

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 572a of title 28, U. S. C., 1940 ed., Judicial Code and Judiciary (Aug. 25, 1937, ch. 777, 50 Stat. 810.)

Words "upon conviction" were deleted as surplusage since punishment can be imposed only after a conviction.

A fine of "\$5,000" was substituted for "\$10,000" and "one year" for "five years", to reduce the offense to the grade of a misdemeanor and the punishment to an amount and term proportionate to the gravity of the offense.

Minor changes were made in phraseology.

AMENDMENTS

1949—Act May 24, 1949, inserted "or attorney for any such party in interest" in two places, and substituted "in any United States court or under its supervision" for "in or under the supervision of any court of the United States."

Chapter 11.—BRIBERY, GRAFT, AND CONFLICTS OF INTEREST

Sec.

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- 218. Voiding transactions in violation of chapter; recovery by the United States.
- 224. Bribery in sporting contests.

AMENDMENTS

1964—Pub. L. 88-316, § 1(b), June 6, 1964, 78 Stat. 204, added item 224.

1962—Pub. L. 87-849, § 1(a), Oct. 23, 1962, 76 Stat. 1119, included conflicts of interests in the heading of the chapter, and amended section analysis generally.

1958—Pub. L. 85-699, title VII, § 702 (d), Aug. 21 1958, 72 Stat. 698, amended analysis to include small business transactions in item 221.

§ 201. Bribery of public officials and witnesses.

(a) For the purpose of this section:

"public official" means Member of Congress, or Resident Commissioner, either before or after he has qualified, or an officer or employee or person acting for or on behalf of the United States, or any department, agency or branch of Government thereof, including the District of Columbia, in any official function, under or by authority of any such department, agency, or branch of Government, or a juror; and

"person who has been selected to be a public official" means any person who has been nominated or appointed to be a public official, or has been officially informed that he will be so nominated or appointed; and

"official act" means any decision or action on any question, matter, cause, suit, proceeding or controversy, which may at any time be pending, or which may by law be brought before any public official, in his official capacity, or in his place of trust or profit.

(b) Whoever, directly or indirectly, corruptly gives, offers or promises anything of value to any public official or person who has been selected to be a public official, or offers or promises any public official or any person who has been selected to be a public official to give anything of value to any other person or entity, with intent—

(1) to influence any official act; or

(2) to influence such public official or person who has been selected to be a public official to commit or aid in committing, or collude in, or allow, any fraud, or make opportunity for the commission of any fraud, on the United States; or

(3) to induce such public official or such person who has been selected to be a public official to do or omit to do any act in violation of his lawful duty, or

(c) Whoever, being a public official or person selected to be a public official, directly or indirectly, corruptly asks, demands, exacts, solicits, seeks, accepts, receives, or agrees to receive anything of value for himself or for any other person or entity, in return for:

(1) being influenced in his performance of any official act; or

(2) being influenced to commit or aid in committing, or to collude in, or allow, any fraud, or make opportunity for the commission of any fraud, on the United States; or

(3) being induced to do or omit to do any act in violation of his official duty; or

(d) Whoever, directly or indirectly, corruptly gives, offers, or promises anything of value to any person, or offers or promises such person to give anything of value to any other person or entity, with intent to influence the testimony under oath or affirmation of such first-mentioned person as a witness upon a trial, hearing, or other proceeding, before any court, any committee of either House or both Houses of Congress, or any agency, commission, or officer authorized by the laws of the United States to hear evidence or take testimony, or with intent to influence such person to absent himself therefrom; or

(e) Whoever, directly or indirectly, corruptly asks, demands, exacts, solicits, seeks, accepts, receives, or agrees to receive anything of value for himself or for any other person or entity in return for being influenced in his testimony under oath or affirmation as a witness upon any such trial, hearing, or other proceeding, or in return for absenting himself therefrom—

Shall be fined not more than \$20,000 or three times the monetary equivalent of the thing of value, whichever is greater, or imprisoned for not more than fifteen years, or both, and may be disqualified from holding any office of honor, trust, or profit under the United States.

(f) Whoever, otherwise than as provided by law for the proper discharge of official duty, directly or

indirectly gives, offers, or promises anything of value to any public official, former public official, or person selected to be a public official, for or because of any official act performed or to be performed by such public official, former public official, or person selected to be a public official; or

(g) Whoever, being a public official, former public official, or person selected to be a public official, otherwise than as provided by law for the proper discharge of official duty, directly or indirectly asks, demands, exacts, solicits, seeks, accepts, receives, or agrees to receive anything of value for himself for or because of any official act performed or to be performed by him; or

(h) Whoever, directly or indirectly, gives, offers, or promises anything of value to any person, for or because of the testimony under oath or affirmation given or to be given by such person as a witness upon a trial, hearing, or other proceeding, before any court, any committee of either House or both Houses of Congress, or any agency, commission, or officer authorized by the laws of the United States to hear evidence or take testimony, or for or because of his absence therefrom; or

(i) Whoever, directly or indirectly, asks, demands, exacts, solicits, seeks, accepts, receives, or agrees to receive anything of value for himself for or because of the testimony under oath or affirmation given or to be given by him as a witness upon any such trial, hearing, or other proceeding, or for or because of his absence therefrom—

Shall be fined not more than \$10,000 or imprisoned for not more than two years, or both.

(j) Subsections (d), (e), (h), and (i) shall not be construed to prohibit the payment or receipt of witness fees provided by law, or the payment, by the party upon whose behalf a witness is called and receipt by a witness, of the reasonable cost of travel and subsistence incurred and the reasonable value of time lost in attendance at any such trial, hearing, or proceeding, or in the case of expert witnesses, involving a technical or professional opinion, a reasonable fee for time spent in the preparation of such opinion, and in appearing and testifying.

(k) The offenses and penalties prescribed in this section are separate from and in addition to those prescribed in sections 1503, 1504, and 1505 of this title. (Added Pub. L. 87-849, § 1(a), Oct. 23, 1962, 76 Stat. 1119.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former sections 201—218 of this title, prior to the general amendment of this chapter by Pub. L. 87-849.

CODIFICATION

A prior section 201, act June 25, 1948, ch. 645, 62 Stat. 691, which prescribed penalties for anyone who offered or gave anything of value to an officer or other person to influence his decisions, was eliminated in the general amendment of this chapter by Pub. L. 87-849, and is substantially covered by revised section 201.

EFFECTIVE DATE

Section 4 of Pub. L. 87-849 provided that: "This Act [adding sections 201—209, and 218 of this title, redesignating sections 214, 215, 217—222 as 210, 211, 212—217 of this title respectively, repealing sections 223, 282, 284, 434, and 1914 of this title, and section 99 of Title 5, and enacting provisions set out as notes under section 231 and

282 of this title] shall take effect ninety days after the date of its enactment [Oct. 23, 1962].

MEMORANDUM OF ATTORNEY GENERAL REGARDING CONFLICT OF INTEREST PROVISIONS OF PUBLIC LAW 87-849, FEB. 1, 1963, 28 F.R. 985

JANUARY 28, 1963.

Public Law 87-849, "To strengthen the criminal laws relating to bribery, graft, and conflicts of interest, and for other purposes," came into force January 21, 1963. A number of departments and agencies of the Government have suggested that the Department of Justice prepare and distribute a memorandum analyzing the conflict of interest provisions contained in the new act. I am therefore distributing the attached memorandum.

One of the main purposes of the new legislation merits specific mention. That purpose is to help the Government obtain the temporary or intermittent services of persons with special knowledge and skills whose principal employment is outside the Government. For the most part the conflict of interest statutes superseded by Public Law 87-849 imposed the same restraints on a person serving the Government temporarily or intermittently as on a full-time employee, and those statutes often had an unnecessarily severe impact on the former. As a result, they impeded the departments and agencies in the recruitment of experts for important work. Public Law 87-849 meets this difficulty by imposing a lesser array of prohibitions on temporary and intermittent employees than on regular employees. I believe that a widespread appreciation of this aspect of the new law will lead to a significant expansion of the pool of talent on which the departments and agencies can draw for their special needs.

ROBERT F. KENNEDY,
Attorney General.

MEMORANDUM RE THE CONFLICT OF INTEREST PROVISIONS OF PUBLIC LAW 87-849, 76 STAT. 1119, APPROVED OCTOBER, 23, 1962

INTRODUCTION

Public Law 87-849, which came into force January 21, 1963, affected seven statutes which applied to officers and employees of the Government and were generally spoken of as the "conflict of interest" laws. These included six sections of the criminal code, 18 U.S.C. 216, 281, 283, 284, 434 and 1914, and a statute containing no penalties, section 190 of the Revised Statutes (5 U.S.C. 99). Public Law 87-849 (sometimes referred to hereinafter as "the Act") repealed section 190 and one of the criminal statutes, 18 U.S.C. 216, without replacing them.¹ In addition it repealed and supplanted the other five criminal statutes. It is the purpose of this memorandum to summarize the new law and to describe the principal differences between it and the legislation it has replaced.

The Act accomplished its revisions by enacting new sections 203, 205, 207, 208 and 209 of title 18 of the United States Code and providing that they supplant the above-mentioned sections 281, 283, 284, 434 and 1914 of title 18 respectively.² It will be convenient, therefore, after summarizing the principal provisions of the new sections, to examine each section separately, comparing it with its precursor before passing to the next. First of all, however, it is necessary to describe the background and provisions of the new 18 U.S.C. 202(a), which has no counterpart among the statutes formerly in effect.

SPECIAL GOVERNMENT EMPLOYEES [New 18 U.S.C. 202(a)]

In the main the prior conflict of interest laws imposed the same restrictions on individuals who serve the Government intermittently or for a short period of time as on those who serve full-time. The consequences of this generalized treatment were pointed out in the following paragraph of the Senate Judiciary Committee report on the bill which became Public Law 87-849:³

In considering the application of present law in relation to the Government's utilization of temporary or intermittent consultants and advisers, it must be emphasized that most of the existing conflict-of-interest statutes were enacted in the 19th century—that is, at a time when persons outside the Government rarely served it in this way. The laws were therefore directed at activities of regular Government employees, and their

present impact on the occasionally needed experts—those whose main work is performed outside the Government—is unduly severe. This harsh impact constitutes an appreciable deterrent to the Government's obtaining needed part-time services.

The recruiting problem noted by the Committee generated a major part of the impetus for the enactment of Public Law 87-849. The Act dealt with the problem by creating a category of Government employees termed "special Government employees" and by excepting persons in this category from certain of the prohibitions imposed on ordinary employees. The new 18 U.S.C. 202(a) defines the term "special Government employee" to include, among others, officers and employees of the departments and agencies who are appointed or employed to serve, with or without compensation, for not more than 130 days during any period of 365 consecutive days either on a full-time or intermittent basis.

SUMMARY OF THE MAIN CONFLICT OF INTEREST PROVISIONS OF PUBLIC LAW 87-849

A regular officer or employee of the Government—that is, one appointed or employed to serve more than 130 days in any period of 365 days—is in general subject to the following major prohibitions (the citations are to the new sections of Title 18):

1. He may not, except in the discharge of his official duties, represent anyone else before a court or Government agency in a matter in which the United States is a party or has an interest. This prohibition applies both to paid and unpaid representation of another (18 U.S.C. 203 and 205).

2. He may not participate in his governmental capacity in any matter in which he, his spouse, minor child, outside business associate or person with whom he is negotiating for employment has a financial interest (18 U.S.C. 208).

3. He may not, after his Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and in which he participated personally and substantially for the Government (18 U.S.C. 207(a)).

4. He may not, for 1 year after his Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and which was within the boundaries of his official responsibilities during the last year of his Government service (18 U.S.C. 207(b)). This temporary restraint of course gives way to the permanent restraint described in paragraph 3 if the matter is one in which he participated personally and substantially.

5. He may not receive any salary, or supplementation of his Government salary, from a private source as compensation for his services to the Government (18 U.S.C. 209).

A special Government employee is in general subject only to the following major prohibitions:

1. (a) He may not, except in the discharge of his official duties, represent anyone else before a court or Government agency in a matter in which the United States is a party or has an interest and in which he has at any time participated personally and substantially for the Government (18 U.S.C. 203 and 205).

(b) He may not, except in the discharge of his official duties, represent anyone else in a matter pending before the agency he serves unless he has served there no more than 60 days during the past 365 (18 U.S.C. 203 and 205). He is bound by this restraint despite the fact that the matter is not one in which he has ever participated personally and substantially.

The restrictions described in subparagraphs (a) and (b) apply to both paid and unpaid representation of another. These restrictions in combination are, of course, less extensive than the one described in the corresponding paragraph 1 in the list set forth above with regard to regular employees.

2. He may not participate in his governmental capacity in any matter in which he, his spouse, minor child, outside business associate or person with whom he is negotiating for employment has a financial interest (18 U.S.C. 208).

3. He may not, after his Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and in which he participated personally and substantially for the Government (18 U.S.C. 207(a)).

4. He may not, for 1 year after his Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and which was within the boundaries of his official responsibility during the last year of his Government service (18 U.S.C. 207(b)). This temporary restraint of course gives way to the permanent restriction described in paragraph 3 if the matter is one in which he participated personally and substantially.

It will be seen that paragraphs 2, 3 and 4 for special Government employees are the same as the corresponding paragraphs for regular employees. Paragraph 5 for the latter, describing the bar against the receipt of salary for Government work from a private source, does not apply to special Government employees.

As appears below, there are a number of exceptions to the prohibitions summarized in the two lists.

COMPARISON OF OLD AND NEW CONFLICT OF INTEREST SECTIONS OF TITLE 18, UNITED STATES CODE

New 18 U.S.C. 203. Subsection (a) of this section in general prohibits a Member of Congress and an officer or employee of the United States in any branch or agency of the Government from soliciting or receiving compensation for services rendered on behalf of another person before a Government department or agency in relation to any particular matter in which the United States is a party or has a direct and substantial interest. The subsection does not preclude compensation for services rendered on behalf of another in court.

Subsection (a) is essentially a rewrite of the repealed portion of 18 U.S.C. 231. However, subsections (b) and (c) have no counterparts in the previous statutes.

Subsection (b) makes it unlawful for anyone to offer or pay compensation the solicitation or receipt of which is barred by subsection (a).

Subsection (c) narrows the application of subsection (a) in the case of a person serving as a special Government employee to two, and only two, situations. First, subsection (c) bars him from rendering services before the Government on behalf of others, for compensation, in relation to a matter involving a specific party or parties in which he has participated personally and substantially in the course of his Government duties. And second, it bars him from such activities in relation to a matter involving a specific party or parties, even though he has not participated in the matter personally and substantially, if it is pending in his department or agency and he has served therein more than 60 days in the immediately preceding period of a year.

New 18 U.S.C. 205. This section contains two major prohibitions. The first prevents an officer or employee of the United States in any branch or agency of the Government from acting as agent or attorney for prosecuting any claim against the United States, including a claim in court, whether for compensation or not. It also prevents him from receiving a gratuity, or a share or interest in any such claim, for assistance in the prosecution thereof. This portion of section 205 is similar to the repealed portion of 18 U.S.C. 283, which dealt only with claims against the United States, but it omits a bar contained in the latter—i.e., a bar against rendering uncompensated aid or assistance in the prosecution or support of a claim against the United States.

The second main prohibition of section 205 is concerned with more than claims. It precludes an officer or employee of the Government from acting as agent or attorney for anyone else before a department, agency or court in connection with any particular matter in which the United States is a party or has a direct and substantial interest.

Section 205 provides for the same limited application to a special Government employee as section 203. In short, it precludes him from acting as agent or attorney only (1) in a matter involving a specific party or parties in which he has participated personally and substantially

in his governmental capacity, and (2) in a matter involving a specific party or parties which is before his department or agency, if he has served therein more than 60 days in the year past.

Since new sections 203 and 205 extend to activities in the same range of matters, they overlap to a greater extent than did their predecessor sections 281 and 283. The following are the few important differences between sections 203 and 205:

1. Section 203 applies to Members of Congress as well as officers and employees of the Government; section 205 applies only to the latter.

2. Section 203 bars services rendered for compensation solicited or received, but not those rendered without such compensation; section 205 bars both kinds of services.

3. Section 203 bars services rendered before the departments and agencies but not services rendered in court; section 205 bars both.

It will be seen that while section 203 is controlling as to Members of Congress, for all practical purposes section 205 completely overshadows section 203 in respect of officers and employees of the Government.

Section 205 permits a Government officer or employee to represent another person, without compensation, in a disciplinary, loyalty or other personnel matter. Another provision declares that the section does not prevent an officer or employee from giving testimony under oath or making statements required to be made under penalty for perjury or contempt.⁵

Section 205 also authorizes a limited waiver of its restrictions and those of section 203 for the benefit of an officer or employee, including a special Government employee, who represents his own parents, spouse or child, or a person or estate he serves as a fiduciary. The waiver is available to the officer or employee, whether acting for any such person with or without compensation, but only if approved by the official making appointments to his position. And in no event does the waiver extend to his representation of any such person in matters in which he has participated personally and substantially or which, even in the absence of such participation, are the subject of his official responsibility.

Finally, section 205 gives the head of a department or agency the power, notwithstanding any applicable restrictions in its provisions or those of section 203, to allow a special Government employee to represent his regular employer or other outside organization in the performance of work under a Government grant or contract. However, this action is open to the department or agency head only upon his certification, published in the Federal Register, that the national interest requires it.

New 18 U.S.C. 207. Subsections (a) and (b) of this section contain post-employment prohibitions applicable to persons who have ended service as officers or employees of the executive branch, the independent agencies or the District of Columbia.⁶ The prohibitions for persons who have served as special Government employees are the same as for persons who have performed regular duties.

The restraint of subsection (a) is against a former officer or employee's acting as agent or attorney for anyone other than the United States in connection with certain matters, whether pending in the courts or elsewhere. The matters are those involving a specific party or parties in which the United States is one of the parties or has a direct and substantial interest and in which the former officer or employee participated personally and substantially while holding a Government position.

Subsection (b) sets forth a 1-year postemployment prohibition in respect of those matters which were within the area of official responsibility of a former officer or employee at any time during the last year of his service but which do not come within subsection (a) because he did not participate in them personally and substantially. More particularly, the prohibition of subsection (b) prevents his personal appearance in such matters before a court or a department or agency of the Government as agent or attorney for anyone other than the United States.⁷ Where, in the year prior to the end of his service, a former officer or employee has changed areas of responsibility by transferring from one agency to another, the period of his postemployment ineligibility as to matters in a particular area ends 1 year after his responsibility for that area ends. For example, if an

individual transfers from a supervisory position in the Internal Revenue Service to a supervisory position in the Post Office Department and leaves that department for private employment 9 months later, he will be free of the restriction of subsection (b) in 3 months insofar as Internal Revenue matters are concerned. He will of course be bound by it for a year in respect of Post Office Department matters.

The proviso following subsections (a) and (b) authorizes an agency head, notwithstanding anything to the contrary in their provisions, to permit a former officer or employee with outstanding scientific qualifications to act as attorney or agent or appear personally before the agency for another in a matter in a scientific field. This authority may be exercised by the agency head upon a "national interest" certification published in the FEDERAL REGISTER.

Subsections (a) and (b) describe the activities they forbid as being in connection with "particular matter[s] involving a specific party or parties" in which the former officer or employee had participated. The quoted language does not include general rulemaking, the formulation of general policy or standards, or other similar matters. Thus, past participation in or official responsibility for a matter of this kind on behalf of the Government does not disqualify a former employee from representing another person in a proceeding which is governed by the rule or other result of such matter.

Subsection (a) bars permanently a greater variety of actions than subsection (b) bars temporarily. The conduct made unlawful by the former is *any action as agent or attorney*, while that made unlawful by the latter is a *personal appearance as agent or attorney*. However, neither subsection precludes postemployment activities which may fairly be characterized as no more than aiding or assisting another.⁸ An individual who has left an agency to accept private employment may, for example, immediately perform technical work in his company's plant in relation to a contract for which he had official responsibility—or, for that matter, in relation to one he helped the agency negotiate. On the other hand, he is forbidden for a year, in the first case, to appear personally before the agency as the agent or attorney of his company in connection with a dispute over the terms of the contract. And he may at no time appear personally before the agency or otherwise act as agent or attorney for his company in such dispute if he helped negotiate the contract.

Comparing subsection (a) with the antecedent 18 U.S.C. 284 discloses that it follows the latter in limiting disqualification to cases where a former officer or employee actually participated in a matter for the Government. However, subsection (a) covers all matters in which the United States is a party or has a direct and substantial interest and not merely the "claims against the United States" covered by 18 U.S.C. 284. Subsection (a) also goes further than the latter in imposing a lifetime instead of a 2-year bar. Subsection (b) has no parallel in 18 U.S.C. 284 or any other provision of the former conflict of interest statutes.

It will be seen that subsections (a) and (b) in combination are less restrictive in some respects, and more restrictive in others, than the combination of the prior 18 U.S.C. 284 and 5 U.S.C. 99. Thus, former officers or employees who were outside the Government when the Act came into force on January 21, 1963, will in certain situations be enabled to carry on activities before the Government which were previously barred. For example, the repeal of 5 U.S.C. 99 permits an attorney who left an executive department for private practice a year before to take certain cases against the Government immediately which would be subject to the bar of 5 U.S.C. 99 for another year. On the other hand, former officers or employees became precluded on and after January 21, 1963 from engaging or continuing to engage in certain activities which were permissible until that date. This result follows from the replacement of the 2-year bar of 18 U.S.C. 284 with a lifetime bar of subsection (a) in comparable situations, from the increase in the variety of matters covered by subsection (a) as compared with 18 U.S.C. 284 and from the introduction of the 1-year bar of subsection (b).

Subsection (c) of section 207 pertains to an individual outside the Government who is in a business or professional partnership with someone serving in the executive branch, an independent agency or the District of Columbia. The subsection prevents such individual from acting as attorney or agent for anyone other than the United States in any matters, including those in court, in which his partner in the Government is participating or has participated or which are the subject of his partner's official responsibility. Although included in a section dealing largely with postemployment activities, this provision is not directed to the postemployment situation.

The paragraph at the end of section 207 also pertains to individuals in a partnership but sets forth no prohibition. This paragraph, which is of importance mainly to lawyers in private practice, rules out the possibility that an individual will be deemed subject to section 203, 205, 207(a) or 207(b) solely because he has a partner who serves or has served in the Government either as a regular or a special Government employee.

New 18 U.S.C. 208. This section forbids certain actions by an officer or employee of the Government in his role as a servant or representative of the Government. Its thrust is therefore to be distinguished from that of sections 203 and 205 which forbid certain actions in his capacity as a representative of persons outside the Government.

Subsection (a) in substance requires an officer or employee of the executive branch, an independent agency or the District of Columbia, including a special Government employee, to refrain from participating as such in any matter in which, to his knowledge, he, his spouse, minor child or partner has a financial interest. He must also remove himself from a matter in which a business or nonprofit organization with which he is connected or is seeking employment has a financial interest.

Subsection (b) permits the agency of an officer or employee to grant him an *ad hoc* exemption from subsection (a) if the outside financial interest in a matter is deemed not substantial enough to have an effect on the integrity of his services. Financial interests of this kind may also be made nondisqualifying by a general regulation published in the FEDERAL REGISTER.

Section 208 is similar in purpose to the former 18 U.S.C. 434 but prohibits a greater variety of conduct than the "transaction of business with . . . [a] business entity" to which the prohibition of section 434 was limited. In addition, the provision in section 208 including the interests of a spouse and others is new, as is the provision authorizing exemptions for insignificant interest.

New 18 U.S.C. 209. Subsection (a) prevents an officer or employee of the executive branch, an independent agency or the District of Columbia from receiving, and anyone from paying him, any salary or supplementation of salary from a private source as compensation for his services to the Government. This provision uses much of the language of the former 18 U.S.C. 1914 and does not vary from that statute in substance. The remainder of section 209 is new.

Subsection (b) specifically authorizes an officer or employee covered by subsection (a) to continue his participation in a bona fide pension plan or other employee welfare or benefit plan maintained by a former employer.

Subsection (c) provides that section 209 does not apply to a special Government employee or to anyone serving the Government without compensation whether or not he is a special Government employee.

Subsection (d) provides that the section does not prohibit the payment or acceptance of contributions, awards or other expenses under the terms of the Government Employees Training Act. (72 Stat. 327, 5 U.S.C. 2301—2319).

STATUTORY EXEMPTIONS FROM CONFLICT OF INTEREST LAWS

Congress has in the past enacted statutes exempting persons in certain positions—usually advisory in nature—from the provisions of some or all of the former conflict of interest laws. Section 2 of the Act grants corresponding exemptions from the new laws with respect to legislative and judicial positions carrying such past exemptions. However, section 2 excludes positions in the executive branch, an independent agency and the District of Columbia from this grant. As a consequence, all statu-

tory exemptions for persons serving in these sectors of the Government ended on January 21, 1963.

RETIRED OFFICERS OF THE ARMED FORCES

Public Law 87-849 enacted a new 18 U.S.C. 206 which provides in general that the new sections 203 and 205, replacing 18 U.S.C. 281 and 283, do not apply to retired officers of the armed forces and other uniformed services. However, 18 U.S.C. 281 and 283 contain special restrictions applicable to retired officers of the armed forces which are left in force by the partial repealer of those statutes set forth in section 2 of the Act.

The former 18 U.S.C. 284, which contained a 2-year disqualification against postemployment activities in connection with claims against the United States, applied by its terms to persons who had served as commissioned officers and whose active service had ceased either by reason of retirement or complete separation. Its replacement, the broader 18 U.S.C. 207, also applies to persons in those circumstances. Section 207, therefore applies to retired officers of the armed forces and overlaps the continuing provisions of 18 U.S.C. 281 and 283 applicable to such officers although to a different extent than did 18 U.S.C. 284.

VOIDING TRANSACTIONS IN VIOLATION OF THE CONFLICT OF INTEREST OR BRIBERY LAWS

Public Law 87-849 enacted a new section, 18 U.S.C. 218, which did not supplant a pre-existing section of the criminal code. However, it was modeled on the last sentence of the former 18 U.S.C. 216 authorizing the President to declare a Government contract void which was entered into in violation of that section. It will be recalled that section 216 was one of the two statutes repealed without replacement.

The new 18 U.S.C. 218 grants the President and, under presidential regulations, an agency head the power to void and rescind any transaction or matter in relation to which there has been a "final conviction" for a violation of the conflict of interest or bribery laws. The section also authorizes the Government's recovery, in addition to any penalty prescribed by law or in a contract, of the amount expended or thing transferred on behalf of the Government.

Section 218 specifically provides that the powers it grants are "in addition to any other remedies provided by law." Accordingly, it would not seem to override the decision in *United States v. Mississippi Valley Generating Co.*, 364 U.S. 520 (1961), a case in which there was no "final conviction."

BIBLIOGRAPHY

Set forth below are the citations to the legislative history of Public Law 87-849 and a list of recent material which is pertinent to a study of the Act. The listed 1960 report of the Association of the Bar of the City of New York is particularly valuable. For a comprehensive bibliography of earlier material relating to the conflict of interest laws, see 13 Record of the Association of the Bar of the City of New York 323 (May 1958).

LEGISLATIVE HISTORY OF PUBLIC LAW 87-849 (H.R. 8140, 87TH CONG.)

1. Hearings of June 1 and 2, 1961 before the Antitrust Subcommittee (Subcommittee No. 5) of the House Judiciary Committee, 87th Cong., 1st sess., ser. 3, on *Federal Conflict of Interest Legislation*.
2. H. Rept. 748, 87th Cong., 1st sess.
3. 107 Cong. Rec. 14774.
4. Hearing of June 21, 1962 before the Senate Judiciary Committee, 87th Cong., 2d sess., on *Conflicts of Interest*.
5. S. Rept. 2213, 87th Cong., 2d sess.
6. 108 Cong. Rec. 20805 and 21130 (daily ed., October 3 and 4, 1962).

OTHER MATERIAL

1. President's special message to Congress, April 27, 1961, and attached draft bill, 107 Cong. Rec. 6835.
2. President's Memorandum of February 9, 1962 to the heads of executive departments and agencies entitled *Preventing Conflicts of Interest on the Part of Advisers and Consultants to the Government*, 27 F.R. 1341.
3. 42 Op. A.G. No. 6, January 31, 1962.
4. Memorandum of December 10, 1956 for the Attorney General from the Office of Legal Counsel re conflict of

interest statutes, Hearings before the Antitrust Subcommittee (Subcommittee No. 5) of House Judiciary Committee, 86th Cong., 2d sess., ser. 17, pt. 2, p. 619.

5. Staff report of Antitrust Subcommittee (Subcommittee No. 5) of House Judiciary Committee, 85th Cong., 2d sess., *Federal Conflict of Interest Legislation* (Comm. Print 1958).

6. Report of the Association of the Bar of the City of New York, *Conflict of Interest and Federal Service* (Harvard Univ. Press 1960).

FOOTNOTES

¹Section 190 of the Revised Statutes (5 U.S.C. 99), which was repealed by section 3 of Public Law 87-849, applied to a former officer or employee of the Government who had served in a department of the executive branch. It prohibited him, for a period of two years after his employment had ceased, from representing anyone in the prosecution of a claim against the United States which was pending in that or any other executive department during his period of employment. The subject of post-employment activities of former Government officers and employees was also dealt with in another statute which was repealed, 18 U.S.C. 284. Public Law 87-849 covers the subject in a single section enacted as the new 18 U.S.C. 207.

18 U.S.C. 216, which was repealed by section 1(c) of Public Law 87-849, prohibited the payment to or acceptance by a Member of Congress or officer or employee of the Government of any money or thing of value for giving or procuring a Government contract. Since this offense is within the scope of the newly enacted 18 U.S.C. 201 and 18 U.S.C. 203, relating to bribery and conflicts of interest, respectively, section 216 is no longer necessary.

²See section 2 of Public Law 87-849. 18 U.S.C. 281 and 18 U.S.C. 283 were not completely set aside by section 2 but remain in effect to the extent that they apply to retired officers of the Armed Forces (see "Retired Officers of the Armed Forces," *infra*).

³S. Rept. 2213, 87th Cong., 2d sess., p. 6.

⁴The term "official responsibility" is defined by the new 18 U.S.C. 202(b) to mean "the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, and either personally or through subordinates, to approve, disapprove, or otherwise direct Government action."

⁵These two provisions of section 205 refer to an "officer or employee" and not, as do certain of the other provisions of the Act, to an "officer or employee, including a special Government employee." However, it is plain from the definition in section 202(a) that a special Government employee is embraced within the comprehensive term "officer or employee." There would seem to be little doubt, therefore, that the instant provisions of section 205 apply to special Government employees even in the absence of an explicit reference to them.

⁶The prohibitions of the two subsections apply to persons ending service in these areas whether they leave the Government entirely or move to the legislative or judicial branch. As a practical matter, however, the prohibitions would rarely be significant in the latter situation because officers and employees of the legislative and judicial branches are covered by sections 203 and 205.

⁷Neither section 203 nor section 205 prevents a special Government employee, during his period of affiliation with the Government, from representing another person before the Government in a particular matter only because it is within his official responsibility. Therefore the inclusion of a former special Government employee within the 1-year postemployment ban of subsection (b) may subject him to a temporary restraint from which he was free prior to the end of his Government service. However, since special Government employees usually do not have "official responsibility," as that term is defined in section 202(b), their inclusion within the 1-year ban will not have a widespread effect.

⁸Subsection (a), as it first appeared in H.R. 8140, the bill which became Public Law 87-849, made it unlawful for a former officer or employee to act as agent or attorney for, or *aid or assist*, anyone in a matter in which he had participated. The House Judiciary Committee struck the underlined words, and the bill became law without them.

It should be noted also that the repealed provisions of 18 U.S.C. 283 made the distinction between one's acting as agent or attorney for another and his aiding or assisting another.

CANAL ZONE

Applicability of section to Canal Zone, see section 14 of this title.

CROSS REFERENCES

Bribe moneys, disposition, see section 3612 of this title. Contracts by Members of Congress, see section 431 of this title.

Customs, penal provisions relating to entry of goods, see section 541 et seq. of this title.

Demand or acceptance of gift, fee or illegal payment by revenue officer or agent, see section 7214(a) of Title 26, Internal Revenue Code.

Disqualification from holding any office of honor, trust, or profit, additional grounds for, see sections 204, 592, 593, 1901, 2071, 2381, 2385, 2387 of this title.

Offense punishable by death or imprisonment for more than 1 year made a felony, see section 1 of this title.

§ 202. Definitions.

(a) For the purpose of sections 203, 205, 207, 208, and 209 of this title the term "special Government employee" shall mean an officer or employee of the executive or legislative branch of the United States Government, of any independent agency of the United States or of the District of Columbia, who is retained, designated, appointed, or employed to perform, with or without compensation, for not to exceed one hundred and thirty days during any period of three hundred and sixty-five consecutive days, temporary duties either on a full-time or intermittent basis, or a part-time United States Commissioner. Notwithstanding the next preceding sentence, every person serving as a part-time local representative of a Member of Congress in the Member's home district or State shall be classified as a special Government employee. Notwithstanding section 29 (c) and (d) of the Act of August 10, 1956 (70A Stat. 632; 5 U.S.C. 30r (c) and (d)), a Reserve officer of the Armed Forces, or an officer of the National Guard of the United States, unless otherwise an officer or employee of the United States, shall be classified as a special Government employee while on active duty solely for training. A Reserve officer of the Armed Forces or an officer of the National Guard of the United States who is voluntarily serving a period of extended active duty in excess of one hundred and thirty days shall be classified as an officer of the United States within the meaning of section 203 and sections 205 through 209 and 218. A Reserve officer of the Armed Forces or an officer of the National Guard of the United States who is serving involuntarily shall be classified as a special Government employee. The terms "officer or employee" and "special Government employee" as used in sections 203, 205, 207 through 209, and 218, shall not include enlisted members of the Armed Forces.

(b) For the purposes of sections 205 and 207 of this title, the term "official responsibility" means the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, and either personally or through subordinates, to approve, disapprove, or otherwise direct Government action. (Added Pub. L. 87-849, § 1(a), Oct. 23, 1962, 76 Stat. 1121.)

REFERENCES IN TEXT

Section 29 (c) and (d) of the act of August 10, 1956, referred to in subsec. (a), is classified to section 30r (c), (d) of Title 5, Executive Departments and Government Officers and Employees.

CODIFICATION

A prior section 202, act June 25, 1948, ch. 645, 62 Stat. 691, which prescribed penalties for any officer or other person who accepted or solicited anything of value to influence his decision, was eliminated in the general amendment of this chapter by Pub. L. 87-849, and is substantially covered by revised section 201.

EFFECTIVE DATE

Section effective 90 days after Oct. 23, 1962, see section 4 of Pub. L. 87-849, set out as a note under section 201 of this title.

CANAL ZONE

Applicability of section to Canal Zone, see section 14 of this title.

CROSS REFERENCES

Memorandum of Attorney General regarding conflict of interest provisions, see note under section 201 of this title.

§ 203. Compensation to Members of Congress, officers, and others in matters affecting the Government.

(a) Whoever, otherwise than as provided by law for the proper discharge of official duties, directly or indirectly receives or agrees to receive, or asks, demands, solicits, or seeks, any compensation for any services rendered or to be rendered either by himself or another—

(1) at a time when he is a Member of Congress, Member of Congress Elect, Resident Commissioner, or Resident Commissioner Elect; or

(2) at a time when he is an officer or employee of the United States in the executive, legislative, or judicial branch of the Government, or in any agency of the United States, including the District of Columbia,

in relation to any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which the United States is a party or has a direct and substantial interest, before any department, agency, court-martial, officer, or any civil, military, or naval commission, or

(b) Whoever, knowingly, otherwise than as provided by law for the proper discharge of official duties, directly or indirectly gives, promises, or offers any compensation for any such services rendered or to be rendered at a time when the person to whom the compensation is given, promised, or offered, is or was such a Member, Commissioner, officer, or employee—

Shall be fined not more than \$10,000 or imprisoned for not more than two years, or both; and shall be incapable of holding any office of honor, trust, or profit under the United States.

(c) A special Government employee shall be subject to subsection (a) only in relation to a particular matter involving a specific party or parties (1) in which he has at any time participated personally and substantially as a Government employee or as a special Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, or (2) which is pending in the department or agency of the Government in which he is serving: *Provided*, That

clause (2) shall not apply in the case of a special Government employee who has served in such department or agency no more than sixty days during the immediately preceding period of three hundred and sixty-five consecutive days. (Added Pub. L. 87-849, § 1(a), Oct. 23, 1962, 76 Stat. 1121.)

CODIFICATION

A prior section 203, act June 25, 1948, ch. 645, 62 Stat. 692, which related to the acceptance or demand by district attorneys, or marshals and their assistants of any fee other than provided by law, was eliminated in the general amendment of this chapter by Pub. L. 87-849 and is substantially covered by revised section 201.

EFFECTIVE DATE

Section effective 90 days after Oct. 23, 1962, see section 4 of Pub. L. 87-849, set out as a note under section 201 of this title.

CROSS REFERENCE

Activities of officers and employees in matters affecting the Government, see section 205 of this title.

Definitions, see section 202 of this title.

Exemption of retired officers of the uniformed services, see section 206 of this title.

Memorandum of Attorney General regarding conflict of interest provisions, see note under section 201 of this title.

Partners subject to section, see section 207 of this title.

§ 204. Practice in Court of Claims by Members of Congress.

Whoever, being a Member of Congress, Member of Congress Elect, Resident Commissioner, or Resident Commissioner Elect, practices in the Court of Claims, shall be fined not more than \$10,000 or imprisoned for not more than two years, or both, and shall be incapable of holding any office of honor, trust, or profit under the United States. (Added Pub. L. 87-849, § 1(a), Oct. 23, 1962, 76 Stat. 1122.)

CODIFICATION

A prior section 204, act June 25, 1948, ch. 645, 62 Stat. 692, which related to an offer to influence a Member of Congress, was eliminated in the general amendment of this chapter by Pub. L. 87-849 and is substantially covered by revised section 201.

EFFECTIVE DATE

Section effective 90 days after Oct. 23, 1962, see section 4 of Pub. L. 87-849, set out as a note under section 201 of this title.

CROSS REFERENCES

Memorandum of Attorney General regarding conflict of interest provisions, see note under section 201 of this title.

§ 205. Activities of officers and employees in claims against and other matters affecting the Government.

Whoever, being an officer or employee of the United States in the executive, legislative, or judicial branch of the Government or in any agency of the United States, including the District of Columbia, otherwise than in the proper discharge of his official duties—

(1) acts as agent or attorney for prosecuting any claim against the United States, or receives any gratuity, or any share of or interest in any such claim in consideration of assistance in the prosecution of such claim, or

(2) acts as agent or attorney for anyone before any department, agency, court, court-martial, officer, or any civil, military, or naval commission in connection with any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, ar-

rest, or other particular matter in which the United States is a party or has a direct and substantial interest—

Shall be fined not more than \$10,000 or imprisoned for not more than two years, or both.

A special Government employee shall be subject to the preceding paragraphs only in relation to a particular matter involving a specific party or parties (1) in which he has at any time participated personally and substantially as a Government employee or as a special Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, or (2) which is pending in the department or agency of the Government in which he is serving: *Provided*, That clause (2) shall not apply in the case of a special Government employee who has served in such department or agency no more than sixty days during the immediately preceding period of three hundred and sixty-five consecutive days.

Nothing herein prevents an officer or employee, if not inconsistent with the faithful performance of his duties, from acting without compensation as agent or attorney for any person who is the subject of disciplinary, loyalty, or other personnel administration proceedings in connection with those proceedings.

Nothing herein or in section 203 prevents an officer or employee, including a special Government employee, from acting, with or without compensation, as agent or attorney for his parents, spouse, child, or any person for whom, or for any estate for which, he is serving as guardian, executor, administrator, trustee, or other personal fiduciary except in those matters in which he has participated personally and substantially as a Government employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or which are the subject of his official responsibility, provided that the Government official responsible for appointment to his position approves.

Nothing herein or in section 203 prevents a special Government employee from acting as agent or attorney for another person in the performance of work under a grant by, or a contract with or for the benefit of, the United States provided that the head of the department or agency concerned with the grant or contract shall certify in writing that the national interest so requires.

Such certification shall be published in the Federal Register.

Nothing herein prevents an officer or employee from giving testimony under oath or from making statements required to be made under penalty for perjury or contempt. (Added Pub. L. 87-849, § 1(a), Oct. 23, 1962, 76 Stat. 1122.)

CODIFICATION

A prior section 205, act June 25, 1948, ch. 645, 62 Stat. 692, which related to the acceptance by a Member of Congress of anything of value to influence him, was eliminated in the general amendment of this chapter by Pub. L. 87-849 and is substantially covered by revised section 201.

EFFECTIVE DATE

Section effective 90 days after Oct. 23, 1962, see section 4 of Pub. L. 87-849, set out as a note under section 201 of this title.

CROSS REFERENCES

Definitions, see section 202 of this title.

Disqualification from holding any office of honor, trust, or profit, additional grounds for, see sections 204, 592, 593, 1901, 2071, 2381, 2385, 2387 of this title.

Exemption of retired officers of the uniformed services, see section 206 of this title.

Memorandum of Attorney General regarding conflict of interest provisions, see note under section 201 of this title.

Partners subject to section, see section 207 of this title.

Ex. ORD. No. 11125. DELEGATION OF PRESIDENTIAL AUTHORITY
Ex. Ord. No. 11125, Oct. 29, 1963, 28 F.R. 11609, provided:

By virtue of the authority vested in me by section 301 of Title 3 of the United States Code, and as President of the United States, it is ordered as follows:

SECTION 1. As used in this order, "department" means an executive department, "agency" means an independent agency or establishment or a government corporation and "head of an agency" means, in the case of an agency headed by more than one person, the chairman or comparable member of such agency.

SEC. 2. There is delegated, in accordance with and to the extent prescribed in sections 3 and 4 of this order, the authority of the President under sections 205 and 208(b) of Title 18, United States Code, to permit certain actions by an officer or employee of the Government, including a special Government employee, for appointment to whose position the President is responsible.

SEC. 3. Insofar as the authority of the President referred to in section 2 extends to any appointee of the President subordinate to or subject to the chairmanship of the head of a department or agency, it is delegated to such department or agency head.

SEC. 4. Insofar as the authority of the President referred to in section 2 extends to an appointee of the President who is within or attached to a department or agency for purposes of administration, it is delegated to the head of such department or agency.

SEC. 5. Notwithstanding any provision of the preceding sections to the contrary, this order shall not be deemed to include a delegation of the authority of the President referred to in section 2 insofar as it extends to (a) the head of a department or agency, including an agency in the Executive Office of the President; (b) presidential appointees in the Executive Office of the President who are not subordinate to the head of an agency in that Office; and (c) presidential appointees to committees, boards, commissions or similar groups established by the President.

JOHN F. KENNEDY

§ 206. Exemption of retired officers of the uniformed services.

Sections 203 and 205 of this title shall not apply to a retired officer of the uniformed services of the United States while not on active duty and not otherwise an officer or employee of the United States, or to any person specially excepted by Act of Congress. (Added Pub. L. 87-849, § 1(a), Oct. 23, 1962, 76 Stat. 1123.)

CODIFICATION

A prior section 206, act June 25, 1948, ch. 645, 62 Stat. 692, which related to an offer to a judge or judicial officer to influence him, was eliminated in the general amendment of this chapter by Pub. L. 87-849 and is substantially covered by revised section 201.

EFFECTIVE DATE

Section effective 90 days after Oct. 23, 1962, see section 4 of Pub. L. 87-849, set out as a note under section 201 of this title.

CROSS REFERENCES

Definitions, see section 202 of this title.

Memorandum of Attorney General regarding conflict of interest provisions, see note under section 201 of this title.

§ 207. Disqualification of former officers and employees in matters connected with former duties or official responsibilities; disqualification of partners.

(a) Whoever, having been an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, including a special Government employee, after his employment has ceased, knowingly acts as agent or attorney for anyone other than the United States in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter involving a specific party or parties in which the United States is a party or has a direct and substantial interest and in which he participated personally and substantially as an officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, while so employed, or

(b) Whoever, having been so employed, within one year after his employment has ceased, appears personally before any court or department or agency of the Government as agent, or attorney for, anyone other than the United States in connection with any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter involving a specific party or parties in which the United States is a party or directly and substantially interested, and which was under his official responsibility as an officer or employee of the Government at any time within a period of one year prior to the termination of such responsibility—

Shall be fined not more than \$10,000 or imprisoned for not more than two years, or both: *Provided*, That nothing in subsection (a) or (b) prevents a former officer or employee, including a former special Government employee, with outstanding scientific or technological qualifications from acting as attorney or agent or appearing personally in connection with a particular matter in a scientific or technological field if the head of the department or agency concerned with the matter shall make a certification in writing, published in the Federal Register, that the national interest would be served by such action or appearance by the former officer or employee.

(c) Whoever, being a partner of an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, including a special Government employee, acts as agent or attorney for anyone other than the United States, in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which the United States is a party or has a direct and substantial interest and in which such officer or employee of the Government or special Government employee participates or has participated personally and substantially as a Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, or which is the subject of his official responsibility—

Shall be fined not more than \$5,000, or imprisoned not more than one year, or both.

A partner of a present or former officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia or of a present or former special Government employee shall as such be subject to the provisions of sections 203, 205, and 207 of this title only as expressly provided in subsection (c) of this section. (Added Pub. L. 87-849, § 1(a), Oct. 23, 1962, 76 Stat. 1123.)

CODIFICATION

A prior section 207, act June 25, 1948, ch. 645, 62 Stat. 692, which related to the acceptance of a bribe by a judge, was eliminated by the general amendment of this chapter by Pub. L. 87-849 and is substantially covered by revised section 201.

EFFECTIVE DATE

Section effective 90 days after Oct. 23, 1962, see section 4 of Pub. L. 87-849, set out as a note under section 201 of this title.

CROSS REFERENCES

Definitions, see section 202 of this title.

Memorandum of Attorney General regarding conflict of interest provisions, see note under section 201 of this title.

§ 208. Acts affecting a personal financial interest.

(a) Except as permitted by subsection (b) hereof, whoever, being an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, including a special Government employee, participates personally and substantially as a Government officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which, to his knowledge, he, his spouse, minor child, partner, organization in which he is serving as officer, director, trustee, partner or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest—

Shall be fined not more than \$10,000, or imprisoned not more than two years, or both.

(b) Subsection (a) hereof shall not apply (1) if the officer or employee first advises the Government official responsible for appointment to his position of the nature and circumstances of the judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter and makes full disclosure of the financial interest and receives in advance a written determination made by such official that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from such officer or employee, or (2) if, by general rule or regulation published in the Federal Register, the financial interest has been exempted from the requirements of clause (1) hereof as being too remote or too inconsequential to affect the integrity of Government officers' or employees' services. (Added Pub. L. 87-849, § 1(a), Oct. 23, 1962, 76 Stat. 1124.)

CODIFICATION

A prior section 208, act June 25, 1948, ch. 645, 62 Stat. 693, which related to the acceptance of solicitation of a bribe by a judicial officer, was eliminated in the general amendment of this chapter by Pub. L. 87-849 and is substantially covered by revised section 201.

EFFECTIVE DATE

Section effective 90 days after Oct. 23, 1962, see section 4 of Pub. L. 87-849, set out as a note under section 201 of this title.

DELEGATION OF PRESIDENTIAL AUTHORITY

Authority of the President under subsec. (b) of this section to permit certain actions by an officer or employee of the Government delegated, see Ex. Ord. No. 11125, Oct. 29, 1963, 28 F.R. 11609, set out as a note under section 205 of this title.

CROSS REFERENCES

Definition, see section 202 of this title.
Memorandum of Attorney General regarding conflict of interest provisions, see note under section 201 of this title.

§ 209. Salary of Government officials and employees payable only by United States.

(a) Whoever receives any salary, or any contribution to or supplementation of salary, as compensation for his services as an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, from any source other than the Government of the United States, except as may be contributed out of the treasury of any State, county, or municipality; or

Whoever, whether an individual, partnership, association, corporation, or other organization pays, or makes any contribution to, or in any way supplements the salary of, any such officer or employee under circumstances which would make its receipt a violation of this subsection—

Shall be fined not more than \$5,000 or imprisoned not more than one year, or both.

(b) Nothing herein prevents an officer or employee of the executive branch of the United States Government, or of any independent agency of the United States, or of the District of Columbia, from continuing to participate in a bona fide pension, retirement, group life, health or accident insurance, profit-sharing, stock bonus, or other employee welfare or benefit plan maintained by a former employer.

(c) This section does not apply to a special Government employee or to an officer or employee of the Government serving without compensation, whether or not he is a special Government employee, or to any person paying, contributing to, or supplementing his salary as such.

(d) This section does not prohibit payment or acceptance of contributions, awards, or other expenses under the terms of the Government Employees Training Act (Public Law 85-507, 72 Stat. 327; 5 U.S.C. 2301—2319, July 7, 1958). (Added Pub. L. 87-849, § 1(a), Oct. 23, 1962, 76 Stat. 1125.)

CODIFICATION

A prior section 209, act June 25, 1948, ch. 645, 62 Stat. 693, which related to an offer of a bribe to a witness, was eliminated in the general amendment of this chapter by Pub. L. 87-849 and is substantially covered by section 201.

EFFECTIVE DATE

Section effective 90 days after Oct. 23, 1962, see section 4 of Pub. L. 87-849, set out as a note under section 201 of this title.

CROSS REFERENCES

Definitions, see section 202 of this title.
Memorandum of Attorney General regarding conflict of interest provisions, see note under section 201 of this title.

§ 210. Offer to procure appointive public office.

Whoever pays or offers or promises any money or thing of value, to any person, firm, or corporation in consideration of the use or promise to use any influence to procure any appointive office or place under the United States for any person, shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 210, formerly § 214, 62 Stat. 694, renumbered Oct. 23, 1962, Pub. L. 87-849, § 1(b), 76 Stat. 1125.)

PRIOR PROVISIONS

A prior section 210, act June 25, 1948, ch. 645, 62 Stat. 693, which related to acceptance of a bribe by a witness, was eliminated in the general amendment of this chapter by Pub. L. 87-849 and is substantially covered in revised section 201.

§ 211. Acceptance or solicitation to obtain appointive public office.

Whoever solicits or receives, either as a political contribution, or for personal emolument, any money or thing of value, in consideration of the promise of support or use of influence in obtaining for any person any appointive office or place under the United States, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

Whoever solicits or receives any thing of value in consideration of aiding a person to obtain employment under the United States either by referring his name to an executive department or agency of the United States or by requiring the payment of a fee because such person has secured such employment shall be fined not more than \$1,000, or imprisoned not more than one year, or both. This section shall not apply to such services rendered by an employment agency pursuant to the written request of an executive department or agency of the United States. (June 25, 1948, ch. 645, § 211, formerly § 215, 62 Stat. 694, amended Sept. 13, 1951, ch. 380, 65 Stat. 620; renumbered Oct. 23, 1962, Pub. L. 87-849, § 1(b), 76 Stat. 1125.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 150 and 151 (Dec. 11, 1926, ch. 3, §§ 2, 3, 44 Stat. 918). Same changes of style and substance were made in this section as in [former] section 214 of this title.

PRIOR PROVISIONS

A prior section 211, act June 25, 1948, ch. 645, 62 Stat. 693, which related to an offer of a gratuity to a revenue officer, was eliminated in the general amendment of this chapter by Pub. L. 87-849 and is substantially covered in revised section 201.

AMENDMENTS

1951—Act Sept. 13, 1951 added second paragraph.

§ 212. Offer of loan or gratuity to bank examiner.

Whoever, being an officer, director or employee of a bank which is a member of the Federal Reserve System or the deposits of which are insured by the Federal Deposit Insurance Corporation, or of any

National Agricultural Credit Corporation, or of any land bank, Federal land bank association or other institution subject to examination by a farm credit examiner, or of any small business investment company, makes or grants any loan or gratuity, to any examiner or assistant examiner who examines or has authority to examine such bank, corporation, or institution, shall be fined not more than \$5,000 or imprisoned not more than one year, or both; and may be fined a further sum equal to the money so loaned or gratuity given.

The provisions of this section and section 218 of this title shall apply to all public examiners and assistant examiners who examine member banks of the Federal Reserve System or insured banks, or National Agricultural Credit Corporations, whether appointed by the Comptroller of the Currency, by the Board of Governors of the Federal Reserve System, by a Federal Reserve Agent, by a Federal Reserve bank or by the Federal Deposit Insurance Corporation, or appointed or elected under the laws of any state; but shall not apply to private examiners or assistant examiners employed only by a clearing-house association or by the directors of a bank. (June 25, 1948, ch. 645, § 212, formerly § 217, 62 Stat. 694, amended Aug. 21, 1958, Pub. L. 85-699, title VII, § 701(a), 72 Stat. 698; Aug. 18, 1959, Pub. L. 86-168, title I, § 104(h), 73 Stat. 387; renumbered Oct. 23, 1962, Pub. L. 87-849, § 1(d), 76 Stat. 1125.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 593 and 1245 of title 12, U. S. C., 1940 ed., Banks and Banking (Dec. 23, 1913, ch. 6, § 22, 38 Stat. 272; Sept. 26, 1918, ch. 177, § 5, 40 Stat. 970; Mar. 4, 1923, ch. 252, title II, § 209 (e), 42 Stat. 1468; Feb. 25, 1927, ch. 191, § 15, 44 Stat. 1232; Aug. 23, 1935, ch. 614, § 326 (a), 49 Stat. 715).

Section 593 of title 12, U. S. C., 1940 ed., Banks and Banking, was divided into three sections: this section and sections 218 and 655 of this title.

Words "shall be deemed guilty of a misdemeanor and" were omitted as unnecessary in view of definition of misdemeanor in section 1 of this title.

This section was expanded to include "National Agricultural Credit Corporations" by including this term in each paragraph, upon authority of section 1245 of title 12, U. S. C., 1940 ed., Banks and Banking.

No penalty was provided for offering a bribe to farm credit examiners. The words "or of any land bank, national farm loan association, or other institution subject to examination by a farm credit examiner," were added upon the authority of section 952 of said title 12.

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

Changes in phraseology were also made.

REFERENCES IN TEXT

Section 218 of this title, referred to in the text, is a reference to section 218 prior to its redesignation as section 213 of this title by section 1(d) of Pub. L. 87-849.

PRIOR PROVISIONS

A prior section 212, act June 25, 1948, ch. 645, 62 Stat. 693, which related to an offer or threat to a customs officer or employee, was eliminated in the general amendment to this chapter by Pub. L. 87-849 and is substantially covered by revised section 201.

AMENDMENTS

1959—Pub. L. 86-168 substituted "Federal land bank association" for "national farm loan association".

1958—Pub. L. 85-699 included officers, directors and employees of small business investment companies.

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment of section by Pub. L. 86-168 effective Dec. 31, 1959, see section 104(k) of Pub. L. 86-168, set

out as a note under section 751 of Title 12, Banks and Banking.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, were not included in the transfer of functions of officers, agencies and employees of the Department of the Treasury to the Secretary of the Treasury, made by 1950 Reorg. Plan No. 26, § 1, eff. July 31, 1950, 15 F. R. 4935, 64 Stat. 1280, set out in note under section 241 of Title 5, Executive Departments and Government Officers and Employees.

§ 213. Acceptance of loan or gratuity by bank examiner.

Whoever, being an examiner or assistant examiner of member banks of the Federal Reserve System or banks the deposits of which are insured by the Federal Deposit Insurance Corporation, or a farm credit examiner or examiner of National Agricultural Credit Corporations, or an examiner of small business investment companies, accepts a loan or gratuity from any bank, corporation, association or organization examined by him or from any person connected therewith, shall be fined not more than \$5,000 or imprisoned not more than one year, or both; and may be fined a further sum equal to the money so loaned or gratuity given, and shall be disqualified from holding office as such examiner. (June 25, 1948, ch. 645, § 213, formerly § 218, 62 Stat. 695, amended Aug. 21, 1958, Pub. L. 85-699, title VII, § 701(b), 72 Stat. 698; renumbered Oct. 23, 1962, Pub. L. 87-849, § 1(d), 76 Stat. 1125.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 593, 952, 981, 1124, 1243, 1314 of title 12, U. S. C., 1940 ed., Banks and Banking (Dec. 23, 1913, ch. 6, § 22, 38 Stat. 272; July 17, 1916, ch. 245, §§ 28, 31, 39 Stat. 381, 382, and § 211 (d) as added Mar. 4, 1923, ch. 252, § 2, 42 Stat. 1460; Sept. 26, 1918, ch. 177, § 5, 40 Stat. 970; Mar. 4, 1923, ch. 252, title II, § 209 (e), 216 (d), 42 Stat. 1463, 1471; Feb. 25, 1927, ch. 191, § 15, 44 Stat. 1232; Ex. Ord. No. 6084, Mar. 27, 1933; June 16, 1933, ch. 98, § 80 (a), 48 Stat. 273; Aug. 23, 1935, ch. 614, § 326 (a), 49 Stat. 715; Aug. 19, 1937, ch. 704, § 20, 50 Stat. 710).

This section is derived primarily from second paragraph of section 593 of title 12, U. S. C., 1940 ed., Banks and Banking, and consolidates provisions from sections 052, 981, 1124, 1243, and 1314 of said title 12.

Words "shall be deemed guilty of a misdemeanor" were omitted in view of definition of misdemeanor in section 1 of this title.

The bribery provisions of such sections were alike and indeed were patterned after section 593 of said title 12, U. S. C., 1940 ed., Banks and Banking, incorporated in this section and section 217 of this title. Therefore, and in the light of sections 952 and 1243 of title 12, U. S. C., 1940 ed., Banks and Banking, this section was written as a consolidated section without change of substance or effect and with only such changes of phraseology as were necessary to effect the consolidation and secure uniformity of style.

Other provisions of said sections 593, 952, 981, 1124, 1243 and 1314 of title 12, U. S. C., 1940 ed., are incorporated in sections 217, 655, 1014, 1908, and 1909 of this title.

PRIOR PROVISIONS

A prior section 213, act June 25, 1948, ch. 645, 62 Stat. 693, which related to the acceptance or demand of a bribe by a customs officer or employee, was eliminated in the general amendment to this chapter by Pub. L. 87-849 and is substantially covered by revised section 201.

AMENDMENTS

1958—Pub. L. 85-699 included examiners of small business investment companies.

CROSS REFERENCES

Civil liability of officers or directors for violations, see section 503 of Title 12, Banks and Banking.

Offer of loan or gratuity to public examiners, see section 212 of this title.

Secret Service, arrest of violators, see section 3056 of this title.

§ 214. Offer for procurement of Federal Reserve bank loan and discount of commercial paper.

Whoever stipulates for or gives or receives, or consents or agrees to give or receive, any fee, commission, bonus, or thing of value for procuring or endeavoring to procure from any Federal Reserve bank any advance, loan, or extension of credit or discount or purchase of any obligation or commitment with respect thereto, either directly from such Federal Reserve bank or indirectly through any financing institution, unless such fee, commission, bonus, or thing of value and all material facts with respect to the arrangement or understanding therefor shall be disclosed in writing in the application or request for such advance, loan, extension of credit, discount, purchase, or commitment, shall be fined not more than \$5,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 214, formerly § 219, 62 Stat. 695, renumbered Oct. 23, 1962, Pub. L. 87-849, § 1(d), 76 Stat. 1125.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 599 of title 12, U. S. C., 1940 ed., Banks and Banking (Dec. 23, 1913, ch. 6, § 22 (k), as added by act June 19, 1934, ch. 653, § 3, 48 Stat. 1108).

Final sentence of said section 599, imposing civil liability on violators, was omitted as unnecessary, being merely a declaration of that rule of common law which in the absence of statute fixes civil liability on the wrongdoer.

Minor changes were made in phraseology.

PRIOR PROVISIONS

A prior section 214 of this title was redesignated section 210.

CROSS REFERENCES

Liability of directors and officers of member banks, see section 503 of Title 12, Banks and Banking.

§ 215. Receipt of commissions or gifts for procuring loans.

Whoever, being an officer, director, employee, agent, or attorney of any bank, the deposits of which are insured by the Federal Deposit Insurance Corporation, of a Federal intermediate credit bank, or of a National Agricultural Credit Corporation, except as provided by law, stipulates for or receives or consents or agrees to receive any fee, commission, gift, or thing of value, from any person, firm, or corporation, for procuring or endeavoring to procure for such person, firm, or corporation, or for any other person, firm, or corporation, from any such bank or corporation, any loan or extension or renewal of loan or substitution of security, or the purchase or discount or acceptance of any paper, note, draft, check, or bill of exchange by any such bank or corporation, shall be fined not more than \$5,000 or imprisoned not more than one year or both. (June 25, 1948, ch. 645, § 215, formerly § 220, 62 Stat. 695, amended Sept. 21, 1950, ch. 967, § 4, 64 Stat. 894; renumbered Oct. 23, 1962, Pub. L. 87-849, § 1(d), 76 Stat. 1125.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 595, 1125, and 1315 of title 12, U. S. C., 1940 ed., Banks and Banking (Dec. 23, 1913, ch. 6, § 22, first sentence of second paragraph,

38 Stat. 272; July 17, 1916, ch. 245, § 211 (e), as added Mar. 4, 1923, ch. 252, § 2, 42 Stat. 1460; June 21, 1917, ch. 32, § 11, 40 Stat. 240; Sept. 26, 1918, ch. 177, § 5, part 22 (c), 40 Stat. 970; Mar. 4, 1923, ch. 252, title II, § 216 (e), 42 Stat. 1472).

The punishment provisions of the three sections were identical, and all other provisions thereof were similar, except that section 595 of title 12, U. S. C., 1940 ed., Banks and Banking, relating to officers, directors, employees, or attorneys of member banks of the Federal Reserve System, did not include the terms "agent" and "acceptance" and did not include the phrase "or extension or renewal of loan or substitution of security".

Words "shall be deemed guilty of a misdemeanor" were omitted because of definition of misdemeanor in section 1 of this title.

Words "and upon conviction" and "and shall upon conviction thereof" were omitted as surplusage because punishment cannot be imposed until after conviction.

Verbal changes were made for style purposes.

PRIOR PROVISIONS

A prior section 215 of this title was redesignated section 211.

AMENDMENTS

1950—Act Sept. 21, 1950, ch. 967, § 4, substituted "any bank, the deposits of which are insured by the Federal Deposit Insurance Corporation" for "a member bank of the Federal Reserve System".

CROSS REFERENCES

Civil liability of officers or directors of member banks of the Federal Reserve System, for violating or permitting violation of this section, see section 503 of Title 12, Banks and Banking.

§ 216. Receipt or charge of commissions or gifts for farm loan, land bank, or small business transactions.

Whoever, being an officer, director, attorney, or employee of a Federal land bank association, a Federal land bank, or a joint-stock land bank, organized or acting under authority of any law of the United States, or a small business investment company, is a beneficiary of or receives, directly or indirectly, any fee, commission, gift, or other consideration for or in connection with any transaction or business of such association or bank, other than the usual salary or director's fee paid to such officer, director, or employee thereof, and a reasonable fee paid by such association or bank to such officer, director, attorney, or employee for services rendered, shall be fined not more than \$5,000 or imprisoned not more than one year, or both.

Whoever causes or procures any Federal land bank, joint-stock land bank or Federal land bank association, organized under any Act of Congress, or any small business investment company, to charge or receive any fee, commission, bonus, gift, or other consideration not specifically authorized, shall be fined not more than \$5,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 216, formerly § 221, 62 Stat. 695, amended Aug. 21, 1958, Pub. L. 85-699, title VII, § 702 (a)—(c), 72 Stat. 698; Aug. 18, 1959, Pub. L. 86-168, title I, § 104(h), 73 Stat. 387; renumbered Oct. 23, 1962, Pub. L. 87-849, § 1(d), 76 Stat. 1125.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 983 of title 12, U. S. C., 1940 ed., Banks and Banking (July 17, 1916, ch. 245, § 31, 39 Stat. 382).

Section was formed from the first, second, and fourth sentences of said section 983 of title 12, U. S. C., 1940 ed., Banks and Banking. No change was made other than the

usual verbal changes for style purposes, and some transposition of phrases incident to separation and consolidation of these particular sentences.

Words "organized or acting under authority of any law of the United States" were substituted for "organized under this chapter" because of the transfer.

The third sentence of said section 983 of title 12, U. S. C., 1940 ed., Banks and Banking, relating to disclosure of information by examiners, was separated and transferred to the chapter "Public Officers and Employees" in this title, where it was consolidated with similar provisions taken from section 1124 of title 12, U. S. C., 1940 ed., Banks and Banking, to constitute section 1907 of this title, the punishment provisions of both sections, insofar as relating to such disclosure, being identical.

AMENDMENTS

1959—Pub. L. 86-168 substituted "Federal land bank association" for "national farm loan association" wherever appearing.

1958—Pub. L. 85-699 included small business transactions in the catchline, officers, directors, attorneys and employees of small business investment companies in the first paragraph, and small business investment companies in the second paragraph.

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment of section by Pub. L. 86-168 effective Dec. 31, 1959, see section 104(k) of Pub. L. 86-168, set out as a note under section 751 of Title 12, Banks and Banking.

REPEALS

A prior section 216, act June 25, 1948, ch. 645, 62 Stat. 694, which related to the procurement of a contract by an officer or Member of Congress, was repealed by section 1(c) of Pub. L. 87-849.

CROSS REFERENCES

Secret service, detection, arrest, and delivery into custody of any person violating this section, see section 3056 of this title.

§ 217. Acceptance of consideration for adjustment of farm indebtedness.

Whoever, being an officer or employee of, or person acting for the United States or any agency thereof, accepts any fee, commission, gift, or other consideration in connection with the compromise, adjustment, or cancellation of any farm indebtedness as provided by sections 1150, 1150a, and 1150b of Title 12, shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 217, formerly § 222, 62 Stat. 696, renumbered Oct. 23, 1962, Pub. L. 87-849, § 1(d), 76 Stat. 1125.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 1150c (b) of title 12, U. S. C., 1940 ed., Banks and Banking (Dec. 20, 1944, ch. 623, § 4 (b), 58 Stat. 837).

Words "upon conviction thereof" were omitted as surplusage, since punishment cannot be imposed until after conviction.

Other changes were made in phraseology without change of substance.

PRIOR PROVISIONS

A prior section 217 of this title was redesignated section 212.

§ 218. Voiding transactions in violation of chapter; recovery by the United States

In addition to any other remedies provided by law the President or, under regulations prescribed by him, the head of any department or agency involved, may declare void and rescind any contract, loan, grant, subsidy, license, right, permit, franchise, use, authority, privilege, benefit, certificate, ruling, decision, opinion, or rate schedule awarded, granted, paid, furnished, or published, or the performance of

any service or transfer or delivery of any thing to, by or for any agency of the United States or officer or employee of the United States or person acting on behalf thereof, in relation to which there has been a final conviction for any violation of this chapter, and the United States shall be entitled to recover in addition to any penalty prescribed by law or in a contract the amount expended or the thing transferred or delivered on its behalf, or the reasonable value thereof. (Added Pub. L. 87-849, § 1(e), Oct. 23, 1962, 76 Stat. 1125.)

PRIOR PROVISIONS

A prior section 218 of this title was redesignated section 213.

EFFECTIVE DATE

Section effective 90 days after Oct. 23, 1962, see section 4 of Pub. L. 87-849, set out as a note under section 201 of this title.

CROSS REFERENCES

Definitions, see section 202 of this title.

Memorandum of Attorney General regarding conflict of interest provisions, see note under section 201 of this title.

§§ 219—222.

Sections 219—222 of this title, were redesignated sections 214—217, respectively, by Pub. L. 87-849, § 1(d), Oct. 23, 1962, 76 Stat. 1125.

§ 223. Repealed. Pub. L. 87-849, § 1(c), Oct. 23, 1962, 76 Stat. 1125.

Section, act June 25, 1948, ch. 645, 62 Stat. 696, related to transactions of the Home Owners' Loan Corporation.

EFFECTIVE DATE OF REPEAL

Repeal of section effective 90 days after Oct. 23, 1962, see section 4 of Pub. L. 87-849, set out as a note under section 201 of this title.

§ 224. Bribery in sporting contests.

(a) Whoever carries into effect, attempts to carry into effect, or conspires with any other person to carry into effect any scheme in commerce to influence, in any way, by bribery any sporting contest, with knowledge that the purpose of such scheme is to influence by bribery that contest, shall be fined not more than \$10,000, or imprisoned not more than 5 years, or both.

(b) This section shall not be construed as indicating an intent on the part of Congress to occupy the field in which this section operates to the exclusion of a law of any State, territory, Commonwealth, or possession of the United States, and no law of any State, territory, Commonwealth, or possession of the United States, which would be valid in the absence of the section shall be declared invalid, and no local authorities shall be deprived of any jurisdiction over any offense over which they would have jurisdiction in the absence of this section.

(c) As used in this section—

(1) The term "scheme in commerce" means any scheme effectuated in whole or in part through the use in interstate or foreign commerce of any facility for transportation or communication;

(2) The term "sporting contest" means any contest in any sport, between individual contestants or teams of contestants (without regard to the amateur or professional status of the contestants therein), the occurrence of which is publicly announced before its occurrence;

(3) The term "person" means any individual and any partnership, corporation, association, or other entity.

(Added Pub. L. 88-316, § 1(a), June 6, 1964, 78 Stat. 203.)

Chapter 13.—CIVIL RIGHTS

Sec.

241. Conspiracy against rights of citizens.
 242. Deprivation of rights under color of law.
 243. Exclusion of jurors on account of race or color.
 244. Discrimination against person wearing uniform of armed forces.

§ 241. Conspiracy against rights of citizens.

If two or more persons conspire to injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured—

They shall be fined not more than \$5,000 or imprisoned not more than ten years, or both. (June 25, 1948, ch. 645, 62 Stat. 696.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 51 (Mar. 4, 1909, ch. 321, § 19, 35 Stat. 1092).

Clause making conspirator ineligible to hold office was omitted as incongruous because it attaches ineligibility to hold office to a person who may be a private citizen and who was convicted of conspiracy to violate a specific statute. There seems to be no reason for imposing such a penalty in the case of one individual crime, in view of the fact that other crimes do not carry such a severe consequence. The experience of the Department of Justice is that this unusual penalty has been an obstacle to successful prosecutions for violations of the act.

Mandatory punishment provision was rephrased in the alternative.

Minor changes in phraseology were made.

CROSS REFERENCES

Action for neglect to prevent, see section 1986 of Title 42, The Public Health and Welfare.

Conspiracy to commit offense or to defraud United States, see section 371 of this title.

Conspiracy to interfere with civil rights, see section 1985 of Title 42, The Public Health and Welfare.

Proceedings in vindication of civil rights, see section 1988 of Title 42, The Public Health and Welfare.

§ 242. Deprivation of rights under color of law.

Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any inhabitant of any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, 62 Stat. 696.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 52 (Mar. 4, 1909, ch. 321, § 20, 35 Stat. 1092).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

A minor change was made in phraseology.

CROSS REFERENCES

Civil action for deprivation of rights, see section 1983 of Title 42, The Public Health and Welfare.

Equal rights under the law, see section 1981 of Title 42, The Public Health and Welfare.

Proceedings in vindication of civil rights, see section 1988 of Title 42, The Public Health and Welfare.

§ 243. Exclusion of jurors on account of race or color.

No citizen possessing all other qualifications which are or may be prescribed by law shall be disqualified for service as grand or petit juror in any court of the United States, or of any State on account of race, color, or previous condition of servitude; and whoever, being an officer or other person charged with any duty in the selection or summoning of jurors, excludes or fails to summon any citizen for such cause, shall be fined not more than \$5,000. (June 25, 1948, ch. 645, 62 Stat. 696.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 44 of title 8, U. S. C., 1940 ed., Aliens and Nationality (Mar. 1, 1875, ch. 114, § 4, 18 Stat. 336).

Words "be deemed guilty of a misdemeanor, and" were deleted as unnecessary in view of definition of misdemeanor in section 1 of this title.

Words "on conviction thereof" were omitted as unnecessary, since punishment follows only after conviction.

Minimum punishment provisions were omitted. (See reviser's note under section 203 of this title.)

Minor changes in phraseology were made.

CROSS REFERENCES

Bribery and graft—

Acceptance or solicitation by judicial officer, see section 201 of this title.

Bribes to judicial officers, see section 201 of this title.

Civil rights generally, see section 1981 et seq. of Title 42, The Public Health and Welfare.

Exclusion or excuse from jury service, see section 1863 of Title 28, Judiciary and Judicial Procedure.

Grand jurors, number of and summoning additional jurors, see section 3321 of this title.

Juries generally, see section 1861 et seq. of Title 28, Judiciary and Judicial Procedure.

Manner of drawing jurors, see section 1864 of Title 28, Judiciary and Judicial Procedure.

Qualifications of jurors, see section 1861 of Title 28, Judiciary and Judicial Procedure.

Summoning jurors, see section 1867 of Title 28, Judiciary and Judicial Procedure.

FEDERAL RULES OF CIVIL PROCEDURE

Jurors, see rule 47, Title 28, Appendix, Judiciary and Judicial Procedure.

FEDERAL RULES OF CRIMINAL PROCEDURE

Grand jury, see rule 6, Appendix to this title.

Trial jurors, see rule 24.

§ 244. Discrimination against person wearing uniform of armed forces.

Whoever, being a proprietor, manager, or employee of a theater or other public place of entertainment or amusement in the District of Columbia, or in any Territory, or Possession of the United States, causes any person wearing the uniform of any of the armed forces of the United States to be discriminated against because of that uniform, shall be fined not more than \$500. (June 25, 1948, ch. 645, 62 Stat. 697; May 24, 1949, ch. 139, § 5, 63 Stat. 90.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 523 (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).