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 Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

EVANS *v.* UNITED STATES

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

No. 90–6105. Argued December 9, 1991—Decided May 26, 1992

As part of an investigation of allegations of public corruption in Georgia, a Federal Bureau of Investigation agent posing as a real estate developer initiated a number of conversations with petitioner Evans, an elected member of the DeKalb County Board of Commissioners. The agent sought Evans' assistance in an effort to rezone a tract of land and gave him, *inter alia,* $7,000 in cash, which Evans failed to report on his state campaign-financing disclosure form or his federal income tax return. Evans was convicted in the District Court of, among other things, extortion under the Hobbs Act, which is ``the obtaining of property from another, . . . induced by wrongful use of actual or threatened force, violence, or fear, or under color of official right,'' 18 U.S.C. §1951(b)(2). In affirming the conviction, the Court of Appeals acknowledged that the trial court's jury instruction did not require a finding that Evans had demanded or requested the money, or that he had conditioned the performance of any official act upon its receipt. However, it held that ``passive acceptance of the benefit'' was sufficient for a Hobbs Act violation if the public official knew that he was being offered the payment in exchange for a specific requested exercise of his official power.

Held: An affirmative act of inducement by a public official, such as a demand, is not an element of the offense of extortion ``under color of official right'' prohibited by the Hobbs Act. Pp.4–17.

(a)Congress is presumed to have adopted the common-law definition of extortion—which does not require that a public official make a demand or request—unless it has instructed otherwise. See *Morissette* v. *United States,* 342 U.S. 246, 263. While the Act expanded the common-law definition to encompass conduct by a private individual as well as a public official, the portion of the Act referring to official misconduct

continues to mirror the common-law definition. There is nothing in the sparse legislative history or the statutory text that could fairly be described as a ``contrary direction,'' *ibid.,* from Congress to narrow the offense's scope. The inclusion of the word ``induced'' in the definition does not require that the wrongful use of official power begin with a public official. That word is part of the definition of extortion by a private individual but not by a public official, and even if it did apply to a public official, it does not necessarily indicate that a transaction must be initiated by the bribe's recipient. Pp.4–11.

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(b)Evans' criticisms of the jury instruction—that it did not properly describe the *quid pro quo* requirement for conviction if the jury found that the payment was a campaign contribution, and that it did not require the jury to find duress—are rejected. The instruction satisfies the *quid pro quo* requirement of *McCormick* v. *United States,* 500 U.S. ___, because the offense is completed when the public official receives payment in return for his agreement to perform specific official acts; fulfillment of the *quid pro quo* is not an element of the offense. Nor is an affirmative step on the official's part an element of the offense on which an instruction need be given. Pp.12–13.

(c)The conclusion herein is buttressed by the facts that many courts have interpreted the statute in the same way, and that Congress, although aware of this prevailing view, has remained silent. Pp.13–14.

910 F.2d 790, affirmed.

STEVENS, J., delivered the opinion of the Court, in which WHITE, BLACKMUN, and SOUTER, JJ., joined, in Parts I and II of which O'CONNOR, J., joined, and in Part III of which KENNEDY, J., joined. O'CONNOR, J., and KENNEDY, J., filed opinions concurring in part and concurring in the judgment. THOMAS, J., filed a dissenting opinion, in which REHNQUIST, C. J., and SCALIA, J., joined.