

## Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

## SUPREME COURT OF THE UNITED STATES

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UNITED STATES v. SUN-DIAMOND GROWERS OF  
CALIFORNIACERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR  
THE DISTRICT OF COLUMBIA CIRCUIT

No. 98–131. Argued March 2, 1999— Decided April 27, 1999

Respondent trade association was charged with violating, *inter alia*, 18 U. S. C. §201(c)(1)(A), which prohibits giving “anything of value” to a present, past, or future public official “for or because of any official act performed or to be performed by such public official.” Count One of the indictment asserted that respondent gave illegal gratuities to former Secretary of Agriculture Michael Espy while two matters in which it had an interest in favorable treatment were pending before Espy. The indictment did not, however, allege a specific connection between either of those matters (or any other Espy action) and the gratuities conferred. In denying respondent’s motion to dismiss Count One because of this omission, the District Court stated that, to sustain a §201(c)(1)(A) charge, it is sufficient to allege that the defendant provided things of value to the official because of his position. At trial, the court instructed the jury along these same lines. The jury convicted respondent on Count One, and the court imposed a fine. The Court of Appeals reversed that conviction and remanded for a new trial, stating that, because §201(c)(1)(A)’s “for or because of any official act” language means what it says, the instructions invited the jury to convict on materially less evidence than the statute demands— evidence of gifts driven simply by Espy’s official position. In rejecting respondent’s attack on the indictment, however, the court stated that the Government need not show that a gratuity was given “for or because of” any particular act or acts: That an official has relevant matters before him should not insulate him as long as the jury is required to find the requisite intent to reward past favorable acts or to make future ones more likely.

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*Held:*

1. In order to establish a §201(c)(1)(A) violation, the Government must prove a link between a thing of value conferred upon a federal official and a specific “official act” for or because of which it was given. The Government’s contention that §201(c)(1)(A) is satisfied merely by a showing that respondent gave Secretary Espy a gratuity because of his official position does not fit comfortably with the statutory text, the more natural meaning of which is “for or because of some particular official act of whatever identity.” The statute’s insistence upon an “official act,” carefully defined (in §201(a)(3)), seems pregnant with the requirement that some particular official act be identified and proved. The Government’s alternative reading would produce peculiar results, criminalizing, *e.g.*, token gifts to the President based on his official position and not linked to any identifiable act—such as the replica jerseys given by championship sports teams each year during ceremonial White House visits. Although, under the more narrow interpretation, the jerseys could be regarded as having been conferred (perhaps principally) “for or because of” the official act of receiving sports teams at the White House, such receipt—while assuredly an “official act” in some sense—is not an “action on [a] matter . . . before any public official, in [his] official capacity, or in [his] place of trust or profit” within the meaning of the §201(a)(3) definition. The Government’s insistence that its interpretation is the only one that gives effect to §201(c)(1)(A)’s forward-looking prohibition on gratuities to selectees for federal office is rejected because the section can readily be applied to such persons even under the more narrow interpretation. Pp. 5–10.

2. The Court’s holding is supported by the fact that when Congress has wanted to adopt a broadly prophylactic criminal prohibition upon gift giving, it has done so in a more precise and more administrable fashion. See, *e.g.*, §209(a). Finally, a narrow, rather than a sweeping, prohibition is more compatible with the fact that §201(c)(1)(A) is merely one strand of an intricate web of regulations, both administrative and criminal, governing the acceptance of gifts and other self-enriching actions by public officials. Because this is an area where precisely targeted prohibitions are commonplace, and where more general prohibitions have been qualified by numerous exceptions, a statute that can linguistically be interpreted to be either a meat axe or a scalpel should reasonably be taken to be the latter. Pp. 10–14.

3. The Court rejects the Government’s contention that the District Court’s mistaken instructions concerning §201(c)(1)(A)’s scope—which essentially and incorrectly substituted the term “official position” for “official act”—constituted harmless error. The Government’s argument that the jury’s verdict rendered pursuant to

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the instructions necessarily included a finding that respondent's gratuities were given and received "for or because of "official acts is but a restatement of the same flawed premise that permeated the instructions themselves and that the Court has herein rejected. Pp. 14–16.

138 F. 3d 961, affirmed.

SCALIA, J., delivered the opinion for a unanimous Court.