

law contains no provision as to tenure or removal of such officials. While the Supreme Court has held that the power of removal of executive officials is incident to the power of appointment, this section expressly provides for removal. See *Meyers v. United States*, 1926 (47 S.Ct. 21, 272 U.S. 52, 71 L.Ed. 160).

Said section 315 contained a provision that special attorneys appointed to assist United States attorneys should take the same oath required of the latter. This section was extended to assistant United States attorneys, respecting whom no provision existed as to oaths.

A portion of section 863 of title 48, U.S.C., 1940 ed., is retained in said title 48. For remainder of said section 863, see Distribution Table. Other provisions of section 643 of such title are incorporated in sections 133, 501 [now 541], and 541 [see 561] of this title.

Other changes were made in phraseology.

PRIOR PROVISIONS

A prior section 544, acts June 25, 1948, ch. 646, 62 Stat. 911; Sept. 2, 1958, Pub. L. 85-856, 72 Stat. 1104, related to bonds of United States marshals, prior to repeal by Pub. L. 89-554, §8(a), and reenactment in section 564 of this title by section 4(c) of Pub. L. 89-554.

§ 545. Residence

(a) Each United States attorney shall reside in the district for which he is appointed, except that these officers of the District of Columbia, the Southern District of New York, and the Eastern District of New York may reside within 20 miles thereof. Each assistant United States attorney shall reside in the district for which he or she is appointed or within 25 miles thereof. The provisions of this subsection shall not apply to any United States attorney or assistant United States attorney appointed for the Northern Mariana Islands who at the same time is serving in the same capacity in another district. Pursuant to an order from the Attorney General or his designee, a United States attorney or an assistant United States attorney may be assigned dual or additional responsibilities that exempt such officer from the residency requirement in this subsection for a specific period as established by the order and subject to renewal.

(b) The Attorney General may determine the official stations of United States attorneys and assistant United States attorneys within the districts for which they are appointed.

(Added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 618; amended Pub. L. 95-530, §1, Oct. 27, 1978, 92 Stat. 2028; Pub. L. 96-91, Oct. 25, 1979, 93 Stat. 700; Pub. L. 103-322, title XXXII, §320932, Sept. 13, 1994, 108 Stat. 2135; Pub. L. 109-177, title V, §501(a), Mar. 9, 2006, 120 Stat. 246.)

HISTORICAL AND REVISION NOTES  
1966 ACT

| <i>Derivation</i> | <i>U.S. Code</i> | <i>Revised Statutes and Statutes at Large</i> |
|-------------------|------------------|---|
| .....             | 28 U.S.C. 505.   | [None].                                       |

In subsection (a), the word "shall" is substituted for "must". The word "thereof" is substituted for "of the District".

1948 ACT

*Prior section 505.*—Based on title 28, U.S.C., 1940 ed., §524 (June 20, 1874, ch. 328, §2, 18 Stat. 109; May 28, 1896, ch. 252, §§8, 12, 29 Stat. 181, 183; Mar. 3, 1911, ch. 231, §291, 36 Stat. 1167; June 14, 1941, ch. 203, §§1, 2, 55 Stat. 251).

The provisions of section 524 of title 28, U.S.C., 1940 ed., that the United States attorney shall give his per-

sonal attention to the duties of his office and declaring the office of United States attorney vacant upon his removal from his district or neglect of duty, were omitted as unnecessary and inconsistent with section 507(b) [now 519] of this title, charging the Attorney General with the duty of supervising the United States attorneys in the performance of their duties.

The provision permitting the United States attorney and his assistants to reside within twenty miles of the District of Columbia was added because of the relatively small and congested area of the District, as a result of which few Federal officers are appointed from the District or reside therein. Also the residence requirement of this section has no relation to domicile or voting residence nor does it affect the citizenship or residence status of District of Columbia officeholders in the several States from which appointed.

Only citizens of Hawaii resident therein at least 3 years preceding appointment may be appointed as United States Attorneys for the district of Hawaii. See section 501 [now 541] of this title.

Other provisions of section 524 of title 28, U.S.C., 1940 ed., were incorporated in sections 541 [see 561] and 751 of this title.

Changes were made in phraseology.

PRIOR PROVISIONS

A prior section 545, act June 25, 1948, ch. 646, 62 Stat. 911, related to vacancies in the office of the United States Marshal, prior to repeal by Pub. L. 89-554, §8(a), and reenactment in section 565 of this title by section 4(c) of Pub. L. 89-554.

AMENDMENTS

2006—Subsec. (a). Pub. L. 109-177 inserted at end "Pursuant to an order from the Attorney General or his designee, a United States attorney or an assistant United States attorney may be assigned dual or additional responsibilities that exempt such officer from the residency requirement in this subsection for a specific period as established by the order and subject to renewal."

1994—Subsec. (a). Pub. L. 103-322 struck out "and assistant United States attorney" after "Each United States attorney" and inserted after first sentence "Each assistant United States attorney shall reside in the district for which he or she is appointed or within 25 miles thereof."

1979—Subsec. (a). Pub. L. 96-91 inserted provisions authorizing the United States attorney and the assistant United States attorneys for the Eastern District of New York to reside outside the district but within 20 miles thereof.

1978—Subsec. (a). Pub. L. 95-530 inserted provision that this subsection not apply to any United States attorney or assistant United States attorney appointed for the Northern Mariana Islands who at the same time is serving in the same capacity in another district.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-177, title V, §501(b), Mar. 9, 2006, 120 Stat. 246, provided that: "The amendment made by subsection (a) [amending this section] shall take effect as of February 1, 2005."

§ 546. Vacancies

(a) Except as provided in subsection (b), the Attorney General may appoint a United States attorney for the district in which the office of United States attorney is vacant.

(b) The Attorney General shall not appoint as United States attorney a person to whose appointment by the President to that office the Senate refused to give advice and consent.

(c) A person appointed as United States attorney under this section may serve until the earlier of—