

in such officer's judicial capacity such officer shall not be held liable for any costs, including attorney's fees, unless such action was clearly in excess of such officer's jurisdiction".

1994—Subsec. (b). Pub. L. 103-322, which directed the amendment of the last sentence of this section by striking "or" after "92-318," and by inserting ", or section 13981 of this title," after "1964", was executed to subsec. (b) of this section by striking "or" after "Act of 1993," and by inserting ", or section 13981 of this title," after "1964", to reflect the probable intent of Congress and amendments by Pub. L. 102-166 and Pub. L. 103-141. See 1993 and 1991 Amendment notes below.

1993—Subsec. (b). Pub. L. 103-141 inserted "the Religious Freedom Restoration Act of 1993," before "or title VI".

1991—Subsec. (a). Pub. L. 102-166, §113(a)(1), designated first sentence of existing provisions as subsec. (a).

Subsec. (b). Pub. L. 102-166, §§103, 113(a)(1), designated second sentence of existing provisions as subsec. (b) and inserted "1981a," after "1981,".

Subsec. (c). Pub. L. 102-166, §113(a)(2), added subsec. (c).

1980—Pub. L. 96-481 struck out "or in any civil action or proceeding, by or on behalf of the United States of America, to enforce, or charging a violation of, a provision of the United States Internal Revenue Code,".

1976—Pub. L. 94-559 authorized the court, in its discretion, to allow a reasonable attorney's fee as part of the prevailing party's costs.

#### EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-166 effective Nov. 21, 1991, except as otherwise provided, see section 402 of Pub. L. 102-166, set out as a note under section 1981 of this title.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-481 effective Oct. 1, 1981, and applicable to adversary adjudication as defined in section 504(b)(1)(C) of Title 5, Government Organization and Employees, and to civil actions and adversary adjudications described in section 2412 of Title 28, Judiciary and Judicial Procedure, which are pending on, or commenced on or after Oct. 1, 1981, see section 208 of Pub. L. 96-481, set out as an Effective Date note under section 2412 of Title 28.

#### SHORT TITLE OF 1976 AMENDMENT

Pub. L. 94-559, §1, Oct. 19, 1976, 90 Stat. 2641, provided: "That this Act [amending this section] may be cited as 'The Civil Rights Attorney's Fees Awards Act of 1976'."

### § 1989. United States magistrate judges; appointment of persons to execute warrants

The district courts of the United States and the district courts of the Territories, from time to time, shall increase the number of United States magistrate judges, so as to afford a speedy and convenient means for the arrest and examination of persons charged with the crimes referred to in section 1987 of this title; and such magistrate judges are authorized and required to exercise all the powers and duties conferred on them herein with regard to such offenses in like manner as they are authorized by law to exercise with regard to other offenses against the laws of the United States. Said magistrate judges are empowered, within their respective counties, to appoint, in writing, under their hands, one or more suitable persons, from time to time, who shall execute all such warrants or other process as the magistrate judges may issue in the lawful performance of their duties, and the persons so appointed shall have authority to summon and call to their aid the bystand-

ers or posse comitatus of the proper county, or such portion of the land or naval forces of the United States, or of the militia, as may be necessary to the performance of the duty with which they are charged; and such warrants shall run and be executed anywhere in the State or Territory within which they are issued.

(R.S. §§1983, 1984; Mar. 3, 1911, ch. 231, §291, 36 Stat. 1167; Pub. L. 90-578, title IV, §402(b)(2), Oct. 17, 1968, 82 Stat. 1118; Pub. L. 101-650, title III, §321, Dec. 1, 1990, 104 Stat. 5117.)

#### CODIFICATION

R.S. §§1983 and 1984 derived from acts Apr. 9, 1866, ch. 31, §§4, 5, 14 Stat. 28; May 31, 1870, ch. 114, §§9, 10, 16 Stat. 142.

Section was formerly classified to section 50 of Title 8, Aliens and Nationality.

#### CHANGE OF NAME

"United States magistrate judges" and "magistrate judges" substituted in text for "magistrates" wherever appearing pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure. Previously, "magistrates" substituted for "commissioners" pursuant to Pub. L. 90-578. See chapter 43 (§631 et seq.) of Title 28.

"District courts" substituted for "circuit courts" on authority of act Mar. 3, 1911, ch. 231, §291, 36 Stat. 1167.

### § 1990. Marshal to obey precepts; refusing to receive or execute process

Every marshal and deputy marshal shall obey and execute all warrants or other process, when directed to him, issued under the provisions of section 1989 of this title. Every marshal and deputy marshal who refuses to receive any warrant or other process when tendered to him, issued in pursuance of the provisions of this section, or refuses or neglects to use all proper means diligently to execute the same, shall be liable to a fine in the sum of \$1,000, for the benefit of the party aggrieved thereby.

(R.S. §§1985, 5517.)

#### CODIFICATION

R.S. §1985 derived from acts Apr. 9, 1866, ch. 31, §5, 14 Stat. 28; May 31, 1870, ch. 114, §10, 16 Stat. 142.

R.S. §5517 derived from act May 31, 1870, ch. 114, §10, 16 Stat. 142.

Section was formerly classified to section 51 of Title 8, Aliens and Nationality.

### § 1991. Fees; persons appointed to execute process

Every person appointed to execute process under section 1989 of this title shall be entitled to a fee of \$5 for each party he may arrest and take before any United States magistrate judge, with such other fees as may be deemed reasonable by the magistrate judge for any additional services necessarily performed by him, such as attending at the examination, keeping the prisoner in custody, and providing him with food and lodging during his detention, and until the final determination of the magistrate judge; such fees to be made up in conformity with the fees usually charged by the officers of the courts of justice within the proper district or county, as near as may be practicable, and paid out of the Treasury of the United States on the certificate of the judge of the district within which the

arrest is made, and to be recoverable from the defendant as part of the judgment in case of conviction.

(R.S. §1987; Pub. L. 90-578, title IV, §402(b)(2), Oct. 17, 1968, 82 Stat. 1118; Pub. L. 101-650, title III, §321, Dec. 1, 1990, 104 Stat. 5117.)

#### CODIFICATION

R.S. §1987 derived from acts Apr. 9, 1866, ch. 31, §7, 14 Stat. 29; May 31, 1870, ch. 114, §12, 16 Stat. 143.

Section was formerly classified to section 53 of Title 8, Aliens and Nationality.

#### CHANGE OF NAME

“United States magistrate judge” and “magistrate judge” substituted in text for “magistrate” wherever appearing pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure. Previously, “magistrate” substituted for “commissioner” pursuant to Pub. L. 90-578. See chapter 43 (§631 et seq.) of Title 28.

### § 1992. Speedy trial

Whenever the President has reason to believe that offenses have been, or are likely to be committed against the provisions of section 1990 of this title or of section 5506 to 5516 and 5518 to 5532 of the Revised Statutes, within any judicial district, it shall be lawful for him, in his discretion, to direct the judge, marshal, and United States attorney of such district to attend at such place within the district, and for such time as he may designate, for the purpose of the more speedy arrest and trial of persons so charged, and it shall be the duty of every judge or other officer, when any such requisition is received by him to attend at the place and for the time therein designated.

(R.S. §1988; June 25, 1948, ch. 646, §1, 62 Stat. 909.)

#### REFERENCES IN TEXT

Sections 5506 to 5510, 5516 to 5519 and 5524 to 5535 of the Revised Statutes, referred to in text, were repealed by act Mar. 4, 1909, ch. 321, §341, 35 Stat. 1153; section 5506, 5511 to 5515, and 5520 to 5523, also referred to in text, were repealed by act Feb. 8, 1894, ch. 25, §1, 28 Stat. 37. The provisions of sections 5508, 5510, 5516, 5518 and 5524 to 5532 of the Revised Statutes were reenacted by act Mar. 4, 1909, and classified to sections 51, 52, 54 to 59, 246, 428 and 443 to 445 of former Title 18, Criminal Code and Criminal Procedure. Those sections were repealed and reenacted as sections 241, 242, 372, 592, 593, 752, 1071, 1581, 1583 and 1588 of Title 18, Crimes and Criminal Procedure, in the general revision of Title 18 by act June 25, 1948, ch. 645, 62 Stat. 683.

#### CODIFICATION

R.S. §1988 derived from act Apr. 9, 1866, ch. 31, §8, 14 Stat. 29.

Section was formerly classified to section 54 of Title 8, Aliens and Nationality.

#### CHANGE OF NAME

Act June 25, 1948, effective Sept. 1, 1948, substituted “United States attorney” for “district attorney”. See section 541 of Title 28, Judiciary and Judicial Procedure, and Historical and Revision Notes thereunder.

### § 1993. Repealed. Pub. L. 85-315, pt. III, § 122, Sept. 9, 1957, 71 Stat. 637

Section, R.S. §1989, authorized President to employ land or naval forces to aid in execution of judicial process issued under sections 1981 to 1983 or 1985 to 1992 of

this title, or to prevent violation and enforce due execution of sections 1981 to 1983 and 1985 to 1994 of this title. See section 332 of Title 10, Armed Forces.

### § 1994. Peonage abolished

The holding of any person to service or labor under the system known as peonage is abolished and forever prohibited in any Territory or State of the United States; and all acts, laws, resolutions, orders, regulations, or usages of any Territory or State, which have heretofore established, maintained, or enforced, or by virtue of which any attempt shall hereafter be made to establish, maintain, or enforce, directly or indirectly, the voluntary or involuntary service or labor of any persons as peons, in liquidation of any debt or obligation, or otherwise, are declared null and void.

(R.S. §1990.)

#### CODIFICATION

R.S. §1990 derived from act Mar. 2, 1867, ch. 187, §1, 14 Stat. 546.

Section was formerly classified to section 56 of Title 8, Aliens and Nationality.

### § 1995. Criminal contempt proceedings; penalties; trial by jury

In all cases of criminal contempt arising under the provisions of this Act, the accused, upon conviction, shall be punished by fine or imprisonment or both: *Provided however*, That in case the accused is a natural person the fine to be paid shall not exceed the sum of \$1,000, nor shall imprisonment exceed the term of six months: *Provided further*, That in any such proceeding for criminal contempt, at the discretion of the judge, the accused may be tried with or without a jury: *Provided further, however*, That in the event such proceeding for criminal contempt be tried before a judge without a jury and the sentence of the court upon conviction is a fine in excess of the sum of \$300 or imprisonment in excess of forty-five days, the accused in said proceeding, upon demand therefore, shall be entitled to a trial de novo before a jury, which shall conform as near as may be to the practice in other criminal cases.

This section shall not apply to contempts committed in the presence of the court or so near thereto as to interfere directly with the administration of justice nor to the misbehavior, misconduct, or disobedience, of any officer of the court in respect to the writs, orders, or process of the court.

Nor shall anything herein or in any other provision of law be construed to deprive courts of their power, by civil contempt proceedings, without a jury, to secure compliance with or to prevent obstruction of, as distinguished from punishment for violations of, any lawful writ, process, order, rule, decree, or command of the court in accordance with the prevailing usages of law and equity, including the power of detention.

(Pub. L. 85-315, pt. V, §151, Sept. 9, 1957, 71 Stat. 638.)

#### REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 85-315, Sept. 9, 1957, 71 Stat. 634, as amended, known as the Civil