

§ 103. Witnesses' fees

Witnesses shall have the right to receive their fee for one day's attendance and mileage in advance. The fees and mileage of witnesses shall be the same as that provided by law in the district courts of the United States in the district in which such land offices are situated; and the witness shall be entitled to receive his fee for attendance in advance from day to day during the hearing.

(Jan. 31, 1903, ch. 344, § 2, 32 Stat. 790.)

§ 104. Disobedience to subpoena

Any person willfully neglecting or refusing obedience to such subpoena, or neglecting or refusing to appear and testify when subpoenaed, his fees having been paid if demanded, shall be deemed guilty of a misdemeanor, for which he shall be punished by indictment in the district court of the United States or in the district courts of the Territories exercising the jurisdiction of district courts of the United States. The punishment for such offense, upon conviction, shall be a fine of not more than \$200, or imprisonment not to exceed ninety days, or both, at the discretion of the court: *Provided*, That if such witness has been prevented from obeying such subpoena without fault upon his part he shall not be punished under the provisions of this section.

(Jan. 31, 1903, ch. 344, § 3, 32 Stat. 790; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167.)

CODIFICATION

Act Mar. 3, 1911, conferred the powers and duties of the former circuit courts upon the district courts.

§ 105. Depositions of witnesses residing outside county

Whenever the witness resides outside the county in which the hearing occurs any party to the proceeding may take the testimony of such witness in the county of such witness's residence in the form of depositions by giving ten days' written notice of the time and place of taking such depositions to the opposite party or parties. The depositions may be taken before any United States magistrate judge, notary public, judge, or clerk of a court of record. Subpoenas for witnesses before the officer taking depositions may issue from the office of the officer designated by the Secretary of the Interior or may be issued by the officer taking the depositions, and disobedience thereof, as defined in section 104 of this title, shall also be punished; and the witness shall receive the same fees and mileage and be subject to the same penalties in all respects as in case of violation of a subpoena to appear before the officer designated by the Secretary of the Interior and subject to the same limitations. The fees of the officer taking the depositions shall be the same as those allowed in the State or Territorial courts, and shall be paid by the party taking the deposition, and an itemized account of the fees shall be made by the officer taking the depositions and attached to the depositions.

(Jan. 31, 1903, ch. 344, § 4, 32 Stat. 790; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462,

43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100; 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

The original text of this section referred to both registers and receivers, but reference to the latter was omitted in view of the abolition of such office under acts Mar. 3, 1925, and Oct. 28, 1921, which provided for the consolidation of the two offices under a register only. See, also, Transfer of Functions note below.

CHANGE OF NAME

"United States magistrate judge" substituted in text for "United States magistrate" 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, "United States magistrate" substituted for "United States commissioner" pursuant to Pub. L. 90-578. See chapter 43 (§ 631 et seq.) of Title 28.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

Words "officer designated by the Secretary of the Interior" substituted for "register" on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

§ 106. Continuing taking of depositions in behalf of opposite party

Whenever the taking of any depositions taken in pursuance of section 105 of this title is concluded the opposite party may proceed at once at his own expense to take depositions in his own behalf, at the same time and place and before the same officer: *Provided*, That he shall, before taking of the depositions in the first instance is entered upon, give notice to the opposing party, or any agent or attorney representing him in the taking of said depositions of his intention to do so.

(Jan. 31, 1903, ch. 344, § 5, 32 Stat. 791.)

§ 107. Penalty for false information

If any person applies to any officer designated by the Secretary of the Interior to enter any land whatever, and the officer knowingly and falsely informs the person so applying that the same has already been entered, and refuses to permit the person so applying to enter the same, such officer shall be liable therefor, to the person so applying, for \$5 for each acre of land which the person so applying offered to enter, to be recovered by action of debt in any court of record having jurisdiction of the amount.

(R.S. § 2247; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

CODIFICATION

R.S. § 2247 derived from act July 4, 1836, ch. 352, § 13, 5 Stat. 112.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with cer-