

ment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby."

§ 2. Principals

(a) Whoever commits an offense against the United States or aids, abets, counsels, commands, induces or procures its commission, is punishable as a principal.

(b) Whoever willfully causes an act to be done which if directly performed by him or another would be an offense against the United States, is punishable as a principal.

(June 25, 1948, ch. 645, 62 Stat. 684; Oct. 31, 1951, ch. 655, § 17b, 65 Stat. 717.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 550 (Mar. 4, 1909, ch. 321, § 332, 35 Stat. 1152).

Section 2(a) comprises section 550 of title 18, U.S.C., 1940 ed., without change except in minor matters of phraseology.

Section 2(b) is added to permit the deletion from many sections throughout the revision of such phrases as "causes or procures".

The section as revised makes clear the legislative intent to punish as a principal not only one who directly commits an offense and one who "aids, abets, counsels, commands, induces or procures" another to commit an offense, but also anyone who causes the doing of an act which if done by him directly would render him guilty of an offense against the United States.

It removes all doubt that one who puts in motion or assists in the illegal enterprise but causes the commission of an indispensable element of the offense by an innocent agent or instrumentality, is guilty as a principal even though he intentionally refrained from the direct act constituting the completed offense.

This accords with the following decisions: *Rothenburg v. United States*, 1918, 38 S. Ct. 18, 245 U.S. 480, 62 L. Ed. 414, and *United States v. Hodorowicz*, C. C. A. III, 1939, 105 F. 2d 218, certiorari denied, 60 S. Ct. 108, 308 U.S. 584, 84 L. Ed. 489. *United States v. Giles*, 1937, 57 S. Ct. 340, 300 U.S. 41, 81 L. Ed. 493, rehearing denied, 57 S. Ct. 505, 300 U.S. 687, 81 L. Ed. 888.

AMENDMENTS

1951—Subsec. (a). Act Oct. 31, 1951, inserted "punishable as".

Subsec. (b). Act Oct. 31, 1951, inserted "willfully" before "causes", and "or another" after "him", and substituted "is punishable as a principal" for "is also a principal and punishable as such".

§ 3. Accessory after the fact

Whoever, knowing that an offense against the United States has been committed, receives, relieves, comforts or assists the offender in order to hinder or prevent his apprehension, trial or punishment, is an accessory after the fact.

Except as otherwise expressly provided by any Act of Congress, an accessory after the fact shall be imprisoned not more than one-half the maximum term of imprisonment or (notwithstanding section 3571) fined not more than one-half the maximum fine prescribed for the punishment of the principal, or both; or if the principal is punishable by life imprisonment or death, the accessory shall be imprisoned not more than 15 years.

(June 25, 1948, ch. 645, 62 Stat. 684; Pub. L. 99-646, § 43, Nov. 10, 1986, 100 Stat. 3601; Pub. L. 101-647,

title XXXV, § 3502, Nov. 29, 1990, 104 Stat. 4921; Pub. L. 103-322, title XXXIII, §§ 330011(h), 330016(2)(A), Sept. 13, 1994, 108 Stat. 2145, 2148.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 551 (Mar. 4, 1909, ch. 321, § 333, 35 Stat. 1152).

The first paragraph is new. It is based upon authority of *Skelly v. United States* (C. C. A. Okl. 1935, 76 F. 2d 483, certiorari denied, 1935, 55 S. Ct. 914, 295 U.S. 757, 79 L. Ed. 1699), where the court defined an accessory after the fact as—

one who knowing a felony to have been committed by another, receives, relieves, comforts, or assists the felon in order to hinder the felon's apprehension, trial, or punishment—

and cited Jones' Blackstone, books 3 and 4, page 2204; *U.S. v. Hartwell* (Fed. Cas. No. 15,318); *Albritton v. State* (32 Fla. 358, 13 So. 955); *State v. Davis* (14 R. I. 281); *Schleeter v. Commonwealth* (218 Ky. 72, 290 S. W. 1075). (See also *State v. Potter*, 1942, 221 N. C. 153, 19 S. E. 2d 257; *Hunter v. State*, 1935, 128 Tex. Cr. R. 191, 79 S. W. 2d 855; *State v. Wells*, 1940, 195 La. 754, 197 So. 419.)

The second paragraph is from section 551 of title 18, U.S.C., 1940 ed. Here only slight changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103-322, § 330016(2)(A), inserted "(notwithstanding section 3571)" before "fined not more than one-half" in second par.

Pub. L. 103-322, § 330011(h), amended directory language of Pub. L. 101-647, § 3502. See 1990 Amendment note below.

1990—Pub. L. 101-647, as amended by Pub. L. 103-322, § 330011(h), substituted "15 years" for "ten years" in second par.

1986—Pub. L. 99-646 inserted "life imprisonment or" in second par.

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-322, title XXXIII, § 330011(h), Sept. 13, 1994, 108 Stat. 2145, provided that the amendment made by that section is effective as of Nov. 29, 1990.

§ 4. Misprision of felony

Whoever, having knowledge of the actual commission of a felony cognizable by a court of the United States, conceals and does not as soon as possible make known the same to some judge or other person in civil or military authority under the United States, shall be fined under this title or imprisoned not more than three years, or both.

(June 25, 1948, ch. 645, 62 Stat. 684; Pub. L. 103-322, title XXXIII, § 330016(1)(G), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C. 1940 ed., § 251 (Mar. 4, 1909, ch. 321, § 146, 35 Stat. 1114).

Changes in phraseology only.

AMENDMENTS

1994—Pub. L. 103-322 substituted "fined under this title" for "fined not more than \$500".

§ 5. United States defined

The term "United States", as used in this title in a territorial sense, includes all places and waters, continental or insular, subject to the jurisdiction of the United States, except the Canal Zone.