

1951—Act Oct. 31, 1951, struck out “; exceptions”, after “Congress” in section catchline.

**§ 432. Officer or employee contracting with Member of Congress**

Whoever, being an officer or employee of the United States, on behalf of the United States or any agency thereof, directly or indirectly makes or enters into any contract, bargain, or agreement, with any Member of or Delegate to Congress, or any Resident Commissioner, either before or after he has qualified, shall be fined under this title.

(June 25, 1948, ch. 645, 62 Stat. 702; Pub. L. 103-322, title XXXIII, §330016(1)(J), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §205 (Mar. 4, 1909, ch. 321, §115, 35 Stat. 1109).

Words “agency” and “employee” were inserted to eliminate any ambiguity as to scope of section. (See definition of agency under section 6 of this title.)

Changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$3,000”.

**§ 433. Exemptions with respect to certain contracts**

Sections 431 and 432 of this title shall not extend to any contract or agreement made or entered into, or accepted by any incorporated company for the general benefit of such corporation; nor to the purchase or sale of bills of exchange or other property where the same are ready for delivery and payment therefor is made at the time of making or entering into the contract or agreement. Nor shall the provisions of such sections apply to advances, loans, discounts, purchase or repurchase agreements, extensions, or renewals thereof, or acceptances, releases or substitutions of security therefor or other contracts or agreements made or entered into under the Reconstruction Finance Corporation Act, the Agricultural Adjustment Act, the Federal Farm Loan Act, the Emergency Farm Mortgage Act of 1933, the Farm Credit Act of 1933, or the Home Owners Loan Act of 1933, the Farmers' Home Administration Act of 1946, the Bankhead-Jones Farm Tenant Act, or to crop insurance agreements or contracts or agreements of a kind which the Secretary of Agriculture may enter into with farmers.

Any exemption permitted by this section shall be made a matter of public record.

(June 25, 1948, ch. 645, 62 Stat. 703; Pub. L. 87-353, §3(o), Oct. 4, 1961, 75 Stat. 774.)

HISTORICAL AND REVISION NOTES

Based on section 1514(f) of title 7, U.S.C., 1940 ed., Agriculture; sections 264w, 598, 1138d(e), 1441(e), 1467(d) of title 12, U.S.C., 1940 ed., Banks and Banking; section 616(e) of title 15, U.S.C., 1940 ed., Commerce and Trade; title 18, U.S.C., 1940 ed., §206 (Mar. 4, 1909, ch. 321, §116, 35 Stat. 1109; Dec. 23, 1913, ch. 6, §22(j), as added June 19, 1934, ch. 653, §3, 48 Stat. 1107; Jan. 22, 1932, ch. 8, §16(e), 47 Stat. 12; July 22, 1932, ch. 522, §21, 47 Stat. 738; June 13, 1933, ch. 64, §8, 48 Stat. 135; June 16, 1933, ch. 98, §64, 48 Stat. 268, 269; Jan. 25, 1934, ch. 5, 48 Stat. 337; Jan. 31, 1934, ch. 7, §13, 48 Stat. 347; June 27, 1934, ch.

847, title V, §510, 58 Stat. 1264; May 28, 1935, ch. 150, §§20, 21, 49 Stat. 298; Aug. 23, 1935, ch. 614, §101, 49 Stat. 703; Aug. 26, 1937, ch. 821, 50 Stat. 838; Feb. 16, 1938, ch. 30, title V, §514, 52 Stat. 77).

These sections were consolidated with such changes of phraseology as were necessary to effect consolidation. Said section 206 of title 18, U.S.C., 1940 ed., was the principal source of this section, but the enumeration of the kinds of commitments exempted was drawn from the various sections of said title 12 set forth above. The reference to crop insurance agreements is drawn from section 1514(f) of Title 7, Agriculture.

The applicability provisions of the sections here consolidated were unclear and of doubtful value. As revised the section preserves everything of value without change of substance.

References to the Bankhead-Jones Farm Tenant Act and the Farmers' Home Administrative Act of 1946 were included in this revised section notwithstanding the omission (and consequent repeal) of former subsection (d) of section 52 of the said Bankhead-Jones Act (1937) (Title 7, U.S.C., 1940 ed., §1026) in the amendment of said section 52 of such Act by section 3 of the said Farmers' Home Administration Act of 1946 (August 14, 1946, ch. 964, 60 Stat. 1062). The essential nature of the transactions under the several acts would render inconsistent any attempt to include some and exclude others.

REFERENCES IN TEXT

The Reconstruction Finance Corporation Act, referred to in text, is act Jan. 22, 1932, ch. 8, 47 Stat. 5, as amended, which was classified to chapter 14 (§601 et seq.) of Title 15, Commerce and Trade, and has been eliminated from the Code. For complete classification of this Act prior to its elimination from the Code, see Tables.

The Agricultural Adjustment Act, referred to in text, is title I of act May 12, 1933, ch. 25, 48 Stat. 31, as amended, which is classified generally to chapter 26 (§601 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 601 of Title 7 and Tables.

The Federal Farm Loan Act, referred to in text, is act July 17, 1916, ch. 245, 39 Stat. 360, as amended, which was classified principally to sections 641 et seq. of Title 12, Banks and Banking. The Federal Farm Loan Act, as amended, was repealed by section 5.26(a) of the Farm Credit Act of 1971, Pub. L. 92-181, Dec. 10, 1971, 85 Stat. 624. Section 5.26(a) of the Farm Credit Act of 1971 also provided that all references in other legislation to the Acts repealed thereby “shall be deemed to refer to comparable provisions of this Act”. For further details, see notes under section 2001 of Title 12. For complete classification of the Federal Farm Loan Act to the Code prior to such repeal, see Tables.

The Emergency Farm Mortgage Act of 1933, referred to in text, is title II of act May 12, 1933, ch. 25, 48 Stat. 31, as amended. Such title II was substantially repealed by act June 30, 1947, ch. 166, title II, §206(c), 61 Stat. 208; act Aug. 6, 1953, ch. 335, §19, 67 Stat. 400; act Oct. 4, 1961, Pub. L. 87-353, §3(a), (b), (w), 75 Stat. 773, 774; act Dec. 10, 1971, Pub. L. 92-181, title V, §5.26(a), 85 Stat. 624. For complete classification of this Act to the Code, see Tables.

The Farm Credit Act of 1933, referred to in text, is act June 16, 1933, ch. 98, 48 Stat. 2, as amended, which was classified principally to subchapter IV (§1131 et seq.) of chapter 7 of Title 12, Banks and Banking. The Farm Credit Act of 1933, as amended, was repealed by section 5.26(a) of the Farm Credit Act of 1971, Pub. L. 92-181, Dec. 10, 1971, 85 Stat. 624. Section 5.26(a) of the Farm Credit Act of 1971 also provided that all references in other legislation to the Acts repealed thereby “shall be deemed to refer to comparable provisions of this Act”. For further details, see notes under section 2001 of Title 12. For complete classification of the Farm Credit Act of 1933 to the Code prior to such repeal, see Tables.

The Home Owners Loan Act of 1933, referred to in text, is act June 13, 1933, ch. 64, 48 Stat. 128, as amend-

ed, now known as the Home Owners' Loan Act, which is classified generally to chapter 12 (§1461 et seq.) of Title 12. For complete classification of this Act to the Code, see section 1461 of Title 12 and Tables.

The Farmers' Home Administration Act of 1946, referred to in text, is act Aug. 14, 1946, ch. 964, 60 Stat. 1062, as amended. Such Act was substantially repealed by act June 25, 1948, ch. 645, §21, 62 Stat. 862, and act Aug. 8, 1961, Pub. L. 87-128, title III, §341(a), 75 Stat. 318. For complete classification of this Act to the Code, see Tables.

The Bankhead-Jones Farm Tenant Act, referred to in text, is act July 22, 1937, ch. 517, 50 Stat. 522, as amended, which is classified generally to chapter 33 (§1000 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see section 1000 of Title 7 and Tables.

#### AMENDMENTS

1961—Pub. L. 87-353 struck out “the Federal Farm Mortgage Corporation Act,” after “the Emergency Farm Mortgage Act of 1933.”

#### ABOLITION OF RECONSTRUCTION FINANCE CORPORATION

The Reconstruction Finance Corporation, which was created by the Reconstruction Finance Corporation Act, referred to in this section, was abolished by section 6(a) of Reorg. Plan No. 1 of 1957, eff. June 30, 1957, 22 F.R. 4633, 71 Stat. 647, set out in the Appendix to Title 5, Government Organization and Employees.

#### ABOLITION OF HOME OWNERS' LOAN CORPORATION

The Home Owners' Loan Corporation, which was created by the Home Owners' Loan Act of 1933, referred to in this section, was dissolved and abolished by act June 30, 1953, ch. 170, §21, 67 Stat. 126, set out in note under section 1463 of Title 12, Banks and Banking.

### [§ 434. Repealed. Pub. L. 87-849, § 2, Oct. 23, 1962, 76 Stat. 1126]

Section, act June 25, 1948, ch. 645, 62 Stat. 703, related to interested persons acting as Government agents. Section was supplanted by section 208 of this title.

#### EFFECTIVE DATE OF REPEAL

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

### § 435. Contracts in excess of specific appropriation

Whoever, being an officer or employee of the United States, knowingly contracts for the erection, repair, or furnishing of any public building, or for any public improvement, to pay a larger amount than the specific sum appropriated for such purpose, shall be fined under this title<sup>1</sup> or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 703; Pub. L. 103-322, title XXXIII, §330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §184 (Mar. 4, 1909, ch. 321, §98, 35 Stat. 1106).

Words “or employee” were inserted to remove any ambiguity as to scope of section.

The offense described in this section involves no moral turpitude, and therefore the punishment provisions were reduced from \$2,000 to \$1,000 and from 2 years to 1 year, so that the stigma of a felony would not attach to an offender. (See classification of felony and misdemeanor in section 1 of this title and note thereunder.)

<sup>1</sup> See 1994 Amendment note below.

Mandatory punishment provisions were rephrased in the alternative.

Changes were also made in phraseology.

#### AMENDMENTS

1994—Pub. L. 103-322, which directed the amendment of this section by substituting “fined under this title” for “fined not more than \$5,000”, was executed by making the substitution for “fined not more than \$1,000”, to reflect the probable intent of Congress.

### § 436. Convict labor contracts

Whoever, being an officer, employee, or agent of the United States or any department or agency thereof, contracts with any person or corporation, or permits any warden, agent, or official of any penal or correctional institution, to hire out the labor of any prisoners confined for violation of any laws of the United States, shall be fined under this title<sup>1</sup> or imprisoned not more than three years, or both.

(June 25, 1948, ch. 645, 62 Stat. 703; Pub. L. 103-322, title XXXIII, §330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§708, 709 (Feb. 23, 1887, ch. 213, §§1, 2, 24 Stat. 411).

This section consolidates sections 708 and 709 of title 18, U.S.C., 1940 ed., as the offense and penalty provisions, respectively.

Words “department or agency thereof” were inserted to clarify scope of section. See definition of department and agency in section 6 of this title.

To retain uniformity words “shall be deemed guilty of a misdemeanor, and,” were omitted. The reference to misdemeanor is now covered by the definition in section 1 of this title.

Words “on conviction thereof” were omitted as unnecessary since punishment can follow only upon conviction.

The minimum punishment provisions “less than one year nor” and “less than \$500 nor” were deleted to conform to the policy followed by codifiers of 1909 Criminal Code. (See reviser's note under section 203 of this title.)

Changes were also made in phraseology.

#### AMENDMENTS

1994—Pub. L. 103-322, which directed the amendment of this section by substituting “fined under this title” for “fined not more than \$5,000”, was executed by making the substitution for “fined not more than \$1,000”, to reflect the probable intent of Congress.

### [§ 437. Repealed. Pub. L. 104-178, § 1(a), Aug. 6, 1996, 110 Stat. 1565]

Section, acts June 25, 1948, ch. 645, 62 Stat. 703; June 17, 1980, Pub. L. 96-277, §1, 94 Stat. 544; Sept. 13, 1994, Pub. L. 103-322, title XXXIII, §330016(1)(L), 108 Stat. 2147, related to Federal employees contracting or trading with Indians.

#### EFFECTIVE DATE OF REPEAL

Pub. L. 104-178, §1(c), Aug. 6, 1996, 110 Stat. 1565, provided that: “The repeal made by subsection (a) [repealing this section] shall—

“(1) take effect on the date of enactment of this Act [Aug. 6, 1996]; and

“(2) apply with respect to any contract obtained, and any purchase or sale occurring, on or after the date of enactment of this Act.”

<sup>1</sup> See 1994 Amendment note below.