Effect of amendment. — The 1991 amendment, effective July 1, 1991, reenacted the section without change.

Editor's note. — Section 2, ch. 371, Acts 1991, provides that "there is no statute of limitations for a misdemeanor punishable by imprisonment in the penitentiary, notwithstanding any holding or dictum to the contrary in Massey v. State, 320 Md. 605, 579 A.2d 265 (1990)."

Cited in Cole v. Secretary of State, 249 Md. 425, 240 A.2d 272 (1968).

§ 560. In counties of State.

Any person convicted in any county of this State of the offense of being a common thief or common pickpocket shall be fined and imprisoned in the county jail for the same amount or time as provided in § 558, and the provisions of said section shall apply to this section, except so far as altered by this section. (An. Code, 1951, § 632; 1939, § 583; 1924, § 494; 1912, § 446; 1904, § 394; 1888, § 257; 1864, ch. 38; 1991, ch. 371.)

Effect of amendment. — The 1991 amendment, effective July 1, 1991, reenacted the section without change.

Editor's note. — Section 2, ch. 371, Acts 1991, provides that "there is no statute of limitations for a misdemeanor punishable by imprisonment in the penitentiary, notwithstanding any holding or dictum to the contrary in Massey v. State, 320 Md. 605, 579 A.2d 265 (1990)."

THREATS AND THREATENING LETTERS

§ 561. Sending, delivering, etc., threatening letter, etc.

(a) *Prohibited.* — Except as provided in subsection (b) of this section, every person who shall knowingly send or deliver, or shall make, and, for the purpose of being delivered or sent, shall part with the possession of any letter or writing with or without a name subscribed thereto, or signed with a fictitious name, or with any letter, mark or other designation, threatening therein to accuse any person of any crime of an indictable nature under the laws of this State, or of anything, which, if true, would bring such person into contempt or disrepute or to do any injury to the person or property of anyone, with a view or intent to extort or gain any money, goods or chattels or other valuable thing shall be guilty of felony, and being convicted thereof shall be punished by imprisonment in the penitentiary for not less than two nor more than ten years.

(b) *Applicability of section to holders giving notice of dishonor.* — This section does not apply to any holder of an instrument who gives to the maker a bona fide reasonable notice of dishonor and warning of criminal prosecution under §§ 140 through 144 of this article. (An. Code, 1951, § 633; 1939, § 584; 1924, § 495; 1912, § 447; 1904, § 395; 1896, ch. 396, § 257A; 1986, ch. 738.)

Indictment. — Indictment under this section need not set out name of the person to whom the threatening letter was sent. Several counts in an indictment relating to same transaction were upheld. Toomer v. State, 112 Md. 285, 76 A. 118 (1910).

Ten-year sentence held not cruel and unusual punishment. — See Toomer v. State, 112 Md. 285, 76 A. 118 (1910).

Stated in Greenbelt Coop. Publishing Ass'n v. Bresler, 398 U.S. 6, 90 S. Ct. 1537, 26 L. Ed. 2d 6 (1970).

Cited in Hanrahan v. Kelly, 269 Md. 21, 305 A.2d 151 (1973).

§ 561A. Threats against State officials.

(a) *Definitions.* — (1) In this section the following words have the meanings indicated.

(2) (i) "State official" means a State official as defined in Article 40A, § 1-201 (hh) of the Code.

(ii) "State official" includes the Governor, Governor-elect, Lieutenant Governor, and Lieutenant Governor-elect.

(3) "Threat" includes:

(i) A verbal threat; or

(ii) A threat in any written form, whether or not the writing is signed, or if it is signed whether or not the writing is signed with a fictitious name or any other mark.

(b) *Threats generally.* — A person may not knowingly and willfully make a threat to take the life of, kidnap, or inflict bodily harm upon a State official.

(c) *Sending or delivering threats.* — A person may not knowingly send, deliver, part with the possession of, or make for the purpose of sending or delivering a threat prohibited under subsection (b) of this section.

(d) *Penalties.* — A person who violates any provision of this section is guilty of a misdemeanor and upon conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding $2,500 or both. (1989, ch. 477; 1990, ch. 6, § 2.)

Effect of amendment. — The 1990 amendment, approved Feb. 16, 1990, and effective from date of passage, substituted "§ 1-201 (hh)" for "§ 1-201 (gg)" in (a) (2) (i).

§ 562. Threatening verbally.

Every person who shall verbally threaten to accuse any person of any crime of an indictable nature under the laws of this State, or of anything, which, if true, would bring such person into contempt or disrepute, or to do any injury to the person or property of anyone, with a view to extort or gain any money, goods or chattels or any other valuable thing shall be guilty of felony, and being convicted thereof shall be punished by imprisonment in the penitentiary for not less than two nor more than ten years. (An. Code, 1951, § 634; 1939, § 585; 1924, § 495; 1912, § 448; 1904, § 396; 1896, ch. 396, § 257B.)

Threat is essential element. — It is clear that it is not required that money or other valuable thing be obtained. The essential element of the crime is the threat. If (1) the manner of threat is verbal; (2) the subject of the threat is to do any injury to the person or property of anyone; and (3) the making of the threat is with a view to extort or gain anything of value, the crime has been committed. No precise words are necessary to constitute such a threat. It may be innuendo or suggestion, and the circumstances under which it is uttered and the relations between the parties may be taken into consideration. Iozzi v. State, 5 Md. App. 415, 247 A.2d 758 (1968).

Threat to accused need not be made directly to person but may be made to his agents and employees. Lenoir v. State, 197 Md. 495, 80 A.2d 3 (1951).

"Blackmail" synonymous with "extortion". — The term "blackmail" is equivalent to and synonymous with "extortion." Iozzi v. State, 5 Md. App. 415, 247 A.2d 758 (1968); Greenbelt Coop. Publishing Ass'n v. Bresler, 253 Md. 324, 252 A.2d 755 (1969), rev'd on other grounds, 398 U.S. 6, 90 S. Ct. 1537, 26 L. Ed. 2d 6 (1970).

Taking of money or other property by putting owner in fear of personal injury constitutes robbery, and may, under appropri-

INTERPRETIVE NOTES AND DECISIONS

I. IN GENERAL

6. Particular acts constituting crime

No violation of duties imposed by 18 USCS § 874 occurred where laboratories receiving fees for medical services shared fee with physician who referred work to lab. United States v Porter (1979, CA5 Fla) 591 F2d 1048.

Contractor's demand of employees that they make payment to him of portion of wage is unlawful under Federal Anti-Kickback Act (18 USCS § 874), and warrants debarment of contractor; contractor's defense that employees voluntarily made payments pursuant to oral agreement involving advancement of credit for purchase of necessary tools is rejected since contractor did not begin demanding repayment by employees until wage increase required under contract period. Eates & Eates Plumbing (1984, HUD BCA) 84-2 BCA ¶ 17241.

Contractor violated Copeland Act's prohibition against kickbacks when his employees "voluntarily" returned part of their paychecks based on contractor's claim that it could not afford to pay them full wages and its promise to pay them bonus instead. Re Groves Construction Co. (1989, DOL/ALJ) CCH Wage-Hour Admin Rulings ¶ 31627.

§ 875. Interstate communications

(a) Whoever transmits in interstate or foreign commerce any communication containing any demand or request for a ransom or reward for the release of any kidnapped person, shall be fined not more than $5,000 or imprisoned not more than twenty years, or both.

(b) Whoever, with intent to extort from any person, firm, association, or corporation, any money or other thing of value, transmits in interstate or foreign commerce any communication containing any threat to kidnap any person or any threat to injure the person of another, shall be fined not more than $5,000 or imprisoned not more than twenty years, or both.

(c) Whoever transmits in interstate or foreign commerce any communication containing any threat to kidnap any person or any threat to injure the person of another, shall be fined not more than $1,000 or imprisoned not more than five years, or both.

(d) Whoever, with intent to extort from any person, firm, association, or corporation, any money or other thing of value, transmits in interstate or foreign commerce any communication containing any threat to injure the property or reputation of the addressee or of another or the reputation of a deceased person or any threat to accuse the addressee or any other person of a crime, shall be fined not more than $500 or imprisoned not more than two years, or both.

(As amended Nov. 10, 1986, P. L. 99-646, § 63, 100 Stat. 3614.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Amendments:

1986. Act Nov. 10, 1986, in subsecs. (a)-(d), inserted "or foreign".

CROSS REFERENCES

As to sentencing guidelines for this section, see the appendix entitled "Sentencing Guidelines for U.S. Courts" at the end of Title 18.

RESEARCH GUIDE

Am Jur:

31A Am Jur 2d, Extortion, Blackmail, and Threats §§ 21, 64.

31A Am Jur 2d, Extortion, Blackmail, and Threats § 64.

Forms:

15 Federal Procedural Forms L Ed, Telecommunications § 62:1.

Annotations:

Forum state's jurisdiction over nonresident defendant in action based on obscene or threatening telephone call from out of state. 37 ALR4th 852.

State criminal prosecutions of union officer or member for specific physical threats to employer's property or person, in connection with labor dispute. 43 ALR4th 1141.

Texts:

Bailey and Rothblatt, Defending Business and White Collar Crimes (2d Ed), Ch. 26, Extortion and Related Offenses.

INTERPRETIVE NOTES AND DECISIONS

I. IN GENERAL

3. Relationship with other laws

State offense of attempted extortion is properly assimilated into federal prosecution under 18 USCS § 13 where proscribed conduct is not same as that punished under 18 USCS § 873, because there has been no threat to expose violation of federal law, or under 18 USCS § 875, because threat has not been transmitted in interstate commerce. United States v Teplin (1985, CA4 Va) 775 F2d 1261.

Defendant was entitled to have his mental defect evidence considered on issue of whether he possessed mental capacity to form specific intent to threaten individuals and to transmit his threats in violation of 18 USCS §§ 875 and 876, since diminished capacity defense under 18 USCS § 17 is relevant where showing of specific intent is required. United States v Twine (1988, CA9 Wash) 853 F2d 676.

5. Transmission in interstate commerce

Ransom demand transmitted from Mexico to Texas is not interstate crime under 18 USCS § 875, since transmission was in foreign commerce, not in interstate commerce. United States v Lopez-Flores (1984, WD Tex) 592 F Supp 1302.

6. Knowledge, intent

When considered in light most favorable to government, evidence that man who sought twenty-million dollar loan from life insurance company in order to buy ranch, and who on several occasions threatened violence to company and company offices if loan was not approved, presented issue of intent to extort for jury determination. United States v Cohen (1984, CA8 Neb) 738 F2d 287.

Showing of "intent to threaten" required by 18 USCS § 875 and § 876 is showing of specific intent. United States v Twine (1988, CA9 Wash) 853 F2d 676.

7. Particular statements constituting threat

Interstate telephone communication, which defendant made to victim for purpose of keeping victim quiet after he

It is not necessary that government prove specific intent to injure or present ability to carry out threat in prosecution under 18 USCS § 875(c). United States v Holder (1969, DC Mont) 302 F Supp 296, affd (CA9 Mont) 427 F2d 715.

12. Admissibility of evidence

No violation of provision of § 605 of Federal Communications Act (47 USCS § 605) that no person not being authorized by sender shall intercept any communication and divulge existence or contents of such intercepted communication to any person is involved in use, with consent of one party to telephone conversation, of regularly used telephone extension to overhear conversation; hence conviction of crime of transmitting interstate communication threatening life of another, in violation of federal statute (18 USCS § 875(b)), is not vitiated by admission in evidence of contents of telephone conversation, so overheard, in course of which threat in question was made. Rathbun v United States (1957) 355 US 107, 2 L Ed 2d 134, 78 S Ct 161, reh den 355 US 925, 2 L Ed 2d 355, 78 S Ct 363.

Telephone toll slips which were regularly employed by telephone company to record fact that long distance telephone calls were made and which reflected that during night in question calls had been placed and made from defendant's home to home of victim of alleged threats were admissible in prosecution for violation of Federal Extortion Act, in light of collateral proof tending to link defendant with calls; notes which were found in defendant's home pursuant to reasonable search incident to lawful arrest and on which were penciled name of intended victim of alleged threats were admissible without further foundation in same prosecution. Seeber v United States (1964, CA9 Ariz) 329 F2d 572.

In a prosecution under 18 USCS § 875(c), where defendant telephoned his ex-wife and threatened to throw acid in the face of her mother, evidence of his subsequent call to the mother containing the same threat was admissible to show defendant's general intent to threaten, which is an essential element of the crime charged. United States v Le Vison (1969, CA9 Alaska) 418 F2d 624.

Testimony concerning several earlier threatening local calls made by defendant to victim is admissible as tending to establish intent to commit offense and as establishing criminal scheme to threaten victim by telephone. United States v Smith (1970, CA5 La) 433 F2d 1266, cert den 401 US 977, 28 L Ed 2d 328, 91 S Ct 1206.

In prosecution for use of interstate communication in attempt to extort $25,000, trial court properly excluded evidence of truth of damaging allegations underlying threat to injure reputation of extortion victim; trial court properly excluded evidence concerning truth of statements defendant made about his friend, because it was intent and purpose of use of statements, and not truth of statements, that was important in determining guilt of defendant. United States v Von Der Linden (1977, CA9 Or) 561 F2d 1340, cert den (US) 56 L Ed 2d 68, 98 S Ct 1621.

13. Sufficiency of evidence

In prosecution for violation of 18 USCS § 875(c), telephone company records and victim's testimony that operator identified call as originating from New Orleans and that he recognized defendant's voice was amply sufficient to establish element of authorship. United States v Smith (1970, CA5 La) 433 F2d 1266, cert den 401 US 977, 28 L Ed 2d 328, 91 S Ct 1206.

Evidence constituted sufficient basis for jury to conclude that defendant was person who made threatening call, such evidence consisting of (1) testimony that caller who made call claimed to be defendant, (2) telephone company records indicating call from defendant's mother's house to victim's office on same date and at same time that threatening call was made, (3) testimony that someone at defendant's mother's house identifying himself as defendant admitted that he made threatening call, and (4) testimony that defendant, while at victim's office, stated in presence of witnesses that victim "was a sorry excuse for a human being and he should be dead". United States v Bozeman (1974, CA5 Fla) 495 F2d 508, cert den 422 US 1044, 45 L Ed 2d 696, 95 S Ct 2660.

Conviction for violation of 18 USCS § 875(c) requires proof of transmission in interstate commerce, and evidence could not sustain finding that defendant's transmitter, normally incapable of broadcasting across state lines, had done so on occasion in question. United States v Oxendine (1976, CA9 Nev) 531 F2d 957.

It is sufficient to support defendant's conviction if jury finds that defendant held specific intent to communicate threat to injure. United States v Kelner (1976, CA2 NY) 534 F2d 1020, 34 ALR Fed 767, cert den 429 US 1022, 50 L Ed 2d 623, 97 S Ct 639.

On evidence presented, jury could properly find defendant was author of telephone call, in violation of 18 USCS § 875(c), where evidence consisted of (1) testimony of telephone operator that she had placed call for person who identified himself as "Bill Holder of the Wyoming coin shop," that during past years she had placed perhaps 200 calls for man who identified himself in this exact manner, and that voice was same on previous 200 occasions, (2) according to long-

distance toll ticket, that operator prepared at time of call, call originated from certain telephone number in Billings and was made to certain telephone number in Washington, D. C., and (3) testimony of employee at FBI Washington office that he was called to telephone at FBI headquarters, that telephone number there was same as called from Billings, and that caller identified himself as Bill Holder of Billings, Montana, and went on to make alleged threat. United States v Holder (1969, DC Mont) 302 F Supp 296, affd (CA9 Mont) 427 F2d 715.

14. Questions of fact

Lay testimony about defendant's penchant for unusual behavior, and expert testimony about possibility of transient psychotic episodes was clearly sufficient to eliminate presumption of sanity and require government to demonstrate beyond reasonable doubt that defendant was sane when he made interstate ransom demand, but expert opinion that defendant was not in midst of transient psychotic episode at time of offense, and extensive lay testimony about defendant's actions at time of offense, created sufficient evidence of sanity to go to jury and to sustain conviction. United States v Phillips (1975, CA5 La) 519 F2d 48, cert den 423 US 1059, 46 L Ed 2d 650, 96 S Ct 796.

Whether letter to woman, referring to reports of her continued nefarious and immoral conduct and stating that writer would "deal with you and your cohorts", constituted threat to injure person of victim was question of fact for trier of facts, and could not be determined on motion to dismiss indictment. United States v Pennell (1956, DC Cal) 144 F Supp 317.

15. Instructions

Where defense to charge of transmitting threat by telephone in interstate commerce with intent to extort money was abortive scheme to bribe and did not constitute confession and avoidance, court's charge defining crime of extortion and posing question whether transaction was loan, bribe, or extortion adequately covered defendant's theory of defense without giving legal definition of bribery. United States v Blount (1956, CA2 NY) 229 F2d 669.

On whole, District Court's charge to jury sufficiently covered subject, as purpose of adding word "knowingly" was to ensure that no one would be convicted for act because of mistake or inadvertence, or other innocent reason. Seeber v United States (1964, CA9 Ariz) 329 F2d 572.

Defendant charged with violation of 18 USCS § 875 was not entitled to instruction that making telephone call without disclosure of identity was lesser-included offense under 47 USCS § 223, since latter offense contains element, non-disclosure of identity, which is not required under former. United States v Lampley (1978, CA3 Pa) 573 F2d 783.

16. Judgment and sentence

There was no power under predecessor to 18 USCS § 875 which permitted judgment to be passed in one district and state upon indictment found in another. United States v Bink (1947, DC Or) 74 F Supp 603.

§ 876. Mailing threatening communications

Whoever knowingly deposits in any post office or authorized depository for mail matter, to be sent or delivered by the Postal Service or knowingly causes to be delivered by the Postal Service according to the direction thereon, any communication, with or without a name or designating mark subscribed thereto, addressed to any other person, and containing any demand or request for ransom or reward for the release of any kidnaped person, shall be fined not more than $5,000 or imprisoned not more than twenty years, or both.

Whoever, with intent to extort from any person any money or other thing of value, so deposits, or causes to be delivered, as aforesaid, any communication containing any threat to kidnap any person or any threat to injure the person of the addressee or of another, shall be fined not more than $5,000 or imprisoned not more than twenty years, or both.

Whoever knowingly so deposits or causes to be delivered as aforesaid, any communication with or without a name or designating mark subscribed

thereto, addressed to any other person and containing any threat to kidnap any person or any threat to injure the person of the addressee or of another, shall be fined not more than $1,000 or imprisoned not more than five years, or both.

Whoever, with intent to extort from any person any money or other thing of value, knowingly so deposits or causes to be delivered, as aforesaid, any communication, with or without a name or designating mark subscribed thereto, addressed to any other person and containing any threat to injure the property or reputation of the addressee or of another, or the reputation of a deceased person, or any threat to accuse the addressee or any other person of a crime, shall be fined not more than $500 or imprisoned not more than two years, or both.

(June 25, 1948, ch 645, § 1, 62 Stat. 741; Aug. 12, 1970, P.L. 91-375, § 6(j)(7), 84 Stat. 777.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Prior law and revision:

This section is based on Act July 8, 1932, ch 464, § 1, 47 Stat. 649; June 28, 1935, ch 326, 49 Stat. 427; May 15, 1939, ch 133, § 1, 53 Stat. 742 (former 18 U.S.C. § 338a).

Reference to persons causing or procuring was omitted as unnecessary in view of the definition of "principal" in 18 USCS § 2. Provisions as to the district of trial were omitted as covered by 18 USCS §§ 3237 and 3239.

Changes in phraseology and arrangement were made.

Amendments:

1970. Act Aug. 12, 1970, substituted "Postal Service" for "Post Office Department" wherever appearing.

Section 15(a) of Act Aug. 12, 1970, provided that this amendment "shall become effective within 1 year after the enactment of this Act [enacted Aug. 12, 1970] on the date or dates established therefor by the Board of Governors and published by it in the Federal Register.".

CROSS REFERENCES

United States Postal Service defined, 18 USCS § 12.
Venue, 18 USCS §§ 3237 and 3239.
This section is referred to in 18 USCS § 3239.

RESEARCH GUIDE

Am Jur:

31 Am Jur 2d, Extortion and Blackmail § 17.
62 Am Jur 2d, Post Office §§ 92, 133, 135.

Annotations:

Elements of offense, and sufficiency of proof thereof, in prosecution for mailing threatening communication under 18 USCS § 876. 30 ALR Fed 874.

Validity and construction of "terroristic threat" statutes. 58 ALR3d 533.

INTERPRETIVE NOTES AND DECISIONS

I. IN GENERAL

1. Generally
2. Purpose
3. Knowledge, intent
4. Mailing, causing to be mailed, delivery, addressee
5. Threat to injure
6. Money or thing of value, loans

II. PROSECUTION AND PUNISHMENT

7. Indictment or information
8. Bill of particulars
9. Joinder and severance
10. Divisibility of offenses; merger
11. Double jeopardy
12. Discovery and inspection
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I. IN GENERAL

1. Generally

In prosecution for knowingly using United States mails to deliver to named victim letter containing threat to injure third person, in violation of 18 USCS § 876, essential elements of offense charged, each of which must be proved beyond reasonable doubt, were; (1) that defendant wrote letter addressed to victim containing threat to injure third person; (2) that defendant knowingly caused letter to be forwarded by United States mail. Petschl v United States (1966, CA8 Minn) 369 F2d 769.

18 USCS § 876 requires for conviction thereunder proof of only two elements, namely, that the defendant must have written and mailed a letter or other communication containing a threat to injure another person, and that defendant must have knowingly caused the letter to be deposited in the mails. United States v Sirhan (1974, CA9 Cal) 504 F2d 818.

2. Purpose

Congress intended by 18 USCS § 876 to penalize every extortion demand by mail which is coupled with express threat or with any language or expression which carries with it the reasonable connotation of threat to injure person of addressee. United States v Prochaska (1955, CA7 Ill) 222 F2d 1, cert den 350 US 836, 100 L Ed 746, 76 S Ct 73.

Although 18 USCS § 876 specifically penalizes threat of injury made with intent to extort, it clearly makes it separate offense to mail communication containing threat of injury alone, and Congress clearly intended to make it offense, in and of itself, to send threat to injure person of another through mails. United States v Pennell (1956, DC Cal) 144 F Supp 320.

Thrust of 18 USCS § 876 is prohibition of use of mails to transmit threatening communications whether or not communication was directed to threatened addressee or addressed to any other person and containing any threat to any person. United States v Ahmad (1971, DC Pa) 329 F Supp 292.

3. Knowledge, intent

Person sending threatening letter with knowledge that its recipient would not be deceived was not guilty of using mails to defraud. Norton v United States (1937, CA9 Cal) 92 F2d 753.

Government's failure to prove that letter disclosed intent to injure child did not preclude conviction under 18 USCS § 876, since § 876 does not require evidence of such intent to establish violation of such section. Bass v United States (1957, CA6 Tenn) 239 F2d 711.

Defendant's conviction under 18 USCS § 876 was correct where defendant was shown to have mailed letter to his former wife stating that unless be heard from their daughter soon addressee could "kiss your dear mother's face goodbye for whatever it is worth"; defendant's intent to communicate threat was clearly established by evidence, which included properly admitted testimony showing that he had made telephone call to mother herself in which he unequivocally stated that he would disfigure her by throwing acid in her face. United States v Le Vison (1969, CA9 Alaska) 418 F2d 624.

Specific intent is required for conviction under 18 USCS § 876, and such exists whenever the defendant knowingly deposits the threatening letter in the mails; the statute does not require that the defendant knowingly and wilfully deposit the letter. United States v Sirhan (1974, CA9 Cal) 504 F2d 818.

Intent is element of offense of mailing threatening letters under 18 USCS § 876. United States v Ring (1975, CA6 Tenn) 513 F2d 1001, 30 ALR Fed 860.