§ 41

TITLE 18.—CRIMES AND CRIMINAL PROCEDURE

Section 145 of title 689b, similar provisions of sections Plan No. II, § 46 Stat. 1926, Mar. 4, 16, U. S. C., and §§ 707 and 707a of title 16, U. S. C., 1940 ed., were omitted as unnecessary in view of definition of "misdemeanor" in section 1 of this title, and also to conform with policy followed by codifiers of the 1909 Criminal Code, as stated in Senate Report 98, 61st Congress, 1st session, to accompany S. 2982.

Words "upon conviction", contained in sections 676, 685, 686, 689b, 692a, and 694a of title 16, U. S. C., 1940 ed., were omitted as surplusage, because punishment can be imposed only after conviction.

Words "in any United States court of competent jurisdiction", in sections 676, 685, 688, and 689 of title 16, U. S. C., 1940 ed., were likewise omitted as surplusage.

The revised section adopts the punishment provisions of the other five sections.

The references to "misdemeanor" in sections 676, 685, 688, 689, 692a, and 694a of title 16, U. S. C., 1940 ed., were omitted as unnecessary in view of definition of "misdemeanor" in section 1 of this title, and also to conform with policy followed by codifiers of the 1909 Criminal Code, as stated in Senate Report 98, 61st Congress, 1st session, to accompany S. 2982.

Words "upon conviction", contained in sections 676, 685, 688, 689b, 692a, and 694a of title 16, U. S. C., 1940 ed., were omitted as surplusage, because punishment can be imposed only after conviction.


This section consolidates the provisions of sections 391 and 694 of title 16, U. S. C., 1940 ed., as subsections (a) and (b), respectively.

In subsection (a) the words "Territory or District thereof" were omitted as unnecessary in view of the definition of the United States in section 5 of this title.

In subsection (b) the words "upon conviction thereof" were omitted as surplusage because punishment can only be imposed after conviction.

Chapter 3.—ANIMALS, BIRDS, AND FISH

Section 41. Hunting, fishing, trapping; disturbance or injury on wildlife refuges.

Whoever, except in compliance with rules and regulations promulgated by authority of law, hunts, traps, captures, willfully disturbs or kills any bird, fish, or wild animal of any kind whatever, or takes or destroys the eggs or nest of any such bird or fish, on any lands or waters which are set apart or reserved as sanctuaries, refuges or breeding grounds for such birds, fish, or animals under any law of the United States or if willfully injures, molests, or destroys any property of the United States on any such lands or waters, shall be fined not more than $500 or imprisoned not more than six months, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 686, eff. Sept. 1, 1948.)

Legislative History

Reviser's Note.—Based on title 18, U.S. C., 1940 ed., § 41 and §§ 676, 682, 683, 685, 686, 689b, 692a, and 694a of title 16, U.S. C., 1940 ed., Conservation, and the Migratory Bird Conservation Act, sections 715-715r of title 16, U.S. C., 1940 ed., Conservation, were considered for inclusion in this chapter. Since these provisions, except parts of sections 704-707 of said title 16, are so inextricably interwoven with the Migratory Bird Acts, it was found advisable to exclude them.

§ 42. Importation of injurious animals and birds; permits; specimens for museums.

(a) The importation into the United States of the mongoose, the so-called “flying foxes” or fruit bats, the English sparrow, the starling, and such other birds and animals as the Secretary of the Interior may declare to be injurious to the interests of agriculture or horticulture, is prohibited; and all such birds and animals shall, upon arrival at any port of the United States, be destroyed or returned at the expense of the owner.

No person shall import into the United States any foreign wild animal or bird, except under special permit from the Secretary of the Interior.

This section shall not restrict the importation of natural-history specimens for museums or scientific collections, or of certain cage birds, such as domesticated canaries, parrots, or such other birds as the Secretary of the Interior may designate.

The Secretary of the Treasury may issue regulations to effectuate this section.

(b) Whoever violates this section shall be fined not more than $500 or imprisoned not more than six months, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 687, eff. Sept. 1, 1948.)

Legislative History


This section consolidates the provisions of sections 391 and 694 of title 16, U.S. C., 1940 ed., as subsections (a) and (b), respectively.

In subsection (a) the words "Territory or District thereof" were omitted as unnecessary in view of the definition of the United States in section 5 of this title.

In subsection (b) the words "upon conviction thereof" were omitted as surplusage because punishment can only be imposed after conviction.
§ 43. Transportation or importation in violation of state, national, or foreign laws.

Whoever delivers or knowingly receives for shipment, transportation, or carriage in interstate or foreign commerce, any wild animal or bird, or the dead body or part thereof, or the egg of any such bird imported from any foreign country, or captured, killed, taken, purchased, sold, or possessed contrary to any Act of Congress, or the law of any State, Territory, Possession, or foreign country, or subdivision thereof; or

Whoever transports, brings, or conveys from any foreign country into the United States any wild animal or bird, or the dead body or part thereof, or the egg of any such bird captured, killed, taken, shipped, transported, or carried contrary to the law of such foreign country or subdivision thereof; or

Whoever knowingly purchases or receives any wild animal or bird, or the dead body or part thereof, or the egg of any such bird imported from any foreign country or shipped, transported, or carried contrary to the law of such foreign country or subdivision thereof; or

Whoever, having purchased or received any wild animal or bird, or the dead body or part thereof, or the egg of any such bird imported from any foreign country or shipped, transported, or carried in interstate commerce, makes any false record or account thereof; or

Whoever imports from or exports to Mexico any game mammal, dead or alive, or parts or products thereof, except under permit or authorization of the Secretary of the Interior, in accordance with regulations issued by him and approved by the President—

Shall be fined not more than $500 or imprisoned not more than six months, or both; and shall, upon conviction thereof, forfeit the animal or bird, or the dead body or parts thereof, or the eggs of such birds, to be sold at public auction and the proceeds to be paid into the Treasury of the United States. (See also section 11 of this title, relating to arrests and avoid ambiguity as to the meaning of the term "United States.")

The punishment provision of section 707 of title 16, U. S. C., 1940 ed., Conservation, was adopted instead of the phrase "not more than $1,000" contained in section 394 of Title 18, U. S. C., 1940 ed., thus making the violation a petty offense as defined by the Federal Rules of Criminal Procedure, to conform to other sections of this chapter.

The words "interstate or foreign commerce" were substituted for the enumeration of geographical subdivisions of the United States and foreign countries, in view of the definition of interstate or foreign commerce in section 10 of this title. The word "Possession" was inserted following the words "State, Territory" to clarify scope of definition and avoid ambiguity as to the meaning of the term "United States.

The punishment provision of section 707 of title 16, U. S. C., 1940 ed., Conservation, was adopted instead of the phrase "not more than $1,000" contained in section 394 of Title 18, U. S. C., 1940 ed., thus making the violation a petty offense of the same grade as violations of sections 42 and 43 of this title.

The words "upon conviction thereof" were omitted as surplusage because punishment can be imposed only after conviction. Minor verbal changes were also made. Other changes were made in phraseology to effect the consolidation.

§ 44. Marking packages or containers.

Whoever ships, transports, carries, brings or conveys in interstate or foreign commerce any package containing wild animals or birds, or the dead bodies or parts thereof, without plainly marking, labeling, or tagging such package with the names and addresses of the shipper and consignee and with an accurate statement showing the contents by number and kind; or

Whoever ships, transports, carries, brings or conveys in interstate commerce, any package containing migratory birds included in any convention to which the United States is a party, without marking, labeling, or tagging such package as prescribed in such convention, or Act of Congress, or regulation thereunder; or

Whoever ships, transports, carries, brings or conveys in interstate commerce any package containing furs, hides, or skins of wild animals without plainly marking, labeling, or tagging such package with the names and addresses of the shipper and consignee—

Shall be fined not more than $500 or imprisoned not more than six months, or both; and the shipment shall be forfeited. (June 25, 1948, ch. 645, § 1, 62 Stat. 687, eff. Sept. 1, 1948.)


This section consolidates sections 393, 393a, and 394 of title 18, U. S. C., 1940 ed. The words "interstate or foreign commerce" were substituted for the enumeration of geographical subdivisions of the United States and foreign countries, in view of the definition of interstate or foreign commerce in section 10 of this title. Other provisions of said section 393a of title 18, U. S. C., 1940 ed., are incorporated in sections 43, 3055 and 3112 of this title.

The words "upon conviction thereof" were omitted as surplusage because punishment can be imposed only after conviction.

The punishment provision was modified by reducing the fine of $1,000 to $500 to conform to other sections of this chapter. (See sections 41, 42, and 43 of this title.)
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Other changes were made in phraseology to effect the consolidation.

CROSS REFERENCES
Arrests, see section 3054 of this title.

Preservation of game and wild birds: duties and powers of Secretary of the Interior; regulations as to hunting, see section 701 et seq. of Title 16, Conservation.

Search warrants and seizures, see section 3112 of this title.

§ 45. Capturing or killing carrier pigeons.

Whoever knowingly traps, captures, shoots, kills, possesses, or obtains an Antwerp or homing pigeon, commonly called carrier pigeon, owned by the United States or bearing a band owned and issued by the United States having thereon the letters "U. S. A." or "U. S. N." and a serial number, shall be fined not more than $100 or imprisoned not more than six months, or both.

The possession or detention of any such pigeon without giving immediate notice to the nearest military or naval authorities, shall be prima facie evidence of a violation of this section. (June 23, 1948, ch. 645, § 1, 62 Stat. 688, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY


Words "upon conviction" were deleted as surplusage because punishment can only be imposed after conviction. Other changes in phraseology also were made.

Chapter 5.—ARSON

§ 81. Arson within special maritime and territorial jurisdiction.

Whoever, within the special maritime and territorial jurisdiction of the United States, willfully and maliciously sets fire to or burns, or attempts to set fire to or burn any building, structure or vessel, any machinery or building materials or supplies, military or naval stores, munitions of war, or any structural aids or appliances for navigation or shipping, shall be fined not more than $1,000 or imprisoned not more than five years, or both.

If the building be a dwelling or if the life of any person be placed in jeopardy, he shall be fined not more than $5,000 or imprisoned not more than twenty years, or both. (June 23, 1948, ch. 645, § 1, 62 Stat. 688, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY


Sections were consolidated and rewritten both as to form and substance and that part of each section relating to destruction of property by means other than burning constitutes section 1363 of this title.

The words "within the maritime and territorial jurisdiction of the United States" were added to preserve existing limitations of territorial applicability. (See section 7 of this title and note thereunder.)

The phrase "any building, structure, or vessel, any machinery or building materials and supplies, military or naval stores, munitions of war or any structural aids or appliances for navigation or shipping" was substituted for "any dwelling house, or any store, barn, stable, or other building, parcel of a dwelling house", in section 464 of title 18, U. S. C., 1940 ed., and "any arsenal, armory, magazine, rope walk, ship house, warehouse, blockhouse, or barrack, or any storehouse, barn or stable, not parcel of a dwelling house, or any other building not mentioned in the section last preceding, or any vessel, built, building, or undergoing repair, or any lighthouse, or beacon, or any machinery, timber, cables, rigging, or other materials or appliances for building, repairing or fitting out vessels, or any pile of wood, boards, or other lumber, or any military, naval or victualing stores, arms, or other munitions of war", in section 465 of title 18, U. S. C., 1940 ed. The substituted phrase is a concise and comprehensive description of the things enumerated in both sections.

The punishment provisions are new and are graduated with some regard to the gravity of the offense. It was felt that a possible punishment of 20 years for burning a good pile or destroying an outbuilding was disproportionate and not in harmony with recent legislation.

CROSS REFERENCES

Setting fire to vessel of foreign or United States registry, see section 2775 of this title.

Chapter 7.—ASSAULT

Sec.

111. Assaulting, resisting, or impeding certain officers or employees.

112. Assaulting public minister.

113. Assaults within maritime and territorial jurisdiction.

114. Maiming within maritime and territorial jurisdiction.

§ 111. Assaulting, resisting, or impeding certain officers or employees.

Whoever forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person designated in section 1114 of this title while engaged in or on account of the performance of his official duties, shall be fined not more than $5,000 or imprisoned not more than three years, or both.

Whoever, in the commission of any such acts uses a deadly or dangerous weapon, shall be fined not more than $10,000 or imprisoned not more than ten years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 688, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY


This section consolidates sections 118 and 254 with changes in phraseology and substance necessary to effect the consolidation.

Also the words "Bureau of Animal Industry of the Department of Agriculture" appearing in section 118 of title 18, U. S. C., 1940 ed., were inserted in enumeration of Federal officers and employees in section 1114 of this title.

The punishment provision of section 254 of title 18, U. S. C., 1940 ed., was adopted as the latest expression of Congressional intent. This consolidation eliminates a serious incongruity in punishment and application.

CROSS REFERENCES

Assault in committing bank robbery, see section 2113 of this title.

Assaulting mail clerk or custodian, see sections 2114 and 2116 of this title.

§ 112. Assaulting public minister.

Whoever assaults, strikes, wounds, imprisons, or offers violence to the person of an ambassador or other public minister, in violation of the law of nations, shall be fined not more than $5,000 or imprisoned not more than three years, or both.