

is physically fit to engage therein. (Mar. 4, 1909, ch. 321, § 321, 35 Stat. 1150; Feb. 8, 1929, ch. 163, 45 Stat. 1156.)

DERIVATION

Act Feb. 7, 1896, ch. 12, § 2, 29 Stat. 5, which was repealed by act Mar. 4, 1909, ch. 321, § 341, 35 Stat. 1153.

BOXING IN DISTRICT OF COLUMBIA

Boxing was permitted in District of Columbia and Boxing Commission was created by act Apr. 24, 1934, ch. 161, 48 Stat. 608, 609.

§ 522. (Criminal Code, section 322.) Train robberies.

Whoever shall willfully and maliciously trespass upon or enter upon any railroad train, railroad car, or railroad locomotive, with the intent to commit murder, or robbery, shall be fined not more than \$5,000 or imprisoned not more than twenty years, or both. Whoever shall willfully and maliciously trespass upon or enter upon any railroad train, railroad car, or railroad locomotive, with intent to commit any unlawful violence upon or against any passenger on said train, or car, or upon or against any engineer, conductor, fireman, brakeman, or any officer or employee connected with said locomotive, train, or car, or upon or against any express messenger or mail agent on said train or in any car thereof, or to commit any crime or offense against any person or property thereon, shall be fined not more than \$1,000 or imprisoned not more than one year, or both. Whoever shall counsel, aid, abet, or assist in the perpetration of any of the offenses set forth in this section shall be deemed to be a principal therein. Upon the trial of any person charged with any offense set forth in this section, it shall not be necessary to set forth or prove the particular person against whom it was intended to commit the offense, or that it was intended to commit such offense against any particular person. (Mar. 4, 1909, ch. 321, § 322, 35 Stat. 1150.)

DERIVATION

Act July 1, 1902, ch. 1376, 32 Stat. 727, which was repealed by act Mar. 4, 1909, ch. 321, § 341, 35 Stat. 1153.

§ 523. Discrimination by proprietors of theaters against persons wearing uniform of Army, Navy, etc.

No proprietor, manager, or employee of a theater or other public place of entertainment or amusement in the District of Columbia, or in any Territory, the Territory of Alaska or insular possession of the United States, shall make, or cause to be made, any discrimination against any person lawfully wearing the uniform of the Army, Navy, Coast Guard, or Marine Corps of the United States because of that uniform, and any person making, or causing to be made, such discrimination shall be guilty of a misdemeanor, punishable by a fine not exceeding \$500. (Mar. 1, 1911, ch. 187, 36 Stat. 963; Aug. 24, 1912, ch. 387, § 1, 37 Stat. 512; Jan. 28, 1915, ch. 20, § 1, 38 Stat. 800.)

Chapter 14.—SAVING PROVISIONS

Sec.	
532.	Pending actions not affected.
533.	Offenses prior to effective date of Criminal Code.
534.	Limitations.
535.	Offenses prior to June 15, 1917.
536.	Partial invalidity of certain sections.

§ 532. (Criminal Code, section 342.) Pending actions not affected.

Section, act Mar. 4, 1909, ch. 321, § 342, 35 Stat. 1159, provided that the repeal of existing laws or modifications thereof embraced in said act March 4, 1909 (the Criminal Code), should not affect any act done, or any right accruing or accrued, or any suit or proceeding had or commenced in any civil cause prior to said repeal or modifications, but all liabilities laws should continue and might be enforced in the same manner as if said repeal or modifications had not been made.

§ 533. (Criminal Code, section 343.) Offenses prior to effective date of Criminal Code.

Section, act Mar. 4, 1909, ch. 321, § 343, 35 Stat. 1159, provided for the prosecution of offenses committed prior to the effective date of the Criminal Code (said act Mar. 4, 1909.)

§ 534. (Criminal Code, section 344.) Limitations.

Section, act Mar. 4, 1909, ch. 321, § 344, 35 Stat. 1159, provided for the continued application of former statutes of limitations to offenses committed under laws effective prior to January 1, 1910.

§ 535. Offenses prior to June 15, 1917.

Section, act June 15, 1917, ch. 30, title XIII, § 3, 40 Stat. 231, provided that offenses and penalties, forfeitures, or liabilities incurred prior to the taking effect of said act under any law embraced in or changed, modified, or repealed by said act might be prosecuted and punished, and suits and proceedings for causes arising or acts done or committed prior to the taking effect of said act might be commenced and prosecuted, in the same manner and with the same effect as if said act had not been passed.

§ 536. Partial invalidity of certain sections.

Section, act June 15, 1917, ch. 30, title XIII, § 4, 40 Stat. 231, provided a saving clause for said act in the event of partial invalidity.

Part 2.—CRIMINAL PROCEDURE

Chap.	Sec.
15.	General provisions..... 541
16.	Limitations..... 581
17.	Arrest, bail, and commitment..... 591
18.	Search warrant..... 611
19.	Fines, penalties, and forfeitures..... 641
20.	Extradition..... 651
21.	Appeals..... 681
21A.	Rules of criminal procedure..... 687

Chapter 15.—GENERAL PROVISIONS

Sec.	
541.	Felonies and misdemeanors; petty offenses; prosecution of petty offense upon information or complaint.
542.	Manner of inflicting death penalty.
543.	Body of executed offender for dissection.
544.	Corruption of blood and forfeiture of estate excluded.
545.	Whipping and pillory abolished.
546.	Jurisdiction of district courts.
547.	Jurisdiction of State courts.
548.	Indians committing certain crime; act on reservations; rape of Indian.
549.	Crimes committed on Indian reservations in South Dakota; rape of Indian.
550.	"Principals" defined.
551.	Punishment of accessories.
552.	Same; robbery or piracy.
553.	Place of committal of murder or manslaughter determined.
554.	Indictments and presentments; by twelve grand jurors
554a.	Same; objection on ground of unqualified juror barred where twelve qualified jurors concurred; record of number concurring.

- Sec.
 555. Same; offenses against elective franchise.
 556. Same; defects of form.
 556a. Same; objections to drawing or qualification of grand jury; time for filing; suspension of statute of limitations.
 556b. Application of sections 554a and 558a.
 557. Same; joinder of charges.
 558. Same; perjury.
 559. Same, subornation of perjury.
 560. Same; perjury before naval court-martial.
 561. Same; judgment on demurrer.
 562. Copy of indictment and list of jurors and witnesses for prisoner.
 562a. Copy of information or indictment in other cases.
 563. Counsel and witnesses for persons indicted for capital crimes.
 564. Standing mute.
 565. Verdicts; less offense than charged.
 566. Same; several joint defendants.
 567. Same; qualified verdicts.
 568. Pardonng power.
 569. Judgments for fines; collection.
 570. Disposition of bribe moneys.
 571. Construction of words.
 572. Effect of omitting "hard labor."
 573. Arrangement and classification of sections.
 574. Jurisdiction of offenses under certain sections.
 575. Rewards for apprehension of criminals; appropriations authorized.
 576. Trial of petty offenses by United States commissioners; jurisdiction; probation; definition of petty offense; election by defendant.
 576a. Same; appeals; rules of procedure and practice.
 576b. Same; fees of commissioners.
 576c. Same; existing powers of commissioners unaffected.
 576d. Same; inapplicability of sections 576-576c to District of Columbia.

§ 541. (Criminal Code, section 335.) Felonies and misdemeanors; petty offenses; prosecution of petty offense upon information or complaint.

All offenses which may be punished by death or imprisonment for a term exceeding one year shall be deemed felonies. All other offenses shall be deemed misdemeanors: *Provided*, That all offenses the penalty for which does not exceed confinement in a common jail, without hard labor for a period of six months, or a fine of not more than \$500, or both, shall be deemed to be petty offenses; and all such petty offenses may be prosecuted upon information or complaint. (Mar. 4, 1909, ch. 321, § 335, 35 Stat. 1152; Dec. 16, 1930, ch. 15, 46 Stat. 1029.)

CROSS REFERENCES

Embezzlement, etc., from Federal Reserve and member banks as exception to definitions of this section, see section 592 of Title 12, Banks and Banking.

Punishment for acts declared in Merchant Marine Act, 1936, to be a misdemeanor to be by fine of not more than \$10,000 or imprisonment for not less than one or more than five years, or both, see section 1228 of Title 46, Shipping.

Punishment for violations of regulations, limitations, and restrictions prescribed by Secretary of Treasury for member banks of Federal Reserve System, see section 95 of Title 12, Banks and Banking.

Solicitation of, or contract for, fees for obtaining benefits for veterans declared a misdemeanor punishable by fine of \$500 or imprisonment for not exceeding two years, see section 103 of Title 38, Pensions, Bonuses, and Veterans' Relief.

§ 542. (Criminal Code, section 323.) Manner of inflicting death penalty.

The manner of inflicting the punishment of death shall be the manner prescribed by the laws of the State within which the sentence is imposed. The

United States marshal charged with the execution of the sentence may use available State or local facilities and the services of an appropriate State or local official or employ some other person for such purpose, and pay the cost thereof in an amount approved by the Attorney General. If the laws of the State within which sentence is imposed make no provision for the infliction of the penalty of death, then the court shall designate some other State in which such sentence shall be executed in the manner prescribed by the laws thereof. (Mar. 4, 1909, ch. 321, § 323, 35 Stat. 1151; June 19, 1937, ch. 367, 50 Stat. 304.)

DERIVATION

R. S. § 5325, which was revised from act Apr. 30, 1790, ch. 9, 1 Stat. 119, and repealed by act Mar. 4, 1909, ch. 321, § 341, 35 Stat. 1153.

§ 543. (Criminal Code, section 331.) Body of executed offender for dissection.

The court before which any person is convicted of murder in the first degree, or rape, may, in its discretion, add to the judgment of death, that the body of the offender be delivered to a surgeon for dissection; and the marshal who executes such judgment shall deliver the body, after execution, to such surgeon as the court may direct; and such surgeon, or some person appointed by him, shall receive and take away the body at the time of execution. (Mar. 4, 1909, ch. 321, § 331, 35 Stat. 1152.)

DERIVATION

R. S. § 5340, which was revised from act Apr. 30, 1790, ch. 9, 1 Stat. 113, and repealed by act Mar. 4, 1909, ch. 321, § 341, 35 Stat. 1153.

§ 544. (Criminal Code, section 324.) Corruption of blood and forfeiture of estate excluded.

No conviction or judgment shall work corruption of blood or any forfeiture of estate. (Mar. 4, 1909, ch. 321, § 324, 35 Stat. 1151.)

DERIVATION

R. S. § 5326, which was revised from act Apr. 30, 1790, ch. 9, 1 Stat. 117 and repealed by act Mar. 4, 1909, ch. 321, § 341, 35 Stat. 1153.

§ 545. (Criminal Code, section 325.) Whipping and pillory abolished.

The punishment of whipping and of standing in the pillory shall not be inflicted. (Mar. 4, 1909, ch. 321, § 325, 35 Stat. 1151.)

DERIVATION

R. S. § 5327, which was revised from act Feb. 28, 1839, ch. 36, 5 Stat. 323 and repealed by act Mar. 4, 1909, ch. 321, § 341, 35 Stat. 1153.

§ 546. (Criminal Code, section 340.) Jurisdiction of district courts.

The crimes and offenses defined in this title shall be cognizable in the district courts of the United States, as prescribed in section 41 of Title 28. (Mar. 4, 1909, ch. 321, § 340, 35 Stat. 1153; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167.)

REFERENCE IN TEXT

The words, "this title," as used in this section refer to the Criminal Code, act Mar. 4, 1909, ch. 321, 35 Stat. 1038. The sections of said act embodied in this code are indicated by parenthetical references in the section catchlines. For full distribution of said act, see tables.

CROSS REFERENCE

United States commissioners, jurisdiction to try petty offenses, see section 576 of this title.

§ 547. (Criminal Code, section 326.) Jurisdiction of State courts.

Nothing in this title shall be held to take away or impair the jurisdiction of the courts of the several States under the laws thereof. (Mar. 4, 1909, ch. 321, § 326, 35 Stat. 1151.)

DERIVATION

R. S. § 5328, which was revised from act Mar. 3, 1826, ch. 65, 4 Stat. 122, and repealed by act Mar. 4, 1909, ch. 321, § 341, 35 Stat. 1153.

REFERENCE IN TEXT

The words, "this title," as used in this section refer to the Criminal Code, act Mar. 4, 1909, ch. 321, 35 Stat. 1088. The sections of said act embodied in this code are indicated by parenthetical references in the section catchlines. For full distribution on said act, see tables.

§ 548. (Criminal Code, section 328.) Indians committing certain crime; acts on reservations; rape of Indian.

All Indians committing against the person or property of another Indian or other person any of the following crimes, namely, murder, manslaughter, rape, incest, assault with intent to kill, assault with a dangerous weapon, arson, burglary, robbery, and larceny on and within any Indian reservation under the jurisdiction of the United States Government, including rights-of-way running through the reservation, shall be subject to the same laws, tried in the same courts, and in the same manner, and be subject to the same penalties as are all other persons committing any of the above crimes within the exclusive jurisdiction of the United States: *Provided*, That any Indian who commits the crime of rape upon any female Indian within the limits of any Indian reservation shall be imprisoned at the discretion of the court: *Provided further*, That as herein used the offense rape shall be defined in accordance with the laws of the State in which the offense was committed.

The foregoing shall extend to prosecutions of Indians in South Dakota under section 549 of this title. (Mar. 4, 1909, ch. 321, § 328, 35 Stat. 1151; June 28, 1932, ch. 284, 47 Stat. 337.)

DERIVATION

Acts Mar. 3, 1885, ch. 341, § 9, 23 Stat. 385; Jan. 15, 1897, ch. 29, § 5, 29 Stat. 487, which were repealed by act Mar. 4, 1909, ch. 321, § 341, 35 Stat. 1153.

§ 549. (Criminal Code, section 329.) Crimes committed on Indian reservations in South Dakota; rape of Indian.

The district court of the United States for the district of South Dakota shall have jurisdiction to hear, try, and determine all actions and proceedings in which any person shall be charged with the crime of murder, manslaughter, rape, assault with intent to kill, assault with a dangerous weapon, arson, burglary, or larceny, committed within the limits of any Indian reservation in the State of South Dakota. Any person convicted of murder, manslaughter, rape, arson, or burglary, committed within the limits of any such reservation, shall be subject to the same punishment as is imposed upon persons committing

said crimes within the exclusive jurisdiction of the United States. Any Indian who shall commit the crime of rape upon any female Indian within any such reservation shall be imprisoned at the discretion of the court. Any person convicted of the crime of assault with intent to kill, assault with a dangerous weapon, or larceny, committed within the limits of any such reservation, shall be subject to the same punishment as is provided in cases of other persons convicted of any of said crimes under the laws of the State of South Dakota. (Mar. 4, 1909, ch. 321, § 329, 35 Stat. 1151; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167.)

DERIVATION

Act Feb. 2, 1903, ch. 351, 32 Stat. 793, which was repealed by act Mar. 4, 1909, ch. 321, § 341, 35 Stat. 1153.

JURISDICTION

Jurisdiction to try actions arising out of crimes committed within the limits of any Indian reservation in South Dakota was conferred originally upon the circuit and district courts of the United States for the District of South Dakota by act February 2, 1903, ch. 351, 32 Stat. 793. Said act February 2, 1903, was repealed by section 341 of act March 4, 1909, cited to text. Section 329 of said act March 4, 1909, substantially reenacted the provisions of former act February 2, 1903, supra, as part of the Criminal Code. Section 289 of the Judicial Code, act March 3, 1911, cited to text, abolished the circuit courts; and section 291 thereof transferred the former jurisdiction of circuit courts to the district courts. Section 27 of said act March 3, 1911, substantially reenacted the first sentence of this section but omitted therefrom any reference to circuit courts. See section 51 of Title 28, Judicial Code and Judiciary.

CROSS REFERENCES

Jurisdiction of offenses committed by or against Indians on Indian reservations within State of Kansas conferred on State of Kansas as affecting jurisdiction of courts of the United States, see section 217a of Title 25, Indians.

Punishment for certain crimes to be applicable to prosecution of Indians in South Dakota, see section 548 of this title.

§ 550. (Criminal Code, section 332.) "Principals" defined.

Whoever directly commits any act constituting an offense defined in any law of the United States, or aids, abets, counsels, commands, induces, or procures its commission, is a principal. (Mar. 4, 1909, ch. 321, § 332, 35 Stat. 1152.)

DERIVATION

R. S. § 5323, which was revised from act Apr. 30, 1790, ch. 9, 1 Stat. 114; R. S. § 5427, which was revised from act July 14, 1870, ch. 254, 16 Stat. 254, which were repealed by act Mar. 4, 1909, ch. 321, § 341, 35 Stat. 1153.

§ 551. (Criminal Code, section 333.) Punishment of accessories.

Whoever, except as otherwise expressly provided by law, being an accessory after the fact to the commission of any offense defined in any law of the United States, shall be imprisoned not exceeding one-half the longest term of imprisonment, or fined not exceeding one-half the largest fine prescribed for the punishment of the principal, or both, if the principal is punishable by both fine and imprisonment; or if the principal is punishable by death, then an accessory shall be imprisoned not more than ten years. (Mar. 4, 1909, ch. 321, § 333, 35 Stat. 1152.)

DERIVATION

R. S. § 5533, which was revised from act Apr. 30, 1790, ch. 9, § 1 Stat. 114; R. S. § 5534, which was revised from act June 8, 1872, ch. 335, § 17 Stat. 320; and R. S. § 5535, which was revised from act July 2, 1836, ch. 270, § 5 Stat. 88, all of which were repealed by act Mar. 4, 1909, ch. 321, § 341, 35 Stat. 1153.

§ 552. (Criminal Code, section 334.) Same; robbery or piracy.

Whoever, without lawful authority, receives or takes into custody any vessel, goods, or other property, feloniously taken by any robber or pirate against the laws of the United States, knowing the same to have been feloniously taken, and whoever, knowing that such pirate or robber has done or committed any such piracy or robbery, on the land or at sea, receives, entertains, or conceals any such pirate or robber, is an accessory after the fact to such robbery or piracy, and shall be imprisoned not more than ten years. (Mar. 4, 1909, ch. 321, § 334, 35 Stat. 1152.)

DERIVATION

R. S. §§ 5324, 5533, which were revised from act Apr. 30, 1790, ch. 9, § 1 Stat. 114 and repealed by act Mar. 4, 1909, ch. 321, § 341, 35 Stat. 1153.

§ 553. (Criminal Code, section 336.) Place of commission of murder or manslaughter determined.

In all cases of murder or manslaughter, the crime shall be deemed to have been committed at the place where the injury was inflicted, or the poison administered or other means employed which caused the death, without regard to the place where the death occurs. (Mar. 4, 1909, ch. 321, § 336, 35 Stat. 1152.)

§ 554. Indictments and presentments; by twelve grand jurors.

No indictment shall be found, nor shall any presentment be made, without the concurrence of at least twelve grand jurors. (R. S. § 1021.)

DERIVATION

Act Mar. 3, 1865, ch. 86, § 1, 13 Stat. 500.

§ 554a. Same; objection on ground of unqualified juror barred where twelve qualified jurors concurred; record of number concurring.

No plea to abate nor motion to quash any indictment, upon the ground that one or more unqualified persons served upon the grand jury finding such indictment, shall be sustained if it appears that twelve or more jurors, after deducting the number so disqualified, concurred in the finding of said indictment: *Provided, however,* That no juror shall be permitted to testify, in this connection, as to whether he or any other individual juror voted for or against the finding of such indictment, but it shall be the duty of the foreman of each grand jury to keep a record of the number of grand jurors concurring in the finding of any indictment and to file such record with the clerk of the court at the time the indictment is returned. Such record shall not be made public except on order of the court. (Apr. 30, 1934, ch. 170, § 2, 48 Stat. 649.)

§ 555. Same; offenses against elective franchise.

All crimes and offenses committed against the provisions of sections 51, 52, 54 to 59, 246, 428, and

443-445 of this title, and section 51 of Title 8, which are not infamous, may be prosecuted either by indictment or by information filed by a district attorney. (R. S. § 1022.)

DERIVATION

Act May 31, 1870, ch. 114, § 8, 16 Stat. 142.

§ 556. Same; defects of form.

No indictment found and presented by a grand jury in any district or other court of the United States shall be deemed insufficient, nor shall the trial, judgment, or other proceeding thereon be affected by reason of any defect or imperfection in matter of form only, which shall not tend to the prejudice of the defendant, or by reason of the attendance before the grand jury during the taking of testimony of one or more clerks or stenographers employed in a clerical capacity to assist the district attorney or other counsel for the Government who shall, in that connection, be deemed to be persons acting for and on behalf of the United States in an official capacity and function. (R. S. § 1025; May 18, 1933, ch. 31, 48 Stat. 58.)

DERIVATION

R. S. § 1025 was from act June 1, 1872, ch. 255, § 8, 17 Stat. 198.

§ 556a. Same; objections to drawing or qualification of grand jury; time for filing; suspension of statute of limitations.

No plea to abate nor motion to quash any indictment upon the ground of irregularity in the drawing or impaneling of the grand jury or upon the ground of disqualification of a grand juror shall be sustained or granted unless such plea or motion shall have been filed before, or within ten days after, the defendant filing such plea or motion is presented for arraignment; and from the time such plea or motion is filed and until the termination of the first term of said court beginning subsequent to the final judgment on such plea or motion and during which a grand jury thereof shall be in session, no statute of limitations shall operate to bar another indictment of any defendant filing such plea or motion, or of any other defendant or defendants included in the indictment to which such plea or motion is directed, for the offense or offenses therein charged. (Apr. 30, 1934, ch. 170, § 1, 48 Stat. 648.)

§ 556b. Application of sections 554a and 556a.

Sections 554a and 556a of this title shall be applicable to the district courts of the United States, including the district courts of Alaska, Hawaii, Puerto Rico, the Virgin Islands, and the District of Columbia. (Apr. 30, 1934, ch. 170, § 3, 48 Stat. 649; June 25, 1936, ch. 804, 49 Stat. 1921.)

§ 557. Same; joinder of charges.

When there are several charges against any person for the same act or transaction, or for two or more acts or transactions connected together, or for two or more acts or transactions of the same class of crimes or offenses, which may be properly joined, instead of having several indictments the whole may be joined in one indictment in separate counts; and if two or more indictments are found in such cases.

the court may order them to be consolidated. (R. S. § 1024.)

DERIVATION

Act Feb. 26, 1853, ch. 80, § 1, 10 Stat. 162.

§ 558. Same; perjury.

In every presentment or indictment prosecuted against any person for perjury, it shall be sufficient to set forth the substance of the offense charged upon the defendant, and by what court, and before whom the oath was taken, averring such court or person to have competent authority to administer the same, together with the proper averment to falsify the matter wherein the perjury is assigned, without setting forth the bill, answer, information, indictment, declaration, or any part of any record or proceeding, either in law or equity, or any affidavit, deposition, or certificate, other than as hereinbefore stated, and without setting forth the commission or authority of the court or person before whom the perjury was committed. (R. S. § 5396.)

DERIVATION

Act Apr. 30, 1790, ch. 9, § 19, 1 Stat. 110.

§ 559. Same; subornation of perjury.

In every presentment or indictment for subornation of perjury, it shall be sufficient to set forth the substance of the offense charged upon the defendant, without setting forth the bill, answer, information, indictment, declaration, or any part of any record, or proceeding either in law or equity, or any affidavit, deposition, or certificate, and without setting forth the commission or authority of the court or person before whom the perjury was committed, or was agreed or promised to be committed. (R. S. § 5397.)

DERIVATION

Act Apr. 30, 1790, ch. 9, § 20, 1 Stat. 116.

§ 560. Same; perjury before naval court-martial.

In prosecutions for perjury committed on examination before a naval general court-martial, or for the subornation thereof, it shall be sufficient to set forth the offense charged on the defendant, without setting forth the authority by which the court was held, or the particular matters brought before, or intended to be brought before, said court. (R. S. § 1023.)

DERIVATION

Act July 17, 1862, ch. 204, § 1, art. 13, 12 Stat. 604.

§ 561. Same; judgment on demurrer.

In every case in any court of the United States, where a demurrer is interposed to an indictment, or to any count or counts thereof, or to any information, and the demurrer is overruled, the judgment shall be respondeat ouster; and thereupon a trial may be ordered at the same term, or a continuance may be ordered, as justice may require. (R. S. § 1026.)

DERIVATION

Act May 23, 1872, ch. 202, 17 Stat. 158.

§ 562. Copy of indictment and list of jurors and witnesses for prisoner.

When any person is indicted of treason, a copy of the indictment and a list of the jury, and of the witnesses to be produced on the trial for proving the indictment, stating the place of abode of each juror and witness, shall be delivered to him at least three entire days before he is tried for the same. When any person is indicted of any other capital offense, such copy of the indictment and list of the jurors and witnesses shall be delivered to him at least two entire days before the trial. (R. S. § 1033.)

DERIVATION

Act Apr. 30, 1790, ch. 9, § 29, 1 Stat. 118.

§ 562a. Copy of information or indictment in other cases.

In each criminal case not provided for in section 562 of this title the clerk shall furnish each defendant, upon his request, a copy of any information filed or indictment returned against him, the fees for said copy and the certificate thereto, at the rates provided for by law, to be taxed as costs; but such fees shall not be demanded of any such defendant unless and until by order, judgment, or decree of the court the costs in the case are assessed against him. (Feb. 11, 1925, ch. 204, § 8, 43 Stat. 858; Jan. 22, 1927, ch. 50, § 2, 44 Stat. 1023.)

CROSS REFERENCE

Costs, see sections 548-555 of Title 28, Judicial Code and Judiciary.

§ 563. Counsel and witnesses for persons indicted for capital crimes.

Every person who is indicted of treason or other capital crime shall be allowed to make his full defense by counsel learned in the law; and the court before which he is tried, or some judge thereof, shall immediately, upon his request, assign to him such counsel, not exceeding two, as he may desire, and they shall have free access to him at all seasonable hours. He shall be allowed, in his defense, to make any proof that he can produce by lawful witnesses, and shall have the like process of the court to compel his witnesses to appear at his trial, as is usually granted to compel witnesses to appear on behalf of the prosecution. (R. S. § 1034.)

DERIVATION

Act Apr. 30, 1790, ch. 9, § 29, 1 Stat. 118.

§ 564. Standing mute.

When any person indicted for any offense against the United States, whether capital or otherwise, upon his arraignment stands mute, or refuses to plead or answer thereto, it shall be the duty of the court to enter the plea of not guilty on his behalf, in the same manner as if he had pleaded not guilty thereto. And when the party pleads not guilty, or such plea is entered as aforesaid, the cause shall be deemed at issue, and shall, without further form or ceremony, be tried by a jury. (R. S. § 1032.)

DERIVATION

Acts Apr. 30, 1790, ch. 9, § 30, 1 Stat. 119; Mar. 3, 1825, ch. 65, § 14, 4 Stat. 118; Mar. 3, 1835, ch. 40, § 4, 4 Stat. 777.

§ 565. Verdicts; less offense than charged.

In all criminal causes the defendant may be found guilty of any offense the commission of which is necessarily included in that with which he is charged in the indictment, or may be found guilty of an attempt to commit the offense so charged, if such attempt be itself a separate offense. (R. S. § 1035.)

DERIVATION

Act June 1, 1872, ch. 255, § 9, 17 Stat. 198.

§ 566. Same; several joint defendants.

On an indictment against several, if the jury cannot agree upon a verdict as to all, they may render a verdict as to those in regard to whom they do agree, on which a judgment shall be entered accordingly; and the cause as to the other defendants may be tried by another jury. (R. S. § 1036.)

DERIVATION

Act June 1, 1872, ch. 255, § 10, 17 Stat. 198.

§ 567. (Criminal Code, section 330.) Same; qualified verdicts.

In all cases where the accused is found guilty of the crime of murder in the first degree, or rape, the jury may qualify their verdict by adding thereto "without capital punishment"; and whenever the jury shall return a verdict qualified as aforesaid, the person convicted shall be sentenced to imprisonment for life. (Mar. 4, 1909, ch. 321, § 330, 35 Stat. 1152.)

DERIVATION

Act Jan. 15, 1897, ch. 29, § 1, 29 Stat. 487, which was repealed by act Mar. 4, 1909, ch. 321, § 341, 35 Stat. 1153.

§ 568. (Criminal Code, section 327.) Pardoning power.

Whenever, by the judgment of any court or judicial officer of the United States, in any criminal proceeding, any person is sentenced to two kinds of punishment, the one pecuniary and the other corporal, the President shall have full discretionary power to pardon or remit, in whole or in part, either one of the two kinds, without in any manner impairing the legal validity of the other kind, or of any portion of either kind, not pardoned or remitted. (Mar. 4, 1909, ch. 321, § 327, 35 Stat. 1151.)

DERIVATION

R. S. § 5330, which was revised from act Feb. 20, 1863, ch. 46, 12 Stat. 666 and repealed by act Mar. 4, 1909, ch. 321, § 341, 35 Stat. 1153.

§ 569. Judgments for fines; collection.

In all criminal or penal causes in which judgment or sentence has been or shall be rendered, imposing the payment of a fine or penalty, whether alone or with any other kind of punishment, the said judgment, so far as the fine or penalty is concerned, may be enforced by execution against the property of the defendant in like manner as judgments in civil cases are enforced. Where the judgment directs that the defendant shall be imprisoned until the fine or penalty imposed is paid, the issue of execution on the judgment shall not operate to discharge the defendant from imprisonment until the amount of the judgment is collected or otherwise paid. (R. S. § 1041.)

DERIVATION

Act June 1, 1872, ch. 255, § 12, 17 Stat. 198.

§ 570. Disposition of bribe moneys.

All moneys received or tendered in evidence in any case, proceeding, or investigation in any United States court, or before any officer thereof, which have been paid to or received by any official as a bribe, shall after the conclusion and final disposition of the particular case, proceeding, or investigation in which it was received as evidence, be deposited in the registry of the court to be disposed of under and in accordance with the order, judgment, or decree of the said court, to be subject, however, to the provisions of section 852 of Title 28. (Jan. 7, 1925, ch. 33, 43 Stat. 726.)

CROSS REFERENCE

Appropriation account for return of unclaimed money deposited by clerks of courts to be covered into trust fund receipt account of Treasury, see section 725p (b) (14) of Title 31, Money and Finance.

§ 571. (Criminal Code, section 337.) Construction of words.

Words used in this title in the present tense include the future as well as the present; words used in the masculine gender include the feminine and neuter; the singular number includes the plural, and the plural the singular; the word "person" and the word "whoever" include a corporation as well as a natural person; writing includes printing and typewriting, and signature or subscription includes a mark when the person making the same intended it as such. (Mar. 4, 1909, ch. 321, § 337, 35 Stat. 1152.)

REFERENCE IN TEXT

The words, "this title," as used in this section refer to the Criminal Code, act Mar. 4, 1909, ch. 321, 35 Stat. 1088. The sections of said act embodied in this code are indicated by parenthetical references in the section catchlines. For full distribution of said act, see tables.

§ 572. (Criminal Code, section 338.) Effect of omitting "hard labor."

The omission of the words "hard labor" from the provisions prescribing the punishment in the various sections of this Act, shall not be construed as depriving the court of the power to impose hard labor as a part of the punishment, in any case where such power now exists. (Mar. 4, 1909, ch. 321, § 338, 35 Stat. 1153.)

REFERENCE IN TEXT

The words, "this act," as used in this section refer to the Criminal Code, act Mar. 4, 1909, ch. 321, 35 Stat. 1088. The sections of said act embodied in this code are indicated by parenthetical references in the section catchlines. For full distribution of said act, see tables.

§ 573. (Criminal Code, section 339.) Arrangement and classification of sections.

No inference or presumption of a legislative construction is to be drawn by reason of the chapters under which any particular section of the Criminal Code is placed. (Mar. 4, 1909, ch. 321, § 339, 35 Stat. 1153.)

REFERENCE IN TEXT

The sections of the Criminal Code, act Mar. 4, 1909, ch. 321, 35 Stat. 1088, embodied in this title are indicated by parenthetical references in the section catchlines. For full distribution of said act, see tables.

§ 574. Jurisdiction of offenses under certain sections.

The several courts of first instance in the Philippine Islands and the district court of the Canal Zone shall have jurisdiction of offenses under sections 25, 27, 31-38, 98, 130-132, 343-345, 349, 381, 502, and 611-633 of this title, sections 213, 220-222, 231-234, and 238-245 of Title 22, and sections 191-194 of Title 50, committed within their respective districts, and concurrent jurisdiction with the district courts of the United States of offenses under said sections committed upon the high seas, and of conspiracies to commit such offenses, as defined by section 88 of this title, and the provisions of section 88 of this title, for the purpose of the sections hereinbefore enumerated, are hereby extended to the Philippine Islands and to the Canal Zone. In such cases, the district attorneys of the Philippine Islands and of the Canal Zone shall have the powers and perform the duties provided in the sections hereinbefore enumerated for United States attorneys. (June 15, 1917, ch. 30, title XIII, § 2, 40 Stat. 231.)

§ 575. Rewards for apprehension of criminals; appropriations authorized.

There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, as a reward or rewards for the capture of anyone who is charged with violation of criminal laws of the United States or any State or of the District of Columbia the sum of \$25,000 to be apportioned and expended in the discretion of, and upon such conditions as may be imposed by, the Attorney General of the United States. There is also hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, as a reward or rewards for information leading to the arrest of any such person the sum of \$25,000 to be apportioned and expended in the discretion of, and upon such conditions as may be imposed by, the Attorney General of the United States: *Provided*, That not more than \$25,000 shall be expended for information or capture of any one person.

If the said persons or any of them shall be killed in resisting lawful arrest, the Attorney General may pay any part of the reward or rewards in his discretion to the person or persons whom he shall adjudge to be entitled thereto: *Provided*, That no part of the money authorized to be appropriated by this section shall be paid to any official or employee of the Department of Justice of the United States. (June 6, 1934, ch. 408, 48 Stat. 910.)

§ 576. Trial of petty offenses by United States commissioners; jurisdiction; probation; definition of petty offense; election by defendant.

Any United States commissioner specially designated for that purpose by the court by which he was appointed shall have jurisdiction to try and, if found guilty, to sentence persons charged with petty offenses against the law, or rules and regulations made in pursuance of law, committed in any place over which the Congress has exclusive power to legislate or over which the United States has concurrent jurisdiction, and within the judicial district for which such commissioner was appointed. The probation laws shall be applicable to persons so tried before

United States commissioners. For the purposes of sections 576-576d of this title the term "petty offense" shall be defined as in section 541 of this title. If any person charged with such petty offense shall so elect, however, he shall be tried in the district court of the United States which has jurisdiction over the offense. The commissioner before whom the defendant is arraigned shall apprise the defendant of his right to make such election and shall not proceed to try the case unless the defendant after being so apprised, signs a written consent to be tried before the commissioner. (Oct. 9, 1940, ch. 785, § 1, 54 Stat. 1058.)

§ 576a. Same; appeals; rules of procedure and practice.

In all cases of conviction by United States commissioners an appeal shall lie from the judgment of the commissioner to the district court of the United States for the district in which the offense was committed. The Supreme Court shall prescribe rules of procedure and practice for the trial of cases before commissioners and for taking and hearing of appeals to the said district courts of the United States. (Oct. 9, 1940, ch. 785, § 2, 54 Stat. 1059.)

RULES OF PROCEDURE FOR TRIALS BEFORE COMMISSIONERS

An order of the Supreme Court of the United States, promulgated January 6, 1941, after citing the authority of section 576a of this title, provided as follows: "It is ordered on this sixth day of January, 1941, that the following rules be adopted as the Rules of Procedure and Practice for the Trial of Cases Before Commissioners and for Taking and Hearing of Appeals to the District Courts of the United States.

"It is further ordered that these rules shall be applicable to proceedings instituted on or after February 1, 1941, and to pending proceedings except to the extent that in the opinion of the Commissioner or the Court their application would not be feasible or would work injustice."

RULE 1.—INFORMATION AND WARRANT

A warrant of arrest shall be issued only on an information, under oath, which shall set forth the day and place it was taken, the name of the informer, the name and title of the Commissioner, the name of the offender, the time the alleged offense was committed and the place where it was committed and a description of the alleged offense.

If arrest is made on view, an information setting forth the same matters shall be made and filed before trial.

RULE 2.—TRIAL

The date of trial shall be fixed at such a time as will afford the defendant a reasonable opportunity for preparation and for representation by counsel if desired.

The trial shall be conducted as are trials of criminal cases in the District Court by a District judge in a criminal case where a jury is waived.

RULE 3.—DOCKET

The Commissioner's proceedings shall be entered in his docket, which shall show: (1) The defendant's written consent to be tried before the Commissioner; (2) the date of the information and upon whose oath it was made; (3) the date of the issue

and service of the warrant; (4) the defendant's plea or pleas; (5) the names of the witnesses for the United States and for the defendant and a condensed summary of the testimony of each, and of any documentary evidence received; (6) the judgment and sentence of the Commissioner.

RULE 4.—APPEAL

1. Motions subsequent to judgment of conviction shall not be entertained by the Commissioner.

2. An appeal shall be taken within five days after entry of judgment of conviction. An appeal shall be taken by filing with the Commissioner a notice in duplicate stating that the defendant appeals from the judgment, and by serving a copy of the notice upon the United States Attorney. The notice of appeal shall set forth the title of the case, the names and addresses of the appellant and the appellant's attorney, if any; a general statement of the nature of the offense; the date of the judgment; the sentence imposed and, if the appellant is in custody, the prison where he is confined. The notice shall also contain a succinct statement of the grounds of appeal which shall serve as the appellant's assignments of error and shall follow substantially the form hereto annexed.

3. The Commissioner shall immediately forward to the Clerk of the District Court the duplicate notice of appeal together with a transcript of his docket entries and copies of the information, the warrant, the defendant's written consent to be tried before the Commissioner, and any order concerning bail, pending appeal, certified under his hand and seal. From the time of the filing of the Commissioner's certificate the District Court shall have supervision and control of the proceedings on appeal and may at any time, upon five days' notice, entertain a motion to dismiss it or for directions to the Commissioner or to vacate or modify any order of the Commissioner in relation to the appeal, including any order for the granting of bail.

4. An appeal from a judgment of conviction stays the execution of the judgment unless the defendant, pending his appeal, shall elect to enter upon the service of the sentence.

5. The defendant shall not be admitted to bail pending appeal from a judgment of conviction save as follows: Bail may be granted by the Commissioner or by the District Court or any judge thereof; but bail shall not be allowed pending appeal unless it appears that the appeal involves a substantial question which should be determined by the District Court.

6. The record on appeal shall consist of the matters certified by the Commissioner pursuant to paragraph 3. No bill of exceptions and no assignments of error other than those set forth as ground for appeal shall be required. The defendant shall not be entitled to a trial *de novo* in the District Court and the decision of the Commissioner upon questions of fact shall not be reexamined by the District Court. Only errors of law apparent from the record as certified by the Commissioner shall be considered by the court.

RULE 5.—NEW TRIAL FOR AFTER-DISCOVERED EVIDENCE

Within sixty days after conviction a defendant may move for a new trial on the ground of after-discovered evidence. The motion shall be in writing, addressed to the Commissioner and shall set forth under oath the nature of the evidence and the reason it was unavailable at the trial. A copy of the motion shall forthwith be served upon the United States Attorney. The Commissioner shall transmit the motion together with a transcript of his docket entries to the District Court. That court shall hear the motion, and, if it deems a sufficient showing has been made, may vacate the judgment of conviction and direct the Commissioner to re-try the case.

RULE 6.—DISTRICT COURT RULES

The District Courts may, by order or standing rule, not inconsistent with these rules, regulate the practice and procedure on appeals from convictions before a Commissioner.

FORM OF NOTICE OF APPEAL UNDER RULE 4

In the District Court of the United States

For the _____ District of _____

UNITED STATES OF AMERICA	{ Appeal from the Judgment and Sentence of _____, United States Commissioner.
vs.	

Name and address of appellant_____

Name and address of appellant's attorney_____

Offense _____

Date of judgment_____

Brief description of judgment or sentence_____

Name of prison where now confined, if not on bail____

I, the above named Appellant, hereby appeal to the United States District Court for the _____ District of _____ from the judgment above-mentioned on the grounds set forth below.

(Signed) _____

Appellant.

Dated_____

Grounds of appeal:

§ 576b. Same; fees of commissioners.

United States commissioners specially designated under authority of section 576 of this title shall receive for services rendered under sections 576-576d of this title the same fees, and none other, as provided for like or similar services in other cases under sec-

tion 597 of Title 28. (Oct. 9, 1940, ch. 785, § 3, 54 Stat. 1059.)

§ 576c. Same; existing powers of commissioners unaffected.

Sections 576-576d of this title shall not be construed as in any way repealing or limiting the existing jurisdiction, power, or authority of United States commissioners, including United States commissioners appointed for the several national parks and the United States commissioners in Alaska. (Oct. 9, 1940, ch. 785, § 4, 54 Stat. 1059.)

§ 576d. Same; inapplicability of sections 576-576c to District of Columbia.

The provisions of sections 576-576d of this title shall not apply to the District of Columbia. (Oct. 9, 1940, ch. 785, § 5, 54 Stat. 1059.)

Chapter 16.—LIMITATIONS

Sec.

- 581. Capital offenses.
- 581a. Capital offenses; time for finding indictment.
- 581b. Same; offenses previously barred.
- 582. Offenses not capital.
- 583. Fleeing from justice.
- 584. Crimes under slave trade laws.
- 585, 586. Crimes under internal revenue laws.
- 587. Defective indictment; defect found after period of limitations; reindictment.
- 588. Same; defect found before period of limitations; reindictment.
- 589. Same; defense of limitations to new indictment.
- 590. Same; indictments bound by limitations on May 10, 1934.

§ 581. Capital offenses.

Subject matter of this section, R. S. § 1043, is now covered by section 582 of this title.

§ 581a. Capital offenses; time for finding indictment.

An indictment for any offense punishable by death may be found at any time without regard to any statute of limitations. (Aug. 4, 1939, ch. 419, § 1, 53 Stat. 1198.)

§ 581b. Same; offenses previously barred.

Section 581a of this title shall not authorize prosecution, trial, or punishment for any offense barred by the provisions of law existing on Aug. 4, 1939. (Aug. 4, 1939, ch. 419, § 2, 53 Stat. 1198.)

§ 582. Offenses not capital.

No person shall be prosecuted, tried, or punished for any offense, not capital, except as provided in section 584 of this title, unless the indictment is found, or the information is instituted, within three years next after such offense shall have been committed. (R. S. § 1044; Apr. 13, 1876, ch. 56, 19 Stat. 32; Nov. 17, 1921, ch. 124, § 1, 42 Stat. 220; Dec. 27, 1927, ch. 6, 45 Stat. 51.)

CODIFICATION

This section constitutes the first clause of R. S. § 1044 as amended by act December 27, 1927, cited to text. The remainder of R. S. § 1044, as amended, constituted a proviso that nothing therein contained "shall apply to any offense for which an indictment has been heretofore found or an information instituted, or to any proceedings under any such indictment or information."

DERIVATION

Act Apr. 30, 1790, ch. 9, § 32, 1 Stat. 119.

CROSS REFERENCE

Offenses under the Nationality Act of 1940, see section 740 (g) of Title 8, Aliens and Nationality.

§ 583. Fleeing from justice.

Nothing in sections 581 and 582 of this title shall extend to any person fleeing from justice. (R. S. § 1045.)

DERIVATION

Act Apr. 30, 1790, ch. 9, § 32, 1 Stat. 119.

§ 584. Crimes under slave trade laws.

No person shall be prosecuted, tried, or punished for any crime arising under the slave trade laws of the United States, unless the indictment is found or the information is instituted within five years next after the committing of such crime. (R. S. § 1046; July 5, 1884, ch. 225, § 2, 23 Stat. 122.)

DERIVATION

Acts Mar. 26, 1804, ch. 40, § 3, 2 Stat. 290; Apr. 20, 1818, ch. 91, § 9, 3 Stat. 452.

REPEAL

This section originally applied to crimes arising under the revenue laws as well as under the slave trade laws. Section 1 of act July 5, 1884, cited to text, established new limitations with respect to the revenue laws and section 2 thereof repealed all laws or parts of laws inconsistent therewith.

§§ 585, 586. Crimes under internal revenue laws.

These sections related to limitations upon the prosecution of crimes under the internal revenue laws. The subject matter of these sections is now contained in subdivisions (a) and (b), respectively, of section 3748 of Title 26, Internal Revenue Code. For repeal of acts upon which these sections were based, see section 4 (a) of enacting provisions preceding section 1 of said Title 26.

Section 585 was based upon act July 5, 1884, ch. 225, § 1, 23 Stat. 122 as amended by acts Nov. 23, 1921, ch. 136, § 1321 (a), 42 Stat. 315; June 2, 1924, 4:01 p. m., ch. 234, § 1010 (a), 43 Stat. 341; Feb. 26, 1926, ch. 27, §§ 1110 (a), 1200, 44 Stat. 114, 125, and act June 6, 1932, ch. 209, § 1108, 47 Stat. 288.

Section 586 was based upon the acts Nov. 23, 1921, ch. 136, § 1321 (b), 42 Stat. 315; June 2, 1924, 4:01 p. m., ch. 234, § 1010 (b), 43 Stat. 342; Feb. 26, 1926, ch. 27, § 1110 (b), 44 Stat. 115; June 6, 1932, ch. 209, § 1108, 47 Stat. 288.

§ 587. Defective indictment; defect found after period of limitations; reindictment.

Whenever an indictment is found defective or insufficient for any cause, after the period prescribed by the applicable statute of limitations has expired, a new indictment may be returned not later than the end of the next succeeding regular term of such court, following the term at which such indictment was found defective or insufficient, during which a grand jury thereof shall be in session. (May 10, 1934, ch. 278, § 1, 48 Stat. 772, July 10, 1940, ch. 567, 54 Stat. 747.)

CODIFICATION

Act July 10, 1940, cited to text, substituted words "not later than the end of the succeeding regular term of such court, following the term at which such indictment was found defective or insufficient" for the words "at any time during the next succeeding term of court following such finding."

§ 588. Same; defect found before period of limitations; reindictment.

Whenever an indictment is found defective or insufficient for any cause, before the period prescribed