” of the United States. The word “department” appears 57 times in title 18, U.S.C., 1940 ed., and the word “agency” 14 times. It was considered necessary to define clearly these words in order to avoid possible litigation as to the scope or coverage of a given section containing such words. (See *United States v. Germaine*, 1878, 99 U.S. 508, 25 L. Ed. 482, for definition of words “department” or “head of department.”)

The phrase “corporation in which the United States has a proprietary interest” is intended to include those governmental corporations in which stock is not actually issued, as well as those in which stock is owned by the United States. It excludes those corporations in which the interest of the Government is custodial or incidental.

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## REFERENCES IN TEXT

Section 1 of Title 5, referred to in text, was repealed by Pub. L. 89-554, §8, Sept. 6, 1966, 80 Stat. 632, and reenacted by the first section thereof as section 101 of Title 5, Government Organization and Employees.

**§ 7. Special maritime and territorial jurisdiction of the United States defined**

The term “special maritime and territorial jurisdiction of the United States”, as used in this title, includes:

(1) The high seas, any other waters within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State, and any vessel belonging in whole or in part to the United States or any

citizen thereof, or to any corporation created by or under the laws of the United States, or of any State, Territory, District, or possession thereof, when such vessel is within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State.

(2) Any vessel registered, licensed, or enrolled under the laws of the United States, and being on a voyage upon the waters of any of the Great Lakes, or any of the waters connecting them, or upon the Saint Lawrence River where the same constitutes the International Boundary Line.

(3) Any lands reserved or acquired for the use of the United States, and under the exclusive or concurrent jurisdiction thereof, or any place purchased or otherwise acquired by the United States by consent of the legislature of the State in which the same shall be, for the erection of a fort, magazine, arsenal, dockyard, or other needful building.

(4) Any island, rock, or key containing deposits of guano, which may, at the discretion of the President, be considered as appertaining to the United States.

(5) Any aircraft belonging in whole or in part to the United States, or any citizen thereof, or to any corporation created by or under the laws of the United States, or any State, Territory, district, or possession thereof, while such aircraft is in flight over the high seas, or over any other waters within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State.

(6) Any vehicle used or designed for flight or navigation in space and on the registry of the United States pursuant to the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies and the Convention on Registration of Objects Launched into Outer Space, while that vehicle is in flight, which is from the moment when all external doors are closed on Earth following embarkation until the moment when one such door is opened on Earth for disembarkation or in the case of a forced landing, until the competent authorities take over the responsibility for the vehicle and for persons and property aboard.

(7) Any place outside the jurisdiction of any nation with respect to an offense by or against a national of the United States.

(8) To the extent permitted by international law, any foreign vessel during a voyage having a scheduled departure from or arrival in the United States with respect to an offense committed by or against a national of the United States.

(9) With respect to offenses committed by or against a national of the United States as that term is used in section 101 of the Immigration and Nationality Act—

(A) the premises of United States diplomatic, consular, military or other United States Government missions or entities in foreign States, including the buildings, parts of buildings, and land appurtenant or ancillary thereto or used for purposes of those missions or entities, irrespective of ownership; and

(B) residences in foreign States and the land appurtenant or ancillary thereto, irrespective of ownership, used for purposes of those missions or entities or used by United States personnel assigned to those missions or entities.

Nothing in this paragraph shall be deemed to supersede any treaty or international agreement with which this paragraph conflicts. This paragraph does not apply with respect to an offense committed by a person described in section 3261(a) of this title.

(June 25, 1948, ch. 645, 62 Stat. 685; July 12, 1952, ch. 695, 66 Stat. 589; Pub. L. 97-96, § 6, Dec. 21, 1981, 95 Stat. 1210; Pub. L. 98-473, title II, § 1210, Oct. 12, 1984, 98 Stat. 2164; Pub. L. 103-322, title XII, § 120002, Sept. 13, 1994, 108 Stat. 2021; Pub. L. 107-56, title VIII, § 804, Oct. 26, 2001, 115 Stat. 377.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 451 (Mar. 4, 1909, ch. 321, § 272, 35 Stat. 1142; June 11, 1940, ch. 323, 54 Stat. 304).

The words “The term ‘special maritime and territorial jurisdiction of the United States’ as used in this title includes:” were substituted for the words “The crimes and offenses defined in sections 451-468 of this title shall be punished as herein prescribed.”

This section first appeared in the 1909 Criminal Code. It made it possible to combine in one chapter all the penal provisions covering acts within the admiralty and maritime jurisdiction without the necessity of repeating in each section the places covered.

The present section has made possible the allocation of the diverse provisions of chapter 11 of Title 18, U.S.C., 1940 ed., to particular chapters restricted to particular offenses, as contemplated by the alphabetical chapter arrangement.

In several revised sections of said chapter 11 the words “within the special maritime and territorial jurisdiction of the United States” have been added. Thus the jurisdictional limitation will be preserved in all sections of said chapter 11 describing an offense.

Enumeration of names of Great Lakes was omitted as unnecessary.

Other minor changes were necessary now that the section defines a term rather than the place of commission of crime or offense; however, the extent of the special jurisdiction as originally enacted has been carefully followed.

#### Editorial Notes

##### REFERENCES IN TEXT

Section 101 of the Immigration and Nationality Act, referred to in par. (9), is classified to section 1101 of Title 8, Aliens and Nationality.

##### AMENDMENTS

2001—Par. (9). Pub. L. 107-56 added par. (9).  
1994—Par. (8). Pub. L. 103-322 added par. (8).  
1984—Par. (7). Pub. L. 98-473 added par. (7).  
1981—Par. (6). Pub. L. 97-96 added par. (6).  
1952—Par. (5). Act July 12, 1952, added par. (5).

#### Statutory Notes and Related Subsidiaries

##### TERRITORIAL SEA EXTENDING TO TWELVE MILES INCLUDED IN SPECIAL MARITIME AND TERRITORIAL JURISDICTION

Pub. L. 104-132, title IX, § 901(a), Apr. 24, 1996, 110 Stat. 1317, provided that: “The Congress declares that all the territorial sea of the United States, as defined by Presidential Proclamation 5928 of December 27, 1988 [set out as a note under section 1331 of Title 43, Public Lands],

for purposes of Federal criminal jurisdiction is part of the United States, subject to its sovereignty, and is within the special maritime and territorial jurisdiction of the United States for the purposes of title 18, United States Code.”

#### **§ 8. Obligation or other security of the United States defined**

The term “obligation or other security of the United States” includes all bonds, certificates of indebtedness, national bank currency, Federal Reserve notes, Federal Reserve bank notes, coupons, United States notes, Treasury notes, gold certificates, silver certificates, fractional notes, certificates of deposit, bills, checks, or drafts for money, drawn by or upon authorized officers of the United States, stamps and other representatives of value, of whatever denomination, issued under any Act of Congress, and canceled United States stamps.

(June 25, 1948, ch. 645, 62 Stat. 685.)

##### **HISTORICAL AND REVISION NOTES**

Based on title 18, U.S.C., 1940 ed., § 261 (Mar. 4, 1909, ch. 321, § 147, 35 Stat. 1115; Jan. 27, 1938, ch. 10, § 3, 52 Stat. 7).

The terms of this section were general enough to justify its inclusion in this chapter rather than retaining it in the chapter on “Counterfeiting” where the terms which it specifically defines are set out in sections 471–476, 478, 481, 483, 492, and 504 of this title.

Words “Federal Reserve notes, Federal Reserve bank notes” were inserted before “coupons” because such notes have almost supplanted national bank currency.

Minor changes were made in phraseology.

#### **§ 9. Vessel of the United States defined**

The term “vessel of the United States”, as used in this title, means a vessel belonging in whole or in part to the United States, or any citizen thereof, or any corporation created by or under the laws of the United States, or of any State, Territory, District, or possession thereof.

(June 25, 1948, ch. 645, 62 Stat. 685.)

##### **HISTORICAL AND REVISION NOTES**

Based on title 18, U.S.C., 1940 ed., § 501 (Mar. 4, 1909, ch. 321, § 310, 35 Stat. 1148).

Section is made applicable to the entire title rather than to sections 481 et seq. of title 18, U.S.C., 1940 ed.

Minor changes in phraseology were made.

#### **§ 10. Interstate commerce and foreign commerce defined**

The term “interstate commerce”, as used in this title, includes commerce between one State, Territory, Possession, or the District of Columbia and another State, Territory, Possession, or the District of Columbia.

The term “foreign commerce”, as used in this title, includes commerce with a foreign country.

(June 25, 1948, ch. 645, 62 Stat. 686.)

##### **HISTORICAL AND REVISION NOTES**

Based on title 18, U.S.C., 1940 ed., §§ 408, 408b, 414(a), and 419a(b) (Oct. 29, 1919, ch. 89, § 2(b), 41 Stat. 325; June 22, 1932, ch. 271, § 2, 47 Stat. 326; May 18, 1934, ch. 301, 48 Stat. 782; May 22, 1934, ch. 333, § 2(a), 48 Stat. 794; Aug. 18, 1941, ch. 366, § 2(b), 55 Stat. 631).

This section consolidates into one section identical definitions contained in sections 408, 408b, 414(a), and 419a(b) of title 18, U.S.C., 1940 ed.

In addition to slight improvements in style, the word “commerce” was substituted for “transportation” in order to avoid the narrower connotation of the word “transportation” since “commerce” obviously includes more than “transportation.” The word “Possession” was inserted in two places to make the definition more accurate and comprehensive since the places included in the word “Possession” would normally be within the term defined and a narrower construction should be handled by express statutory exclusion in those crimes which Congress intends to restrict to commerce within the continental United States.

#### **§ 11. Foreign government defined**

The term “foreign government”, as used in this title except in sections 112, 878, 970, 1116, and 1201, includes any government, faction, or body of insurgents within a country with which the United States is at peace, irrespective of recognition by the United States.

(June 25, 1948, ch. 645, 62 Stat. 686; Pub. L. 94–467, § 11, Oct. 8, 1976, 90 Stat. 2001.)

##### **HISTORICAL AND REVISION NOTES**

Based on title 18, U.S.C., 1940 ed., §§ 98, 288, 349; section 235 of title 22 U.S.C., 1940 ed., Foreign Relations and Intercourse; section 41 of title 50, U.S.C., 1940 ed., War and National Defense (June 15, 1917, ch. 30, title VIII, § 4, 40 Stat. 226).

The definition of “foreign government” contained in this section, with minor changes in phraseology, is from section 4 of title VIII of act June 15, 1917 (Ch. 30, 40 Stat. 217, 226), known as the Espionage Act of 1917. This definition was incorporated in sections 98, 288, and 349 of title 18 and in section 235 of title 22, Foreign Relations and Intercourse, and in section 41 of Title 50, War and National Defense, U.S.C., all in 1940 ed., since the definition was specifically enacted with reference to said sections and others not material here.

The remaining provisions of said sections 98 and 349 of title 18, U.S.C., 1940 ed., which were derived from sources other than said section 4 of title VIII of the act of June 15, 1917, are incorporated in sections 502 and 957 of this title.

##### **Editorial Notes**

##### **AMENDMENTS**

1976—Pub. L. 94–467 inserted “except in sections 112, 878, 970, 1116, and 1201” after “title”.

#### **§ 12. United States Postal Service defined**

As used in this title, the term “Postal Service” means the United States Postal Service established under title 39, and every officer and employee of that Service, whether or not such officer or employee has taken the oath of office.

(June 25, 1948, ch. 645, 62 Stat. 686; Pub. L. 91–375, § 6(j)(2), Aug. 12, 1970, 84 Stat. 777; Pub. L. 101–647, title XXXV, § 3505, Nov. 29, 1990, 104 Stat. 4921.)

##### **HISTORICAL AND REVISION NOTES**

Based on title 18, U.S.C., 1940 ed., §§ 301, 360 (Mar. 4, 1909, ch. 321, §§ 230, 231, 35 Stat. 1134).

This section consolidates sections 301 and 360 of title 18, U.S.C., 1940 ed., with necessary changes in phraseology.

##### **Editorial Notes**

##### **AMENDMENTS**

1990—Pub. L. 101–647 substituted “whether or not such officer or employee has taken the oath of office” for “whether he has taken the oath of office”.