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§ 10/18/76

APPROVED
OCT 18 1976

THE WHITE HOUSE

WASHINGTON

October 18, 1976

ACTION

Last Day: October 20

MEMORANDUM FOR THE PRESIDENT

FROM: JIM CANNON *Jim Cannon*

SUBJECT: H.R. 15531 - Unsworn Declarations

R. T. 10/19/76

Attached for your consideration is H.R. 15531, sponsored by Representative Danielson and five others.

attached 10/19/76

The enrolled bill would permit the use in Federal proceedings of unsworn declarations given under penalty of perjury in lieu of affidavits. An unsworn declaration may not be used for a deposition, an oath of office or a document required to be signed before a specified official other than a notary.

The enrolled bill would also make conforming amendments to several other statutes establishing penalties for false statements given under oath to include unsworn declarations within their purview.

A detailed explanation of the provisions of the enrolled bill is provided in OMB's enrolled bill report at Tab A.

OMB, Max Friedersdorf, Counsel's Office (Lazarus) and I recommend approval of the enrolled bill.

RECOMMENDATION

That you sign H.R. 15531 at Tab B.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

OCT 13 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 15531 - Unsworn declarations
Sponsor - Rep. Danielson (D) California and 5 others

Last Day for Action

October 20, 1976 - Wednesday

Purpose

To permit the use in Federal proceedings of unsworn declarations given under penalty of perjury in lieu of affidavits.

Agency Recommendations

Office of Management and Budget	Approval
Department of Justice	Approval
Administrative Office of the United States Courts	No recommendation

Discussion

Under current law, an affidavit or other written document requiring verification by the person signing it must be subscribed to under oath. Procedurally, this requires that the signing of such documents be done before someone legally authorized to administer oaths, usually a notary public. A person who falsely states something in a sworn document is, thus, subject to prosecution for perjury.

Requiring that persons executing affidavits or other sworn statements appear before a notary can be inconvenient, particularly when a document is to be executed during other than normal business hours or in another country. The enrolled bill would eliminate the necessity for an oath in documents routinely used in Federal proceedings, except in certain circumstances, by establishing alternative procedural safeguards against perjury.

Briefly, H.R. 15531 would authorize the use of unsworn statements subscribed to under penalty of perjury, in lieu of affidavits or certain other documents, i.e., the signed document must include a specific statement that the document is being executed subject to the penalty for perjury. However, an unsworn declaration may not be used for (1) a deposition, (2) an oath of office, or (3) a document required to be signed before a specified official other than a notary.

The enrolled bill would also make conforming amendments to several other statutes establishing penalties for false statements given under oath to include unsworn declarations within their purview. These include:

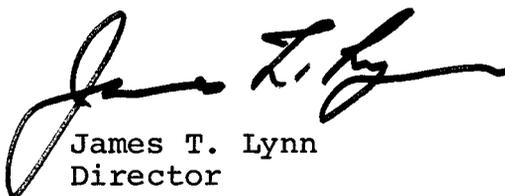
- the Federal criminal code's general perjury statute;
- a statute in General Military Law regarding military proceedings;
- a statute governing bankruptcy proceedings;
- statutes relating to the acquisition of passports, visas or immigration documents or relating to the taking of evidence by immigration officers;
- a statute specifically addressing false declarations before a grand jury or court;
- maritime statutes providing for the licensing of marine radiotelegraph operators as ship radio officers or relating to the certificate filed by licensed masters, chief mates, engineers, or pilots of ships; and
- a statute concerning the filing of certain information with the Secretary of the Interior by lessees mining western Indian lands pursuant to an agreement with the Department of the Interior.

* * * * *

In its attached views letter, the Department of Justice states:

"The requirement of notarization does not insure the reliability of such statements to any greater extent than does the requirement, contained in the bill, that the statements be made expressly subject to the penalty of perjury, as is presently the case, for example, with

respect to income tax returns. The State of California has had nearly twenty years of successful experience with a law very similar to H.R. 15531. There is no reason to believe the federal experience will be otherwise."

A handwritten signature in black ink, appearing to read "James T. Lynn", written in a cursive style with a large initial "J".

James T. Lynn
Director

Enclosures

Department of Justice
Washington, D. C. 20530

October 7, 1976

Honorable James T. Lynn
Director, Office of Management and Budget
Washington, D. C. 20503

Dear Mr. Lynn:

Pursuant to your request, I have examined a facsimile of the enrolled bill H.R. 15531 "To permit the use of unsworn declaration under penalty of perjury as evidence in Federal proceedings".

The purpose of this legislation is to eliminate the necessity of an oath, normally requiring resort to a notary public, with respect to relatively routine documents in federal proceedings. Section 1 of the bill amends title 28, United States Code, to add a new section (1746) providing that whenever under any laws of the United States a matter is required or permitted to be supported, evidenced, established or proved by a sworn declaration in writing (other than a deposition, an oath of office, or an oath required to be taken before an official other than a notary public), such matter may be supported, evidenced, etc. by an unsworn declaration in writing, which is subscribed by the declarant as true and which states that it is being made "under penalty of perjury". The remaining sections of the bill make conforming amendments to the general federal perjury statute (18 U.S.C. 1621) and related statutes, so as to punish as perjury knowingly false unsworn declarations submitted pursuant to 28 U.S.C. 1746.

The Department of Justice testified favorably on a predecessor version of this bill before the House Subcommittee on Criminal Justice on June 30, 1976. As we then indicated, the bill appears to be desirable since it will operate to streamline many federal proceedings by doing away with the need to obtain notarization for written statements. The requirement of notarization does not insure the reliability of such statements to any greater extent than does the requirement, contained in the bill, that the statements be made expressly subject to the penalty of perjury, as is presently the case, for example, with respect to income tax returns. The State of California has had nearly twenty years of successful experience with a law very similar to H.R. 15531. There is no reason to believe the federal experience will be otherwise.

Accordingly, the Department of Justice recommends Executive approval of this bill.

Sincerely,



Michael M. Uhlmann
Assistant Attorney General

ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS

SUPREME COURT BUILDING
WASHINGTON, D.C. 20544

ROWLAND F. KIRKS
DIRECTOR

WILLIAM E. FOLEY
DEPUTY DIRECTOR

October 6, 1976

Mr. James M. Frey
Assistant Director for
Legislative Reference
Office of Management and Budget
Washington, D. C.

Dear Mr. Frey:

This is in response to your enrolled bill request of October 5, 1976 transmitting for views and recommendations H.R. 15531, "To permit the use of unsworn declaration under penalty of perjury as evidence in Federal proceedings."

Since this legislation has not been considered by the Judicial Conference of the United States, no recommendation concerning executive approval is made.

Sincerely,



William E. Foley
Deputy Director

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 26

Date: October 15

Time: noon

FOR ACTION:

Dick Parsons *aw*
Max Friedersdorf *aw*
Bobbie Kilberg *aw*

cc (for information):

Jack Marsh
Ed Schmults
Steve McConahey *def*

FROM THE STAFF SECRETARY

DUE: Date: October 18

Time: 900am

SUBJECT:

H.R.15531-Unsworn declarations

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: October 15

Time: noon

FOR ACTION: Dick Parsons
Max Friedersdorf
Bobbie Kilberg

cc (for information): Jack Marsh
Ed Schmults
Steve McConahey

FROM THE STAFF SECRETARY

DUE: Date: October 18

Time: 930am

SUBJECT:

H.R.15531-Unsworn declarations

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

No objection -- Ken Lazarus 10/15/76

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon
For the President

THE WHITE HOUSE

ION MEMORANDUM

WASHINGTON

LOG NO.:

October 15

Time: noon

FOR ACTION: Dick Parsons
Max Friedersdorf
Bobbie Kilberg

cc (for information): Jack Marsh
Ed Schmults
Steve McConahey

FROM THE STAFF SECRETARY

DUE: Date: October 18

Time: 930am

SUBJECT:

H.R.15531-Unsworn declarations

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

X

For Your Comments

Draft Remarks

REMARKS:

Approve. RB

please return to judy johnston, ground floor west wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon
For the President

THE WHITE HOUSE

ACTING MEMORANDUM

WASHINGTON

LOG NO.:

Date: October 15

Time: noon

FOR ACTION: Dick Parsons
Max Friedersdorf
Bobbie Kilberg

cc (for information): Jack Marsh
Ed Schmults
Steve McConahey

FROM THE STAFF SECRETARY

DUE: Date: October 18

Time: 930am

SUBJECT:

H.R.15531-Unsworn declarations

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

*Recommendation
Approval.
mef*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon
For the President

UNSWORN DECLARATIONS

SEPTEMBER 20, 1946.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HUNGATE, from the Committee on the Judiciary,
submitted the following

REPORT

[To accompany H.R. 15531]

The Committee on the Judiciary, to whom was referred the bill (H.R. 15531) to permit the use of unsworn declarations under penalty of perjury as evidence in Federal proceedings, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

The purpose of this legislation is to permit the use in Federal proceedings of unsworn declarations given under penalty of perjury in lieu of affidavits.

BACKGROUND

An affidavit or other written document that requires verification by the person signing it currently must be subscribed to under oath. This requires that the person signing the affidavit or document must be taken before someone legally authorized to administer oaths (usually a notary public). A person who falsely states something in a document he subscribed to under oath is subject to the penalty imposed by law for perjury.

The requirement that the person who signs an affidavit must appear before a notary and be sworn can be inconvenient. For example, it may be necessary for the document to be executed during other than normal business hours. Further, the document may have to be executed in another country for use in the United States. This generally will require, in addition to the document subscribed to under oath, additional certifications and documents to prove such things as the authority of the officer who administers the oath and the authenticity of his seal.

The legislation provides an alternative to affidavits and sworn documents when it is necessary to require verification of the truthfulness

of what the document contains. The legislation will permit the signer to subscribe to a document that expressly provides that it is being executed subject to the penalties of perjury—a procedure already in use with the federal income tax return form 1040.¹

On the State level, California has for some 19 years permitted the use of unsworn declarations, given subject to the penalty of perjury.² The experience under the California statutes has been positive. The State Bar of California, whose members have practiced under those statutes, has endorsed the purpose of the legislation. The purpose of the legislation has also been endorsed by the American Bar Association and the Department of Justice. The Committee is aware of no opposition to it.

SECTION-BY-SECTION ANALYSIS

SECTION 1

Section 1 of H.R. 15531 amends title 28 of the United States Code by adding a new section (1746) to authorize the use of unsworn statements subscribed to under penalty of perjury. Section 1746 will permit the use of such a statement in lieu of an affidavit or sworn declaration, with 3 exceptions. An unsworn written declaration given under penalty of perjury may not be substituted for (1) deposition, (2) an oath of office, or (3) a document required to be signed before a specified official other than a notary.

Section 1746 also sets forth the language that must appear in the document in order for it to qualify as an unsworn declaration under penalty of perjury. If the document is executed within the United States, it must be subscribed to as follows:

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date).

(Signature)

SECTION 2

Section 2 of the bill amends section 1621 of title 18, United States Code. Section 1621, the general perjury statute, provides felony penalties for someone who, under oath, "willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true . . ." The legislation amends section 1746 to include within its coverage an unsworn declaration under penalty of perjury. The legislation in no way changes the elements of the offense defined in section 1746.

SECTION 3

Section 3 of H.R. 15531 amends a specific perjury statute in the same manner that section 2 of the bill amends the general perjury statute. The specific perjury statute involved is section 931 of title 10, United States Code, which relates to perjury in certain military proceedings.

¹ 26 U.S.C. §§ 6065, 7206(1). The United States Patent Office has promulgated regulations permitting the use of declarations subscribed to under penalty of 18 U.S.C. § 1001. See 37 C.F.R. §§ 1.68, 3.11a, 3.12a, 3.13a, 3.14a, 3.16a, 3.17a, 3.18a, 3.26a, 3.32a. Section 1001 of title 18, United States Code provides felony penalties when someone in any matter before a department or agency of the United States, makes a false writing or document knowing that it contains a false, fraudulent or fictitious statement.

² California Penal Code § 118; California Code of Civil Procedure § 2015.5.

SECTION 4

Section 4 of the bill amends a specific perjury statute in the same manner as section 2 amends the general perjury statute. The specific perjury statute involved in section 152 of title 18, United States Code, which relates to bankruptcy proceedings.

SECTION 5

Section 5 of H.R. 15531 amends a specific perjury statute in the same manner as section 2 amends the general perjury statute. The specific perjury statute involved is section 1546, of title 18, United States Code, which relates to making false statements in connection with passports, visas or immigration documents.

SECTION 6

Section 6 of the bill amends a specific perjury statute in the same manner that section 2 amends the general perjury statute. The specific perjury statute involved is section 1623(a) of title 18, United States Code, which relates to false declarations before a grand jury or court.

SECTION 7

Section 7 of H.R. 15531 amends a specific perjury statute in the same manner that section 2 amends the general perjury statute. The specific perjury statute involved is section 287(b) of the Immigration and Nationality Act (8 U.S.C. § 1357(b)), which relates to the taking of evidence by immigration officers.

SECTION 8

Section 8 of the bill amends a specific perjury statute in the same manner that section 2 amends the general perjury statute. The specific statute involved is section 5 of the Act entitled "An Act to provide for the licensing of marine radiotelegraph operators as ship radio officers, and for other purposes," approved May 12, 1948 (46 U.S.C. § 229e).

SECTION 9

Section 9 of H.R. 15531 amends a specific perjury statute in the same manner that section 2 amends the general perjury statute. The specific perjury statute involved is section 4445 of the Revised Statutes of the United States (46 U.S.C. § 231), which relates to certificates filed by licensed masters, chief mates, engineers or pilots of ships.

SECTION 10

Section 10 of the bill amends a specific perjury statute in the same manner that section 2 of the bill amends the general perjury statute. The specific perjury statute involved is section 26 of the Act entitled "An Act making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal

year ending June 30, 1920," approved June 30, 1919 (25 U.S.C. § 399), which relates to the filing of certain information with the Secretary of the Interior by lessees of unallotted mineral lands withdrawn from entry under mining laws.

COST

Pursuant to clause 7, rule XIII of the Rules of the House of Representatives, the Committee estimates that no new cost to the United States is entailed by H.R. 15531.

NEW BUDGET AUTHORITY

This legislation creates no new budget authority.

STATEMENT OF THE COMMITTEE ON GOVERNMENT OPERATIONS

No statement on this legislation has been received from the House Committee on Government Operations.

INFLATION IMPACT STATEMENT

H.R. 15531 will have no foreseeable inflationary impact on prices or costs in the operation of the national economy.

OVERSIGHT

The Committee makes no oversight findings.

COMMITTEE VOTE

H.R. 15531 was reported out of Committee on Wednesday, September 15, 1976, by a vote of 30-0.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

TITLE 28, UNITED STATES CODE

* * * * *

CHAPTER 115—EVIDENCE; DOCUMENTARY

- Sec.
 1731. Handwriting.
 1732. Record made in regular course of business; photographic copies.
 1733. Government records and papers; copies.
 1734. Court record lost or destroyed generally.
 1735. Court record lost or destroyed where United States interested.
 1736. Congressional Journals.
 1737. Copy of officer's bond.
 1738. State and Territorial statutes and judicial proceedings; full faith and credit.

1739. State and Territorial nonjudicial records; full faith and credit.
 1740. Copies of consular papers.
 1741. Foreign official documents.
 1742. [Repealed].
 1743. Demand on postmaster.
 1744. Copies of patent office documents generally.
 1745. Copies of foreign patent documents.
 1746. Unsworn declarations under penalty of perjury.

* * * * *

§ 1746. Unsworn declarations under penalty of perjury

Wherever, under any law of the United States or under any rule, regulation, order, or requirement made pursuant to law, any matter is required or permitted to be supported, evidenced, established, or proved by the sworn declaration, verification, certificate, statement, oath, or affidavit, in writing of the person making the same (other than a deposition, or an oath of office, or an oath required to be taken before a specified official other than a notary public), such matter may, with like force and effect, be supported, evidenced, established, or proved by the unsworn declaration, certificate, verification, or statement, in writing of such person which is subscribed by him, as true under penalty of perjury, and dated, in substantially the following form:

(1) *If executed without the United States: "I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date).*

(Signature)"

(2) *If executed within the United States, its territories, possessions, or commonwealths: "I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date).*

(Signature)"

* * * * *

TITLE 18, UNITED STATES CODE

* * * * *

CHAPTER 9—BANKRUPTCY

* * * * *

§ 152. Concealment of assets; false oaths and claims; bribery

Whoever knowingly and fraudulently conceals from the receiver, custodian, trustee, marshal, or other officer of the court charged with the control or custody of property, or from creditors in any bankruptcy proceeding, any property belonging to the estate of a bankrupt; or

Whoever knowingly and fraudulently makes a false oath or account in or in relation to any bankruptcy proceeding; or

Whoever knowingly and fraudulently makes a false declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code, in or in relation to any bankruptcy proceeding; or

Whoever knowingly and fraudulently presents any false claim for proof against the estate of a bankrupt, or uses any such claim in any

bankruptcy proceeding, personally, or by agent, proxy, or attorney, or as agent, proxy, or attorney; or

Whoever knowingly and fraudulently receives any material amount of property from a bankrupt after the filing of a bankruptcy proceeding, with intent to defeat the bankruptcy law; or

Whoever knowingly and fraudulently gives, offers, receives or attempts to obtain any money or property, remuneration, compensation, reward, advantage, or promise thereof, for acting or forbearing to act in any bankruptcy proceeding; or

Whoever, either individually or as an agent or officer of any person or corporation, in contemplation of a bankruptcy proceeding by or against him or any other person or corporation, or with intent to defeat the bankruptcy law, knowingly and fraudulently transfers or conceals any of his property or the property of such other person or corporation; or

Whoever, after the filing of a bankruptcy proceeding or in contemplation thereof, knowingly and fraudulently conceals, destroys, mutilates, falsifies, or makes a false entry in any document affecting or relating to the property or affairs of a bankrupt; or

Whoever, after the filing of a bankruptcy proceeding, knowingly and fraudulently withholds from the receiver, custodian, trustee, marshal, or other officer of the court entitled to its possession, any document affecting or relating to the property or affairs of a bankrupt.

Shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

* * * * *

CHAPTER 75—PASSPORTS AND VISAS

* * * * *

§ 1546. Fraud and misuse of visas, permits, and other entry documents

Whoever knowingly forges, counterfeits, alters, or falsely makes any immigrant or nonimmigrant visa, permit, or other document required for entry into the United States, or utters, uses, attempts to use, possesses, obtains, accepts, or receives any such visa, permit, or document, knowing it to be forged, counterfeited, altered, or falsely made, or to have been procured by means of any false claim or statement, or to have been otherwise procured by fraud or unlawfully obtained; or

Whoever, except under direction of the Attorney General or the Commissioner of the Immigration and Naturalization Service, or other proper officer, knowingly possesses any blank permit, or engraves, sells, brings into the United States, or has in his control or possession any plate in the likeness of a plate designed for the printing of permits, or makes any print, photograph, or impression in the likeness of any immigrant or nonimmigrant, visa, permit or other document required for entry into the United States, or has in his possession a distinctive paper which has been adopted by the Attorney General or the Commissioner of the Immigration and Naturalization Service for the printing of such visas, permits, or documents; or

Whoever, when applying for an immigrant or nonimmigrant visa, permit, or other document required for entry into the United States,

or for admission to the United States personates another, or falsely appears in the name of a deceased individual, or evades or attempts to evade the immigration laws by appearing under an assumed or fictitious name without disclosing his true identity, or sells or otherwise disposes of, or offers to sell or otherwise dispose of, or utters, such visa, permit, or other document, to any person not authorized by law to receive such document; or

Whoever knowingly makes under oath, or as permitted under penalty of perjury under section 1746 of title 28, United States Code, knowingly subscribes as true, any false statement with respect to a material fact in any application, affidavit, or other document required by the immigration laws or regulations prescribed thereunder, or knowingly presents any such application, affidavit, or other document containing any such false statement—

Shall be fined not more than \$2,000 or imprisoned not more than five years, or both.

* * * * *

CHAPTER 79—PERJURY

* * * * *

§ 1621. Perjury generally

[Whoever, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes and oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall, except as otherwise expressly provided by law, be fined not more than \$2,000 or imprisoned not more than five years, or both. This section is applicable whether the statement or subscription is made within or without the United States.]

§ 1621. Perjury generally

Whoever—

(1) having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true; or

(2) in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code, willfully subscribes as true any material matter which he does not believe to be true;

is guilty of perjury and shall, except as otherwise expressly provided by law, be fined not more than \$2,000 or imprisoned not more than five years, or both. This section is applicable whether the statement or subscription is made within or without the United States.

* * * * *

§ 1623. False declarations before grand jury or court

(a) Whoever under oath (or in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code) in any proceeding before or ancillary to any court or grand jury of the United States knowingly makes any false material declaration or makes or uses any other information, including any book, paper, document, record, recording, or other material, knowing the same to contain any false material declaration, shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

(b) This section is applicable whether the conduct occurred within or without the United States.

(c) An indictment or information for violation of this section alleging that, in any proceedings before or ancillary to any court or grand jury of the United States, the defendant under oath has knowingly made two or more declarations, which are inconsistent to the degree that one of them is necessarily false, need not specify which declaration is false if—

- (1) each declaration was material to the point in question, and
(2) each declaration was made within the period of the statute of limitations for the offense charged under this section.

In any prosecution under this section, the falsity of a declaration set forth in the indictment or information shall be established sufficient for conviction by proof that the defendant while under oath made irreconcilably contradictory declarations material to the point in question in any proceeding before or ancillary to any court or grand jury. It shall be a defense to an indictment or information made pursuant to the first sentence of this subsection that the defendant at the time he made each declaration believed the declaration was true.

(d) Where, in the same continuous court or grand jury proceeding in which a declaration is made, the person making the declaration admits such declaration to be false, such admission shall bar prosecution under this section if, at the time the admission is made, the declaration has not substantially affected the proceeding, or it has not become manifest that such falsity has been or will be exposed.

(e) Proof beyond a reasonable doubt under this section is sufficient for conviction. It shall not be necessary that such proof be made by any particular number of witnesses or by documentary or other type of evidence.

* * * * *

TITLE 10, UNITED STATES CODE

* * * * *

Subchapter X—Punitive Articles

* * * * *

§ 931. Art. 131. Perjury

Any person subject to this chapter who in a judicial proceeding or in a course of justice willfully and corruptly gives, upon a lawful oath

or in any form allowed by law to be substituted for an oath, any false testimony material to the issue or matter of inquiry is guilty of perjury and shall be punished as a court-martial may direct. corruptly—

(1) upon a lawful oath or in any form allowed by law to be substituted for an oath, gives any false testimony material to the issue or matter of inquiry; or

(2) in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code, subscribes any false statement material to the issue or matter of inquiry;

is guilty of perjury and shall be punished as a court-martial may direct.

* * * * *

IMMIGRATION AND NATIONALITY ACT

* * * * *

POWERS OF IMMIGRATION OFFICERS AND EMPLOYEES

SEC. 287. (a) * * *

(b) Any officer or employee of the Service designated by the Attorney General, whether individually or as one of a class, shall have power and authority to administer oaths and to take and consider evidence concerning the privilege of any person to enter, reenter, pass through, or reside in the United States, or concerning any matter which is material or relevant to the enforcement of this Act and the administration of the Service; and any person to whom such oath has been administered (or who has executed an unsworn declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code), under the provisions of this Act, who shall knowingly or willfully give false evidence or swear (or subscribe under penalty of perjury as permitted under section 1746 of title 28, United States Code) to any false statement concerning any matter referred to in this subsection shall be guilty of perjury and shall be punished as provided by section 1621, title 18, United States Code.

* * * * *

ACT OF MAY 12, 1948

AN ACT To provide for the licensing of marine radiotelegraph operators as ship radio officers, and for other purposes

* * * * *

SEC. 5. Every radiotelegraph operator who receives a license shall, before entering upon his duties, make oath before one of the inspectors herein provided for, to be recorded with the certificate, that he will faithfully and honestly, according to his best skill and judgment, without concealment or reservation, perform all the duties required of him by law.

Every applicant for license as radiotelegraph operator under the provisions of this Act shall make and subscribe to an oath or affirma-

tion, before one of the inspectors referred to in this Act, to the truth of all the statements set forth in his application for such license.

Any person who shall make or subscribe to any oath or affirmation (or to the truth of any unsworn declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code) authorized in this Act and knowing the same to be false shall be deemed guilty of perjury.

Every radiotelegraph operator, who shall change, by addition, interpolation, or erasure of any kind, any certificate or license issued by an inspector or inspectors referred to in this Act shall, for every such offense, upon conviction, be punished by a fine of not more than \$500 or by imprisonment at hard labor for a term not exceeding three years.

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SECTION 4445 OF THE REVISED STATUTES OF THE UNITED STATES

SEC. 4445. Every master, chief mate, engineer, and pilot, who receives a license, shall, before entering upon his duties, make oath before one of the inspectors herein provided for, to be recorded with the certificate, that he will faithfully and honestly, according to his best skill and judgment, without concealment or reservation, perform all the duties required of him by law.

Every applicant for license as either master, mate, pilot, or engineer under the provisions of this title shall make and subscribe to an oath or affirmation, before one of the inspectors referred to in this title, to the truth of all the statements set forth in his application for such license.

Any person who shall make or subscribe to any oath or affirmation (or to the truth of any unsworn declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code) authorized in this title and knowing the same to be false shall be deemed guilty of perjury.

Every licensed master, mate, pilot, or engineer who shall change, by addition, interpolation, or erasure of any kind, any certificate or license issued by any inspector or inspectors referred to in this title shall, for every such offense, upon conviction, be punished by a fine of not more than five hundred dollars or by imprisonment at hard labor for a term not exceeding three years.

SECTION 26 OF THE ACT OF JUNE 30, 1919

AN ACT Making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1920

* * * * *

SEC. 26. That the Secretary of the Interior be, and hereby is, authorized and empowered, under general regulations to be fixed by him and under such terms and conditions as he may prescribe, not inconsistent with the terms of this section, to lease to citizens of the United States, or to any association of such persons or to any corporation organized under the laws of the United States or of any State or Territory

thereof, any part of the unallotted lands within any Indian reservation, within the States of Arizona, California, Idaho, Montana, Nevada, New Mexico, Oregon, Washington, or Wyoming heretofore withdrawn from entry under the mining laws for the purpose of mining for deposits of gold, silver, copper, and other valuable metalliferous minerals and nonmetalliferous minerals, not including oil and gas, which leases shall be irrevocable, except as herein provided, but which may be declared null and void upon breach of any of their terms.

That after the passage and approval of this section, unallotted lands, or such portion thereof as the Secretary of the Interior shall determine, within Indian reservations heretofore withheld from disposition under the mining laws may be declared by the Secretary of the Interior to be subject to exploration for the discovery of deposits of gold, silver, copper, and other valuable metalliferous minerals and nonmetalliferous minerals, not including oil and gas, by citizens of the United States, and after such declaration mining claims may be located by such citizens in the same manner as mining claims are located under the mining laws of the United States: *Provided*, That the locators of all such mining claims, or their heirs, successors, or assigns, shall have a preference right to apply to the Secretary of the Interior for a lease, under the terms and conditions of this section, within one year after the date of the location of any mining claim, and any such locator who shall fail to apply for a lease within one year from the date of location shall forfeit all rights to such mining claim: *Provided further*, That duplicate copies of the location notice shall be filed within sixty days with the superintendent in charge of the reservation on which the mining claim is located and that application for a lease under this section may be filed with such superintendent for transmission through official channels to the Secretary of the Interior: *And provided further*, That lands containing springs, water holes, or other bodies of water needed or used by the Indians for watering livestock, irrigation, or water-power purposes shall not be designated by the Secretary of the Interior as subject to entry under this section.

That leases under this section shall be for a period of twenty years, with the preferential right in the lessee to renew the same for successive periods of ten years upon such reasonable terms and conditions as may be prescribed by the Secretary of the Interior, unless otherwise provided by law at the time of the expiration of such periods: *Provided*, That the lessee, may in the discretion of the Secretary of the Interior, be permitted at any time to make written relinquishment of all rights under such a lease and upon acceptance thereof be thereby relieved of all future obligations under said lease.

That in addition to areas of mineral land to be included in leases under this section the Secretary of the Interior, in his discretion, may grant to the lessee the right to use, during the life of the lease, subject to the payment of an annual rental of not less than \$1 per acre, a tract of unoccupied land, not exceeding forty acres in area, for camp sites, milling, smelting, and refining works, and for other purposes connected with and necessary to the proper development and use of the deposits covered by the lease.

That the Secretary of the Interior, in his discretion, in making any lease under this section, may reserve to the United States the right

to lease for a term not exceeding that of the mineral lease, the surface of the lands embraced within such lease under existing law or laws hereafter enacted, in so far as said surface is not necessary for use of the lessee in extracting and removing the deposits therein: *Provided*, That the said Secretary, during the life of the lease, is hereby authorized to issue such permits for easements herein provided to be reserved.

That any successor in interest or assignee of any lease granted under this section, whether by voluntary transfer, judicial sale, foreclosure sale, or otherwise, shall be subject to all the conditions of the lease under which such rights are held and also subject to all the provisions and conditions of this section to the same extent as though such successor or assign were the original lessee hereunder.

That any lease granted under this section may be forfeited and canceled by appropriate proceedings in the United States district court for the district in which said property or some part thereof is situated whenever the lessee, after reasonable notice in writing, as prescribed in the lease, shall fail to comply with the terms of this section or with such conditions not inconsistent herewith as may be specifically recited in the lease.

That for the privilege of mining or extracting the mineral deposits in the ground covered by the lease the lessee shall pay to the United States, for the benefit of the Indians, a royalty which shall not be less than 5 per centum of the net value of the output of the minerals at the mine, due and payable at the end of each month succeeding that of the extraction of the minerals from the mine, and an annual rental, payable at the date of such lease and annually thereafter on the area covered by such lease, at the rate of not less than 25 cents per acre for the first calendar year thereafter; not less than 50 cents per acre for the second, third, fourth, and fifth years, respectively; and not less than \$1 per acre for each and every year thereafter during the continuance of the lease, except that such rental for any year shall be credited against the royalties as they accrue for that year.

That in addition to the payment of the royalties and rentals as herein provided the lessee shall expend annually not less than \$100 in development work for each mining claim located or leased in the same manner as an annual expenditure for labor or improvements is required to be made under the mining laws of the United States: *Provided*, That the lessee shall also agree to pay all damages occasioned by reason of his mining operations to the land or allotment of any Indian or to the crops or improvements there: *And provided further*, That no timber shall be cut upon the reservation by the lessee except for mining purposes and then only after first obtaining a permit from the superintendent of the reservation and upon payment of the fair value thereof.

That the Secretary of the Interior is hereby authorized to examine the books and accounts of lessees, and to acquire them to submit statements, representations, or reports, including information as to cost of mining, all of which statements, representations, or reports so required shall be upon oath, unless otherwise specified, and in such form and upon such blanks as the Secretary of the Interior may require; and any person making any false statement, representation, or report under oath or in any declaration, certificate, verification, or

statement under penalty of perjury as permitted under section 1746 of title 28, United States Code, shall be subject to punishment as for perjury.

That all moneys received from royalties and rentals under the provisions of this section shall be deposited in the Treasury of the United States to the credit of the Indians belonging and having tribal rights on the reservation where the leased land is located, which moneys shall be at all times subject to appropriation by Congress for their benefit, unless otherwise provided by treaty or agreement ratified by Congress: *Provided*, That such moneys shall be subject to the laws authorizing the pro rata distribution of Indian tribal funds.

That the Secretary of the Interior is hereby authorized to perform any and all acts and to make such rules and regulations not inconsistent with this section as may be necessary and proper for the protection of the interests of the Indians and for the purpose of carrying the provisions of this section into full force and effect: *Provided*, That nothing in this section shall be construed or held to affect the right of the States or other local authority to exercise any rights which they may have to levy and collect taxes upon improvements, output of mines, or other rights, property, or assets of any lessee.

That mining locations, under the terms of this section, may be made on unallotted lands within Indian reservations by Indians who have heretofore or may hereafter be declared by the Secretary of the Interior to be competent to manage their own affairs; and the said Secretary is hereby authorized and empowered to lease such lands to such Indians in accordance with the provisions of this section: *Provided*, That the Secretary of the Interior be, and he is hereby, authorized to permit other Indians to make locations and obtain leases under the provisions of this section, under such rules and regulations as he may prescribe in regard to the working, developing, disposition, and selling of the products, and the disposition of the proceeds thereof of any such mine by such Indians.

H. R. 15531

Ninety-fourth Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the nineteenth day of January,
one thousand nine hundred and seventy-six*

An Act

To permit the use of unsworn declarations under penalty of perjury as evidence in Federal proceedings.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 115 of title 28, United States Code, is amended by adding at the end thereof the following new section:

“§ 1746. Unsworn declarations under penalty of perjury

“Wherever, under any law of the United States or under any rule, regulation, order, or requirement made pursuant to law, any matter is required or permitted to be supported, evidenced, established, or proved by the sworn declaration, verification, certificate, statement, oath, or affidavit, in writing of the person making the same (other than a deposition, or an oath of office, or an oath required to be taken before a specified official other than a notary public), such matter may, with like force and effect, be supported, evidenced, established, or proved by the unsworn declaration, certificate, verification, or statement, in writing of such person which is subscribed by him, as true under penalty of perjury, and dated, in substantially the following form:

“(1) If executed without the United States: ‘I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date).

(Signature)’.

“(2) If executed within the United States, its territories, possessions, or commonwealths: ‘I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date).

(Signature)’.”.

(b) The table of sections for chapter 115 of title 28, United States Code, is amended by adding at the end the following new item:

“1746. Unsworn declarations under penalty of perjury.”.

SEC. 2. Section 1621 of title 18, United States Code, is amended to read as follows:

“§ 1621. Perjury generally

“Whoever—

“(1) having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true; or

“(2) in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code, willfully subscribes as true any material matter which he does not believe to be true;

H. R. 15531—2

is guilty of perjury and shall, except as otherwise expressly provided by law, be fined not more than \$2,000 or imprisoned not more than five years, or both. This section is applicable whether the statement or subscription is made within or without the United States."

SEC. 3. Section 931 of title 10, United States Code, is amended to read as follows:

"§ 931. Art. 131. Perjury

"Any person subject to this chapter who in a judicial proceeding or in a course of justice willfully and corruptly—

"(1) upon a lawful oath or in any form allowed by law to be substituted for an oath, gives any false testimony material to the issue or matter of inquiry; or

"(2) in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code, subscribes any false statement material to the issue or matter of inquiry;

is guilty of perjury and shall be punished as a court-martial may direct."

SEC. 4. Section 152 of title 18, United States Code, is amended by inserting immediately after the second paragraph the following new paragraph:

"Whoever knowingly and fraudulently makes a false declaration, certificate, verification, or statement under penalty or perjury as permitted under section 1746 of title 28, United States Code, in or in relation to any bankruptcy proceeding; or"

SEC. 5. The fourth paragraph of section 1546 of title 18, United States Code, is amended by inserting immediately after "under oath" the following: ", or as permitted under penalty of perjury under section 1746 of title 28, United States Code, knowingly subscribes as true,"

SEC. 6. Section 1623(a) of title 18, United States Code, is amended by inserting immediately after "under oath" the following: "(or in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code)";

SEC. 7. Section 287(b) of the Immigration and Nationality Act (8 U.S.C. 1357(b)) is amended—

(1) by inserting immediately after "to whom such oath has been administered" the following: "(or who has executed an unsworn declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code)"; and

(2) by inserting immediately after "give false evidence or swear" the following: "(or subscribe under penalty of perjury as permitted under section 1746 of title 28, United States Code)";

SEC. 8. Section 5 of the Act entitled "An Act to provide for the licensing of marine radiotelegraph operators as ship radio officers, and for other purposes", approved May 12, 1948 (46 U.S.C. 229e), is amended by inserting in the third paragraph immediately after "oath

H. R. 15531—3

or affirmation" the following: "(or to the truth of any unsworn declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code)".

SEC. 9. Section 4445 of the Revised Statutes of the United States (46 U.S.C. 231) is amended by inserting in the third paragraph immediately after "oath or affirmation" the following: "(or to the truth of any unsworn declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code)".

SEC. 10. Section 26 of the Act entitled "An Act making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1920", approved June 30, 1919 (25 U.S.C. 399), is amended by inserting in the tenth paragraph immediately after "under oath" the following: "or in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code,".

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*