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GENERAL PROVISIONS

ART. 871. *Bonding of carriers authorized.*—Tariff Act of 1930, section 551:

Any common carrier of merchandise owning or operating railroad, steamship, or other transportation lines or routes for the transportation of merchandise in the United States, upon application and the filing of a bond in a form and penalty and with such sureties as may be approved by the Secretary of the Treasury, may be designated as a carrier of bonded merchandise for the final release of which from customs custody a permit has not been issued.

ART. 872. *Carriers—Application to bond.*—(a) Merchandise to be transported from one port to another in the United States in bond must, except as provided in paragraph (b), be delivered to a common carrier bonded for that purpose, but such merchandise may be transported with the use of the facilities of other bonded or non-bonded carriers.

(b) Public Resolution 108 of June 19, 1936:

* * * That the Secretary of the Treasury be, and he is hereby, authorized, when it appears to him to be in the interest of commerce, and notwithstanding any provision of law or regulation requiring that the transportation of imported merchandise be by a bonded common carrier, to permit such merchandise which has been entered and examined for customs purposes to be transported by bonded cartmen or bonded lightermen between the ports of New York, Newark, and Perth Amboy, which are all included in Customs Collection District Numbered 10 (New York): *Provided*, That this resolution shall not be construed to deprive any of the ports affected of its rights and privileges as a port of entry.

Pursuant to the above resolution and subject to compliance with all other applicable provisions of this chapter, the collector of customs at New York may, upon the request of the party in interest, permit merchandise entered and examined for customs purposes to be transported in bond between the named ports by bonded cartmen or lightermen duly qualified in accordance with the provisions of chapter XIX, provided that the collector is satisfied that the transportation of such merchandise in this manner will not endanger the revenue.

(c) A common carrier desiring to receive merchandise for transportation in bond shall file with a collector of customs in duplicate a bond, on customs Form 3587, in a sum to be recommended by the collector, together with a certified extract of its charter showing whether or not it is authorized

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to engage in common carriage and a statement that it is operating or intends to operate as a common carrier and that it undertakes to carry for such as choose to employ it and does not limit its carriage to specific individuals or firms (the extract and statement need not be submitted in the case of railroad or steamship companies generally known to be engaged in common carriage). The bond with the collector's recommendation and the extract and statement (if required) will be forwarded to the Commissioner of Customs. If the bond is approved, the original copies will be returned to the collector for filing. Such bonds may be discontinued at any time by the Bureau. Bonded carriers desiring to discontinue such bonds must make application therefor to the Bureau through the collector at the port where the bond is filed.

ART. 873. *Receipt by carrier—Manifest.*—(a) All merchandise delivered to a bonded carrier for transportation in bond shall be receipted for by an agent of the carrier and laden on the transporting conveyance under the supervision of a customs officer.

(b) A manifest, customs Form 7512, containing a description of the merchandise must be prepared by the carrier or shipper and signed by the agent of the carrier. Except as provided in article 239 covering merchandise in transit through the United States between ports in contiguous foreign territory, a separate set must be prepared for each entry; and if the consignment is contained in more than one conveyance a separate set must be prepared for each such conveyance.

(c) The manifest shall be filed in triplicate, and after the goods have been laden and the carrier has receipted all three copies, one copy shall be delivered to the conductor, master, or person in charge to accompany the conveyance and be delivered to the collector at destination for his record; one copy shall be forwarded to the port of destination immediately after lading; and one copy, duly signed and stamped by the collector, shall be used as a record of the shipment and be retained at the original port.

(d) An extra copy of customs Form 7512 may be required for use as a permit to the inspector or storekeeper at the point where the merchandise is in custody.

(e) When a copy of the carrier's manifest is lost or can not be produced, a copy may be made of whichever manifest is available.

ART. 874. *Transshipment.*—(a) If the route be such that a transshipment is required at a place other than the port of origin or destination, an additional copy of the manifest must be prepared by the carrier and be certified and mailed by the lading inspector to the customs officer at the place of transshipment, who will give general supervision to the transshipment, indorse his action on both copies of the manifest, return the conductor's copy, and retain the other as a record of his action. When by reason of the carrier's schedule or other condition it is probable that the additional copy of the manifest, if sent by mail, will not reach the customs officer at the place of transshipment prior to the arrival of the merchandise, it may be given to the conductor or master or person in charge of the conveyance in a sealed envelope for delivery to such customs officer.

(b) If the merchandise is so transshipped from one conveyance to another, the customs officer supervising the transshipment will note on the copy of the manifest accompanying the shipment whether or not the conveyance or bonded compartment in which the merchandise is contained could be entered without disturbing the seals.

(c) Where bonded merchandise arriving at the place of transshipment in one conveyance is transshipped into more than one conveyance, a separate set of customs Form 7512 in quadruplicate, must be prepared at the place of transshipment for each such conveyance; one copy to be delivered to the conductor, master, or person in charge to accompany the

conveyance and be delivered to the collector at destination for his record; one copy to be forwarded by the collector to the port of destination; one copy to be transmitted to the collector of customs at the port of origin; and one copy to be retained as a record of the shipment at the place of transshipment. The original manifest accompanying the shipment should be retained at the place of transshipment.

(d) When in the case of a vessel it is necessary to remove the seals on a bonded compartment at an intermediate port for the purpose of discharging or lading cargo, the customs officer supervising the transaction shall note on the manifest accompanying the shipment whether or not the seals were intact on arrival, whether or not the bonded compartment could be entered without disturbing the seals, and whether or not the vessel was under continuous customs supervision while the compartment was not under seal.

(e) If it becomes necessary at any point in transit to remove the customs seals from a conveyance containing bonded merchandise for the purpose of transferring its contents to another conveyance, or to gain access to the shipment, because of casualty or other good reason, and it cannot be done under customs supervision, because of the element of time involved or because there is no customs officer stationed at such point, a responsible agent of the carrier may remove the seals, supervise the transfer or handling of the merchandise, reseal the original conveyance or apply seals to the conveyance to which the transfer is made, and make appropriate notation on the conductor's or master's copy of the manifest of his action, including the date, serial number of the new seals applied, and the reason therefor. However, this authorization shall not apply to the removal of customs seals from railroad cars containing livestock except in the case of a real emergency.

ART. 875. *Sealing conveyances and compartments—Labeling packages.*—(a) Conveyances or compartments in which bonded merchandise is transported must be sealed with red "in bond" customs seals under customs supervision, except that when the compartment or conveyance cannot be effectively sealed, as in the case of merchandise shipped in open cars or barges, or on the decks of vessels, or when it is known that the sealing of hatches containing bonded goods on vessels will be futile, for the reason that the seals will be removed outside the jurisdiction of the United States for the purpose of discharging or taking on cargo, or when it is known that the breaking of the seals will be necessary to ventilate the hatches, or in other similar circumstances, such sealing may be waived with the consent of the carrier, and an appropriate notation shall be made on the manifest.

(b) Ports at which the facilities are insufficient to maintain continuous customs supervision over vessels arriving with bonded cargo while the vessels are not under customs seals, should permit the vessels to proceed to destination without further sealing and notation to this effect should be made on the manifest.

(c) Merchandise not under bond may be transported in sealed conveyances or compartments containing bonded goods when destined for the same place or places beyond, but not when intended for intermediate places.

(d) The seals to be used in sealing conveyances, compartments, or packages are prescribed by the Department and may be obtained in accordance with article 1233.

(e) Packages shipped in bond, unless otherwise transported under customs seals, or when sealing is waived under paragraph (a) or (b), must be corded and sealed or in lieu thereof bonded carriers shall furnish and attach to each such package two warning labels on bright red paper, not less than 5 by 8 inches in size, containing the following legend in black type of a conspicuous size:

U. S. CUSTOMS

Transportation Entry No. _____
From _____ To _____

This package is under bond and must be delivered intact to the chief officer of the customs at _____

WARNING

Two years' imprisonment or \$5,000 fine, or both, is the penalty for unlawful removal of this package or any of its contents.

(f) The warning labels when used must be securely pasted on the package under customs supervision, one as close as practicable to the marks and numbers of the package, and the other on the opposite face of the package.

(g) When, in the case of crates and similar packages, it is impossible to attach the warning labels by pasting, bright red shipping tags of convenient size and large enough to be conspicuous, and containing the same legend as the labels, may be used in lieu of labels, if wired or otherwise securely fastened to the packages in such manner as not to injure the merchandise.

ART. 876. *Warning cards—Penalty for breaking seals.*—Bonded carriers are required to furnish and securely attach to side doors of cars, to the doors of compartments, and on vehicles carrying bonded merchandise which are secured with customs seals, near such seals a bright red card, 8 by 10½ inches in size, on which shall be printed in large, clear black letters the following:

United States Customs. Two years' imprisonment, or \$5,000 fine, or both, is the penalty for the unlawful removal of United States customs seals on this car, vehicle, or compartment. United States customs officers only are authorized to break these seals.
Car or vessel _____ No. or name _____
From _____ To _____

Notice.—The merchandise in this car, vehicle, or compartment must be delivered to the chief officer of the customs at _____

ART. 877. *Lading inspectors' action.*—(a) The lading inspector will when practicable check the merchandise laden with the manifest therefor. If this be impracticable he may accept the check of the carrier if satisfied that the same is correct. He will then certify, by indorsement, the three copies of the manifest, and will deliver one copy to the railroad conductor, master of the vessel, or person in charge of the conveyance, mail one copy to the collector at destination as soon as the goods are laden and receipted for, and return the other copy to the customhouse.

(b) The lading inspector will note on each copy of the manifest over his signature the numbers of the seals on the conveyance and all packages in bad order at the time of lading with the particulars of their condition. Seal numbers need not be entered on manifests covering grain moving in bond.

(c) When there is any bad order, breakage, outage, or damage with respect to the packages or the contents, the findings of the discharging inspector and lading inspector will be shown separately on all copies of the manifest, customs Form 7512. If transfer is necessary the discharging inspector shall make his report on customs Form 6043-A or 6043-B for the use of the lading inspector (art. 1032).

ART. 878. *Short shipments.*—(a) If, before the mailing of the entry to the port of destination, it be found that part of the merchandise specified therein has not been landed, that fact shall be noted on the entry. If the short landing be discovered after the mailing of the entry, the collector will immediately mail a notice to that effect on customs Form 3833 to the collector at the port of destination and to the comptroller of customs in whose district the port of destination is located.

(b) Upon the subsequent discovery or receipt of the short-landed packages, the same may be forwarded under proper supplemental transportation entry, bearing the original entry number, or if a new bill of lading has been issued therefor, under an original transportation entry.

ART. 879. *Transfer by bonded cartman—Transfer ticket—Discrepancies.*—(a) All transfers to or from the conveyance or warehouse, of merchandise undergoing transportation in bond shall be made by bonded vehicles or lighters under the provisions of chapter XIX and at the expense of the parties in interest.

(b) If the lading inspector finds any discrepancies between the merchandise actually received and that described on the

transfer ticket, he will immediately communicate with the officer issuing the ticket with a view to its correction, and if they disagree he will report the facts to the collector for action. If there should be any indication of fraud, the lading inspector will hold the goods for instructions from the collector. (See art. 1032.)

ART. 880. Diversion.—(a) *By port of origin.*—Collectors of customs at ports of first arrival may permit merchandise forwarded under any class of transportation entry to be diverted to any other port than the port named in the entry upon application of the consignee or agent, but the collector at the port from which diverted and his comptroller should be notified and a new mail copy forwarded to the port to which diverted. In all cases the collector at the port of first arrival will send a copy of the entry to the comptroller of customs in whose district the new port of destination is located except when the merchandise is forwarded for transportation and exportation and is diverted to another port of exit for exportation.

(b) *By intermediate ports.*—(1) The collector at an intermediate port may permit merchandise in transit under bond under any class of transportation entry to be entered at his port for consumption or warehouse, but the collectors at the ports of origin and destination named in the transportation entry, together with their respective comptrollers, should be notified of the diversion by letter giving the pertinent facts shown on the entry. Upon receipt of the notice of diversion, the collector at the port from which the merchandise is diverted shall mail his copy of the transportation entry to the collector at the intermediate port and the comptroller having jurisdiction over the port from which the merchandise is diverted shall mail his copy of the transportation entry to the comptroller in whose district the intermediate port is located. In the case of diversion of a transportation and exportation or in-transit entry for a purpose other than exportation, the collector at the port of origin shall forward a copy of the entry to the comptroller in whose district the intermediate port is located.

(2) If a portion only of the merchandise covered by a transportation entry is entered for consumption or warehouse at an intermediate port the collector at such port shall notify the collectors and comptrollers interested. Upon receipt of such notice the collector at the port of origin shall forward an amended copy of the original transportation entry covering the merchandise actually forwarded from the intermediate port to the original port of destination and a new transportation entry, covering the merchandise diverted, to the intermediate port at which entered, mailing copies of such entries to the respective comptrollers.

(c) *By port of destination.*—(1) Merchandise received under any class of transportation entry may be forwarded to another port or returned to the port of origin on the same transportation entry unless the merchandise has been placed in general order, or a certificate of delivery has been issued, in which case a new transportation entry will be required. Said entry and accompanying papers with an indorsement thereon signed by the proper officer showing date and point to which diversion is made shall be forwarded to the collector at the ultimate destination, and the collector at the port of origin and the comptrollers of customs interested shall be notified of the diversion, by letter, giving the pertinent facts shown on the entry. The comptroller of customs for the district in which the diversion is made will then mail his copy of the entry to the comptroller of customs for the district of ultimate destination.

(2) Should it be desired to split a shipment at a port of destination and enter a portion for consumption or warehouse and forward the balance in bond or divert the entire shipment or a part thereof, to more than one port the collector at the port where such diversion takes place should complete the original transaction, forwarding a certificate of delivery to the port of origin and require the filing of a new transportation entry or entries, as the case may be, for the portions forwarded.

(d) *Shipments subject to restriction or prohibition by Federal governmental agencies.*—The diversion of shipments in bond subject on importation to restriction or prohibition of Federal governmental agencies shall be allowed only upon written permission issued by the agency concerned.

ART. 881. Certificate of delivery.—(a) The collector at the port of destination will, upon the receipt of the merchandise, if it is found to agree with the manifest, indorse the copy of the manifest received by mail to show the arrival, exportation, or delivery into customs custody of the merchandise, the condition of the shipment, exceptions, etc., and send it as a certificate of cancellation to the comptroller of customs in whose district the port of origin is located, to be by him properly noted and forwarded to the port of origin.

(b) The discharging officer at the port of destination will note on the manifest the condition of the seals, if any, any discrepancies in the number of packages, any irregularity or bad order of packages received, giving marks and numbers of packages and particulars of bad order, and any discrepancies between the packages received and those described in the manifest, and forward the manifest to his collector.

(c) The collector will, in proper cases, prepare a report of shortage, irregular delivery or nondelivery, as provided in the succeeding article.

ART. 882. Shortages—Irregular deliveries—Report of.—(a) When there is an irregular delivery or failure to deliver (shortage) at the port of destination of bonded merchandise, including baggage forwarded under manifest, customs Form 7520 forwarded under any of the various forms of transportation entry, the collector at such port shall promptly report the same to the collector at the port of origin on customs Form 3861, giving the following data:

(1) The number, date, and character of the entry covering the shipment.

(2) Description of the merchandise, quantity manifested, quantity delivered or exported, quantity short, together with the value, duty, and internal-revenue tax, if any, on the merchandise short, exclusive of the exceptions at the port of origin.

(3) The number, if any, of the conveyance, or name, if a vessel; the condition of the conveyance and the numbers of the seals thereon, if any; the condition and marks and numbers of the particular packages in which the shortage occurred; whether the seals, if any, on the conveyance or compartment as the case may be, were intact or broken; and whether or not the conveyance or compartment could be entered without disturbing the seals and the record of resealing in transit; and whether or not the carrier has a record of exportation of the shipment.

(4) When and by whom the shortage or bad order was noted and, if not noted by the discharging inspector, whether or not it was noted prior to the opening of the package.

(5) The port or ports of transshipment, if any, whether or not the conveyance arrived at such port or ports with seals intact, and, if a vessel, whether or not the conveyance or compartment could be entered without disturbing the seals.

(6) Mark out the word "irregular" or the words "or short" in the first line of customs Form 3861, as the facts in the case may warrant.

(b) When there is a shortage of one or more packages or nondelivery of an entire shipment, the collector at the port of delivery, after the expiration of a reasonable time, but not to exceed 60 days from the date of the receipt of the mail copy of the entry, will cause an inquiry to be made to determine whether delivery has been made direct to the consignee.

(c) If the merchandise has been delivered direct to the consignee, entry therefor may be accepted if the merchandise can be recovered intact without any of the packages having been opened. In such cases, however, any shortage from the invoice quantity will be presumed to have occurred

while the merchandise was in the possession of the bonded carrier.

(d) If the merchandise can not be recovered intact and without any of the packages having been opened, entry will not be accepted, but the collector will, if possible, ascertain the amount of duty and internal-revenue tax, if any, properly chargeable thereon, and include them in his report on customs Form 3861.

(e) The report above provided for shall be made in septuple and cover but one entry. One copy of the report will be retained by the collector at the port of delivery for his file; one copy will be forwarded to the comptroller of customs of the district in which the port of origin is located; one copy to the comptroller of customs for the district in which the port of destination is located (except transportation and exportation entries), and four copies to the collector of customs at the port of origin. The collector at the port of origin will retain one copy for his file, send one copy to the outside division, send one copy immediately to the initial carrier for its information, investigation, and report within 90 days, and thereupon forward the original copy containing his full report of all the facts, including the name of the carrier against whose bond the penalty is charged, to the Bureau, accompanied by the carrier's report.

(f) In case of merchandise entered on the Canadian or Mexican border for transportation and exportation under the provisions of article 239, if the shipment arrives at the port of exportation with seals intact and the cars bear no evidence that loss occurred while in transit through the United States, a notation on the certificate of inspection from the port of exportation to that effect will be sufficient, and no report of shortage need be made.

(g) When the seals are not intact on arrival at the port of exportation, or the cars bear evidence that a shortage might have occurred therefrom while in transit through the United States, and in all cases of shortage from shipments entered at ports other than Canadian or Mexican border ports for transportation and exportation, a report shall be made as provided above.

(h) Upon a penalty being imposed by the Bureau for any shortage or irregular delivery, the collector should immediately make a demand for payment thereof as liquidated damages, and list the same on customs Form 5211. If the penalty is not paid within 30 days from the date of demand the matter should be reported to the United States attorney for collection by the proper procedure against the carrier's bond, and such action reported to the Bureau.

(i) Each penalty collected from a bonded carrier on account of a shortage, nondelivery, or irregular delivery shall be reported to the Bureau on customs Form 5161-B, and listed on customs Form 5211 as required by article 1129.

(j) An allowance in duty on merchandise reported short at destination, including merchandise found by the appraising officer to be damaged and worthless, and animals and birds found by the discharging officer to be dead on arrival at destination, will be made in the liquidation of the entry, regardless of the amount of duty involved. A shortage report should not be made to the collector at the port of origin unless the duty on the shortage, or in the case of free merchandise, the value thereof, amounts to \$5 or more. No shortage report should be made in any case of damaged merchandise reported by the appraising officer to be worthless, nor in the case of animals and birds found by the discharging officer to be dead on arrival at destination. A shortage report should be made in all cases of nondelivery of entire shipments regardless of the value of the merchandise or the amount of duty involved. The above procedure is not applicable to withdrawals from warehouse for transportation. (See par. (I).)

(k) Liquidation of entries covering merchandise concerning which there is report of shortage should be made without awaiting instructions from the Bureau, and allowance made for the missing merchandise, except that no allowance should be made for shortages in liquors due to leakage or

breakage otherwise than is provided for in articles 814 and 815, or 800 to 803.

(l) In the case of shortage, irregular delivery, or nondelivery under a warehouse withdrawal for transportation, or withdrawal for transportation and exportation, entry (except a withdrawal from bonded manufacturing warehouse, see art. 983, or when the duty is less than \$1, see art. 818 (e)) the facts shall be reported on customs Form 3861 to the collector at the port of withdrawal for the collection of the duties and internal-revenue taxes, if any, on the missing merchandise, or other appropriate action, under the terms of the warehouse entry bond (customs Form 7555). When the merchandise has been entered at the port of destination for rewarehouse, or for rewarehouse and immediate withdrawal for consumption, the collector at the port of withdrawal shall issue an amended transportation entry to correspond with the quantity of merchandise actually received at the port of rewarehouse. Upon the receipt of the amended transportation entry, the rewarehouse entry shall be corrected to agree with such amended transportation entry. The collector at the port of withdrawal shall inform the Bureau of his action in the premises by indorsement on customs Form 3861. Similar action shall be taken in the case of shipments for rewarehouse.

(m) When a particular cargo or lot of grain in bulk is divided and shipped under a series of transportation and exportation entries, if the aggregate shortage when prorated by the collector at the port of entry among all the entries of the series embraced in the original import lot or cargo does not exceed 2 percent of the entered quantity, the charge against the carrier's bond may be canceled and the shortage need not be reported to the Bureau, as no penalty will be assessed in such cases: *Provided*, That in determining the 2 percent allowance only shortages due to shrinkage (evaporation of moisture) or ordinary wastage (inconsequential losses such as necessarily occur in handling and transshipping large quantities of grain, but not large losses due to casualty or accident) shall be considered. Where the shortage when prorated as above exceeds 2 percent or was due to causes other than shrinkage or ordinary wastage, the facts should be reported to the Bureau for instructions.

(n) The collector at the port of destination shall, in the case of nondelivery of an entire package, note in red ink on the certificate of delivery whether a shortage report on customs Form 3861 has or will be made and if no shortage report has been or will be made, the reason therefor.

(o) Deputy collectors in charge of ports of destination should make reports of shortages or irregular deliveries direct to the customs officer in charge of the port of first arrival, to be forwarded by the latter with the necessary details to the headquarters port in his district for transmittal to the Bureau.

ART. 883. *Liability of carrier—Penalties.*—(a) The initial or originating bonded carrier is responsible for shortage, irregular, or nondelivery at destination or port of exit of bonded merchandise received by it for carriage, and when sealing is waived (art. 875) any loss found to exist at destination will be presumed to have occurred while the merchandise was in the possession of the carrier, unless conclusive evidence to the contrary is produced.

(b) Penalties imposed as liquidated damages on the common carrier's bond for shortages, failure to deliver, or irregular delivery shall be as follows:

(1) In the case of shortage, or failure to deliver, or delivery direct to the consignee or other person of any merchandise free of duty, an amount equal to the value of the missing merchandise, not to exceed in any one shipment the sum of \$25.

(2) In the case of shortages or failure to deliver merchandise subject to duty, an amount equal to the duties on the missing merchandise.

(3) In the case of delivery direct to the consignee or other person of merchandise subject to duty without customs supervision, an amount equal to the duty thereon plus 25 percent.

(c) In addition to the above-prescribed penalties, the carrier shall pay any internal-revenue taxes or other taxes accruing to the United States on the missing merchandise, together with all costs, charges, and expenses caused by the failure to make such transportation, report, and delivery.

ART. 884. *Examination by inspectors of trunk line associations of agents of the Interstate Commerce Commission.*—

(a) Upon presentation of proper credentials showing the applicant to be identified with the Trunk Line Association, the Interstate Commerce Commission, the Joint Rate Inspection Bureau of Chicago, or the Southern Weighing and Inspection Bureau of Atlanta, inspectors of customs in charge may permit such representatives acting either jointly or severally to open and examine packages containing merchandise described in the manifest in general terms, and offered for shipment in bond, for the purpose of ascertaining whether or not the merchandise is properly classified under the interstate commerce laws.

(b) The opening and examination of such packages must be without expense to the Government or the owner of the goods, and must be done in the presence of a customs officer. The contents of the cases shall not be removed or disturbed further than is necessary to show the character thereof. The customs officer will require the packages to be securely closed, and will note on the manifest the packages so inspected, the date, and by whom inspected.

ART. 885. *Records of merchandise forwarded and received under transportation entries.*—No schedule will be kept at either the port of origin or port of destination of any class of in-bond transportation entries. A copy of each entry, however, shall be retained as an office record and filed numerically according to class in a pending file. When a transaction is completed the record copy of the entry shall be transferred to a closed file.

ART. 886. *Kinds of entry.*—(a) The following entries may be made for merchandise to be transported in bond:

- (1) Immediate transportation without appraisement (arts. 887 to 909).
- (2) Warehouse and rewarehouse withdrawal for transportation (arts. 897 to 899).
- (3) Warehouse withdrawals for exportation or for transportation and exportation (art. 900).
- (4) Transportation and exportation (arts. 902 to 909).
- (5) Exportation (art. 910).
- (6) Foreign manifests (arts. 912 to 917).

(b) The copy of each entry made in any of the above-named classes which is retained in the office of the forwarding collector must be signed by the party making the entry.

(c) Before shipping merchandise in bond to another port for the purpose of warehousing or rewarehousing, the shipper should ascertain from the collector at the intended port of destination whether or not warehouse facilities are available there.

IMMEDIATE TRANSPORTATION WITHOUT APPRAISEMENT

ART. 887. *Classes of goods—Entry authorized.*—(a) Tariff Act of 1930, section 552:

Any merchandise, other than explosives and merchandise the importation of which is prohibited, arriving at a port of entry in the United States may be entered, under such rules and regulations as the Secretary of the Treasury may prescribe, for transportation in bond without appraisement to any other port of entry designated by the consignee, or his agent, and by such bonded carrier as he designates, there to be entered in accordance with the provisions of this act. (Special provisions concerning the shipment of baggage under this provision of law are contained in art. 429.)

(b) Such entry may be made for merchandise in general order warehouse at any time within one year from the date of importation (art. 1009).

(c) One or more entire packages of merchandise covered by an invoice from one consignor to one consignee may be entered for consumption or warehouse at the port of first arrival, and the remainder for immediate transportation without appraisement, provided all the merchandise covered by the invoice is entered simultaneously.

(d) Immediate transportation without appraisement entries may be accepted for merchandise shown on the invoice, bill of lading, carrier's certificate, or manifest to be destined to any place within the municipal or port limits of any designated port of destination, in which case the merchandise should be consigned to the collector of customs at the port of destination. This practice should not, however, be extended so as to include shipments to points not within either the port limits or municipal limits of a port merely because of their proximity to such ports.

(e) Merchandise covered by different bills of lading or carrier's certificates naming different consignees at the port of destination cannot be included under one immediate transportation without appraisement entry.

(f) Several importations may be consolidated in one immediate transportation without appraisement entry when the bills of lading or carrier's certificates name only one consignee at the port of first arrival.

(g) Carload shipments of livestock may not be entered for immediate transportation without appraisement unless they will arrive at destination before it becomes necessary to remove the seals for the purpose of watering and feeding the animals, or unless the route be such that the removal of the seals and the watering, feeding, and reloading of the stock may be done under customs supervision.

(h) Immediate transportation without appraisement entries covering merchandise subject to detention or supervision by other Federal governmental agencies must contain a sufficient description thereof to enable the representatives of the governmental agencies interested to determine the contents of the cases. The merchandise shall be forwarded only upon written permission of the agency concerned.

(i) For procedure as to merchandise subject to quarantine, disinfection, and special inspection, if not forwarded in bond, see chapter X.

(j) As to immediate transportation entries without appraisement covering alcoholic beverages, care should be exercised to see that the legal restrictions as set forth in article 1110 are not contravened.

ART. 888. *Who may make entry.*—Any person shown by the bill of lading or manifest, by a certificate of the carrier bringing the merchandise to the port of arrival, or by any other document satisfactory to the collector, to have a sufficient interest in the merchandise for that purpose, may make an entry for immediate transportation without appraisement.

ART. 889. *Form of entry.*—(a) Customs Form 7512 shall be used as a combined entry, invoice, and manifest and shall describe the merchandise in such detail as to enable the collector to make an estimate of the duties due thereon. The collector may require evidence to satisfy him of the approximate correctness of the value or quantity stated in the entry.

(b) The value stated on entry at the port of first arrival is not binding on the ultimate consignee making entry at the port of destination.

ART. 890. *Procedure at port of origin.*—When merchandise is entered for immediate transportation without appraisement, nine copies of customs Form 7512 will be required at the port of origin, six copies of which will be used as the entry and disposed of as follows:

One copy to be retained by the collector at the port of origin as a record;

Two copies to be mailed immediately to the collector at the port of destination, one copy of which will be used for making entry and the other as the office record;

One copy to be mailed to the comptroller of customs in whose district the port of origin is located;

One copy to be mailed to the comptroller of customs in whose district the port of destination is located; and

One copy for use as a permit when required.

Three copies of customs Form 7512 will be used as the manifest and will be disposed of in accordance with General Provisions, article 873 (c).

ART. 891. *Entry at port of destination.*—(a) Merchandise received under immediate transportation without appraisal entry may be entered for transportation and exportation or for immediate exportation as well as on any of the other forms of entry, and will be subject to all the conditions pertaining to merchandise entered at a port of first arrival, provided, not more than 1 year has elapsed from date of original importation. If more than 1 year has elapsed only entry for consumption may be accepted. Such entry must show the name of the port of first arrival, the transporting carrier and the number of the immediate transportation entry.

(b) The right to make entry at the port of destination will be determined in accordance with the provisions of article 290 of these regulations.

(c) When the shipment represents a portion of an invoice, the balance of which has been entered for consumption or warehouse at the port of first arrival, it may be entered on a certified extract of the consular invoice filed at the first port.

(d) All importations forwarded under immediate transportation without appraisal entries must be held by the bonded carrier at the port of destination until released by the collector of customs.

ART. 892. *Unclaimed and short-landed goods.*—All the merchandise included in an immediate transportation without appraisal entry not entered within 48 hours after delivery of the manifest to the collector at the port of destination will be treated as unclaimed, unless the collector, with the concurrence of the carrier, authorizes in writing a longer time. When notations on the manifest or a report from the collector at the port of first arrival show certain merchandise to have been short-landed, such merchandise should not be included in the entry.

ART. 893. *Disposition of entry.*—Upon the final disposition of the merchandise the transportation entry and accompanying papers (except the record file copy) will be attached to the final entry for liquidation at the headquarters port.

REWAREHOUSE AND TRANSPORTATION

ART. 894. *Procedure.*—Rewarehouse and transportation is practically a diversion, and the procedure outlined in article 880, headed "Diversion", should be followed.

WAREHOUSE AND REWAREHOUSE WITHDRAWALS FOR TRANSPORTATION

ART. 895. *Form of entry—Time.*—(a) Merchandise may be withdrawn from warehouse for transportation to another port of entry, provided that the total period of time for which such merchandise may remain in bonded warehouse shall not exceed the time fixed by law or any lawful extension thereof. If the merchandise is withdrawn by a transferee, the assent of the person who made the warehouse or rewarehouse entry, as the case may be, shall be indorsed on the withdrawal, unless the person who made the warehouse or rewarehouse entry has in writing previously authorized the withdrawal of such merchandise. Withdrawals for transportation shall be on customs Form 7512, 10 copies of which will be required at the port of origin; 7 copies to be used as the entry and be disposed of as follows:

One copy to be retained by the collector at the port of origin as a record;

Two copies to be mailed immediately to the collector at the port of destination; one of which will be used for making entry and the other as the office record;

Two copies, together with the entry and supporting invoices when required by the comptroller, to be forwarded to the comptroller of customs in whose district the port of

origin is located, for verification. After verification is completed, the comptroller will mail one copy, stamped "Verified", to the comptroller of customs in whose district the port of destination is located, and return the entry and invoices to the collector at the port of origin;

One copy for the use of the storekeeper as a permit; and

One copy to be used at the port of origin for statistical purposes.

Three copies of customs Form 7512 will be used as the manifest and will be disposed of in accordance with General Provisions, article 873 (c).

(b) All withdrawal entries for transportation or for transportation and exportation shall show the original warehouse entry number, date of entry, and port at which filed.

ART. 896. *Withdrawal procedure.*—(a) *Before final liquidation.*—(1) Merchandise may be withdrawn for transportation prior to liquidation of the warehouse entry. In such cases the transportation entry, customs Form 7512, shall show the ascertained weight, gauge, or measure, as the case may be, and the entered value, of the individual packages and the estimated duty, and shall be stamped "Not liquidated, liquidation to follow." Immediately after the warehouse entry has been liquidated or when any change is made in the liquidation of the warehouse entry after the withdrawal entry has been forwarded, four additional copies of the withdrawal entry, customs Form 7512, shall be prepared, with a statement of liquidation thereon, and disposed of as follows:

One copy to be retained by the collector of the port of origin as a record;

One copy to be mailed to the collector at the port of destination; and

Two copies, together with the entry and supporting invoices when required by the comptroller, to be forwarded to the comptroller of customs in whose district the port of origin is located, for verification. After verification is completed, the comptroller will mail one copy, stamped "Verified", to the comptroller of customs in whose district the port of destination is located, and return the entry and invoices to the collector at the port of origin.

(2) In preparing the additional copies of customs Form 7512 in the case of delayed or amended liquidation, only sufficient information to identify the transaction need be given.

(3) In cases where it is possible to verify the value and duty in a withdrawal for transportation entry, such entry may be stamped "Verified", and if in the final liquidation of the warehouse entry no change is made the four additional copies of the withdrawal entry required in paragraph (a) (1) above need not be prepared.

(b) *After final liquidation.*—Withdrawal for transportation entries made after final liquidation of the warehouse entry shall be stamped "Liquidated." If any change is subsequently made in the liquidation of a warehouse entry the procedure outlined in (a) (1) above will be followed.

(c) *Before liquidation without deposit in warehouse.*—All or any part of the merchandise covered by a warehouse entry may also be withdrawn for transportation, immediately and before liquidation, without deposit in a bonded warehouse and, pending examination, appraisal, and liquidation, may be permitted to remain on the vessel or other vehicle or on the pier, which places may be deemed constructive warehouses. When any such merchandise not deposited in warehouse is not forwarded under the withdrawal on account of damage or other similar cause, the importer should be required to withdraw such merchandise immediately for consumption or export, or designate a warehouse to which it may be sent, and upon his failure so to do, it should be taken possession of as unclaimed.

(d) *Withdrawal ledger record.*—Withdrawal for transportation entries shall be compared with the warehouse ledger and recorded therein.

ART. 897. *Invoices—Samples.*—(a) No invoice or extract from the original invoice will be required.

(b) The duty on samples withdrawn from the packages transported will be collected at the original port and a notation thereof made on the transportation entry.

ART. 898. *Forwarding procedure.*—The merchandise will be forwarded in accordance with the general provisions for transportation in bond, articles 872 to 885.

ART. 899. *Procedure at destination.*—(a) On arrival at destination the merchandise may be entered for rewarehouse in accordance with articles 323 to 325; for rewarehouse and withdrawal for consumption in accordance with articles 326 and 327; or for exportation in accordance with article 328; or may be diverted to another port or returned to the port of origin in accordance with article 880 (c). Except in cases provided for in articles 828 (k) and 882 (l) of these regulations or in cases of suspected fraud or under circumstances which in the opinion of the collector make it necessary, no further examination or appraisal will be required at destination and the liquidation of the original warehouse entry must be followed.

(b) When the merchandise has been withdrawn for consumption prior to the receipt of the notice of liquidation from the original port, differences of less than \$1 between the estimated duty collected and the liquidated duty shall be disregarded. This procedure is likewise applicable to internal-revenue taxes.

WAREHOUSE WITHDRAWALS FOR EXPORTATION OR FOR TRANSPORTATION AND EXPORTATION

ART. 900. *Procedure.*—(a) *Direct exportation.*—When merchandise is withdrawn from warehouse for exportation direct without transportation in bond to another port (see articles 334 to 340), a transportation entry and manifest (customs Form 7512) shall be filed in quintuple and be disposed of as follows:

- One copy to be retained by the collector as a record;
- One copy to be mailed by him to the comptroller of customs for his district;
- One copy to be used for statistical purposes;
- One copy to be used as a permit; and
- One copy for use of the lading inspector.

(b) *Indirect exportation.*—(1) When merchandise is withdrawn from warehouse for transportation and exportation (see arts. 334 to 340), nine copies of customs Form 7512 will be required at the port of withdrawal, six copies of which will be used as the entry and be disposed of as follows:

- Two copies to be retained by the collector at the port of withdrawal, one for use as a record and the other as a permit;
- Two copies to be mailed to the collector at the port of exportation, one for use as a record and the other for use of the lading inspector;

One copy to be mailed to the comptroller of customs in whose district the port of withdrawal is located; and

One copy to be used at the port of withdrawal for statistical purposes.

The remaining three copies of customs Form 7512 will be used as the manifest and be disposed of in accordance with General Provisions, article 873 (c).

(2) *Forwarding procedure.*—The merchandise will be forwarded in accordance with the general provisions for transportation in bond, articles 874 to 885.

(3) *Procedure at destination.*—On arrival at the port of exportation the same procedure will be followed as is provided in articles 881 and 885. When the merchandise is to be transferred from one place to another within the port, unless the bonded carrier is responsible for the delivery of the merchandise to the place of lading on the exporting conveyance, the transfer shall be made by a bonded cartman or lighterman with the use of customs Form 6043-A or 6043-B in the manner provided in article 1032 of these regulations. If any part of a shipment is not exported or is divided, extracts in duplicate from the manifest on file in the customhouse may be made on customs Form 7512 for each part, one copy to be sent to the discharging inspector and the other to be sent to the lading inspector to be used

as a return of exportation, the transfer of the merchandise to be accomplished as provided above. The splitting up for exportation of shipments arriving under warehouse withdrawals for transportation and exportation should not be permitted, except where various portions of a shipment are destined to different destinations or where the export vessel cannot properly accommodate the entire quantity, or in other similar circumstances. The provisions of articles 907 and 908 shall also be followed in applicable cases.

(c) A shipper's export declaration on customs Form 7525 should be prepared and filed by the party withdrawing the merchandise, as provided in article 1281. In the case of indirect exportations under paragraph (b) the declaration should be attached to the copy of the withdrawal entry mailed to the collector at the port of exportation for filing at that port. When in the case of indirect exportations the declaration is not filed at the port of withdrawal, the entry should be stamped "Shipper's export declaration on customs Form 7525 must be filed at the port of exportation."

EXPORTATION OF DISTILLED SPIRITS—STRIP STAMPS

ART. 901. *Strip stamps—When to be removed.*—(a) Imported distilled spirits having internal-revenue strip stamps affixed prior to arrival in the United States, which spirits are diverted by the importer for exportation purposes, should retain the red strip stamps while passing in transit through the United States, though under bond, but the strip stamps must be effectively destroyed at the port of exportation by the exporter under customs supervision. This should be done as a precautionary measure, especially where merchandise is being exported to foreign contiguous territory such as for instance, Windsor, Ontario.

(b) Distilled spirits originating in the United States bearing red strip stamps as evidence of tax-payment should not have the stamps removed at the time of exportation.

MERCHANDISE IN TRANSIT THROUGH THE UNITED STATES TO FOREIGN COUNTRIES

ART. 902. *Entry authorized.*—Tariff Act of 1930, section 553:

Any merchandise, other than explosives and merchandise the importation of which is prohibited, shown by the manifest, bill of lading, shipping receipt, or other document to be destined to a foreign country, may be entered for transportation in bond through the United States by a bonded carrier without appraisement or the payment of duties and exported under such regulations as the Secretary of the Treasury shall prescribe, and any baggage or personal effects not containing merchandise the importation of which is prohibited arriving in the United States destined to a foreign country may, upon the request of the owner or carrier having the same in possession for transportation, be entered for transportation in bond through the United States by a bonded carrier without appraisement or the payment of duty, under such regulations as the Secretary of the Treasury may prescribe.

NOTE.—Special provisions for the shipment of baggage under this provision of law are contained in article 430.

ART. 903. *Entry procedure.*—(a) Except as provided in article 239 covering merchandise in transit through the United States between ports in contiguous foreign territory, when there is to be no transfer either at the port of entry, at the port of exportation, or at an intermediate port or place, six copies of customs Form 7512 will be required, three copies to be used as the entry and disposed of as follows:

One copy to be retained by the collector at the port of entry as a record;

One copy to be mailed to the collector at the port of exportation; and

One copy to be mailed to the comptroller of customs in whose district the port of entry is located.

Three copies of customs Form 7512 will be used as the manifest and will be disposed of in accordance with General Provisions, article 873 (c).

(b) When the merchandise is to be transferred at the port of entry or port of exportation or both, two additional copies of the entry will be required for each transfer for the use of the customs officers at such port or ports. If there is to be a transshipment at other than the port of entry or ex-

portation, one additional copy of the manifest for each transshipment will be required for use of the customs officer at the place of transshipment (art. 874). If any transfer is by cartman or lighterman, articles 900 (b) (3) and 910 should be followed.

ART. 904. Restricted and prohibited merchandise.—(a) Merchandise subject upon importation to examination, disinfection, or further treatment by other Federal governmental agencies cannot be released for transportation or exportation except by written permission of the agency interested, or under regulations issued by such agency (see ch. X).

(b) Narcotics and other articles prohibited admission into the commerce of the United States cannot be entered for transportation and exportation, and any such merchandise offered for entry for that purpose shall be seized, except that exportation or transportation and exportation may be permitted upon written authority from the proper governmental agency and on compliance with the regulations of such agency.

(c) Articles in transit manifested merely as drugs, medicines, or chemicals, without evidence to satisfy the collector that they are non-narcotic, shall be detained and subjected, at the carrier's risk and expense, to such examination as may be necessary to satisfy the collector whether or not they are of a narcotic character. With a view to avoiding such inconvenience the carrier should not accept in-transit shipments of such articles unless accompanied by properly verified certificates of the shippers specifying the items in the shipment and stating whether narcotic or not.

ART. 905. Forwarding procedure.—(a) The merchandise will be forwarded in accordance with the general provisions for transportation in bond, articles 872 to 885.

(b) If the merchandise is not forwarded within 30 days from the date of the filing of the entry, the entry shall be canceled and the merchandise treated as unclaimed as of the date of original arrival.

ART. 906. Procedure at destination.—(a) (1) When the merchandise is to be transferred at the port of exportation, the carrier or exporter shall file with the collector, in lieu of Shipper's Export Declaration (customs Form 7525), two copies of customs Form 7513, Statistical Export Declaration For In-Transit Goods, which will be handled and disposed of in the same manner as customs Form 7525.

(2) When the merchandise is not to be transferred at the port of exportation the collector will transmit to the Section of Customs Statistics at New York on customs Form 7513 a daily statement giving the aggregate value of each of the various classes of in-transit merchandise and the countries of origin and destination.

(b) If a shipment is divided at the port of exportation by accident or intention, part being exported in one conveyance and part in another, the procedure outlined in article 1318 will be followed, using customs Form 7513.

(c) In other respects the procedure will be as provided in articles 881 and 885, and if transfer is necessary, as provided in article 900 (b) (3).

(d) In-transit baggage arriving at the port of exit by express: Upon the arrival at the port of exit of express shipments of articles shown by the manifest (customs Form 7512) to be baggage and to be deliverable to the owner on board the exporting vessel, such articles may be transferred by the express company, without a permit from the collector, and without the use of a transfer ticket or other customs formality, from its terminal to the exporting vessel for lading thereon under customs supervision, provided the express company is bonded as a common carrier and is responsible under its bond for the delivery of the articles to the customs officer in charge of the exporting vessel. The manifest shall show the name of the owner of the baggage and the name of the vessel on which he intends to sail. The lading inspector at the steamship pier upon completion of lading shall indorse that fact on the manifest and return it to the collector.

ART. 907. Change of destination—Change of entry.—(a) The foreign destination of such merchandise may be

changed by the parties in interest upon notice to the collector at the port of exit from the United States. The collector at the port of exit may in his discretion refer the application for a change of foreign destination to the collector at the port of entry if the circumstances require such action.

(b) Such merchandise may be entered for consumption or warehouse. If the merchandise is subject on importation to restriction or control by Federal governmental agencies it may be entered for consumption or warehouse only on written permission issued by the agency concerned or under regulations issued by such agency (see ch. X).

ART. 908. Retention of goods on dock—Splitting of shipments.—On written application of a party in interest and the written consent of the owner of the dock the collector may, in his discretion, allow in-transit merchandise to remain on the dock, under the supervision of a customs officer without expense to the Government, for any period not exceeding 90 days. The Bureau may extend the time determined by the collector. The splitting up of shipments for exportation should not be permitted, except where the exportation of a shipment in its entirety is not possible by reason of the different destinations to which portions of the shipment are destined or where the exporting vessel cannot properly accommodate the entire quantity or in other similar circumstances. The collector may at any time in his judgment take possession of the merchandise.

ART. 909. Limitation of time for exportation.—Tariff Act of 1930, section 491:

* * * any merchandise, destined to a foreign country, entered for transportation in bond through the United States, which shall remain in the United States during a period of 1 year from the date of its arrival at the port of exit (but in no case less than 1 year after the effective date of this act) without having been entered for consumption or warehouse, shall be considered unclaimed and abandoned to the Government * * *

EXPORTATION FROM CUSTOMS CUSTODY OF FOREIGN MERCHANDISE UNENTERED OR COVERED BY AN UNLIQUIDATED CONSUMPTION ENTRY; OR MERCHANDISE DENIED ADMISSION BY THE GOVERNMENT

ART. 910. Procedure.—(a) *Direct exportation.*—(1) When foreign merchandise in customs custody for which no entry has been made or completed or which is covered by an unliquidated consumption entry, or foreign merchandise in customs custody which has been denied admission by any Government agency (see art. 342), is to be exported direct without transportation to another port, an entry (customs Form 7512) shall be filed in quadruplicate and be disposed of as follows:

Two copies for the use of the collector;

One copy to be mailed by him to the comptroller of customs for his district; and

One copy to be used as a permit.

(2) Exportation bond (customs Form 7557 or 7559) shall be required with the entry provided a consumption entry bond (customs Form 7551 or 7553) was not previously given. (See article 1266 for cancellation of export bonds.)

(3) If the merchandise has been landed or is transferred from one vessel to another and has not been entered for consumption or, in the case of rejected goods entered for consumption, if the statistical copy of the consumption entry has not been sent to the Section of Customs Statistics (see art. 1298), customs Form 7513 shall be used as the export declaration, in the manner provided in article 906 (a) and (b).

(4) Except in the case of rejected goods for which the statistical copy of the consumption entry has not been sent to the Section of Customs Statistics, if the merchandise has been entered for consumption the exporter shall file a shipper's export declaration on customs Form 7525, as provided in article 1281.

(5) If the merchandise is exported in the importing vessel without landing, the customs officer in charge of the vessel shall certify that the vessel was constantly under customs supervision, and that the merchandise entered for exportation was not discharged, during her stay in port. Such

transaction shall be reported daily to the Section of Customs Statistics on customs Form 7513 in the manner provided in article 906 (a) (2). A charge shall be made against the vessel term bond (customs Form 7569) if on file, or a vessel bond on customs Form 7567 shall be given, as in the case of residue cargo for foreign ports (art. 151 (c)).

(6) Gunpowder and other explosive substances, the deposit of which in any public store or bonded warehouse is prohibited by law, may be entered on arrival from a foreign port for immediate exportation in bond by sea, but shall be transferred directly from the importing to the exporting vessel.

(b) *Indirect exportation.*—(1) When merchandise of the character enumerated in paragraph (a) (1) is to be transported in bond to another port for exportation, it may be entered for transportation and exportation in accordance with the procedure in article 903 (a) and (b).

(2) *Forwarding procedure.*—The merchandise will be forwarded in accordance with the general provision for transportation in bond, articles 872 to 885.

(3) *Procedure at destination.*—On arrival at the port of exportation the same procedure will be followed as is provided in articles 881 and 885. If the merchandise is to be transferred the procedure prescribed in article 900 (b) (3) shall be followed. The provisions of articles 907 and 908 shall also be followed in applicable cases.

(4) If the merchandise has been entered for consumption, except in the case of rejected goods for which the statistical copy of the consumption entry has not been forwarded to the Section of Customs Statistics (see art. 1298), the exporter shall file a shipper's export declaration on customs Form 7525, as provided in article 1281, and attach same to the copy of the export entry mailed to the collector at the port of exit. When the declaration is required and is not filed at the port of origin, the export entry shall be stamped:

Shipper's export declaration on customs Form 7525 must be filed at the port of exportation.

(5) If the merchandise has not been entered for consumption or, in the case of rejected goods, if the statistical copy of the consumption entry has not been sent to the Section of Customs Statistics, the transaction shall be reported by the collector at the port of exportation on customs Form 7513 in the manner provided in article 906 (a), whether there is a transfer of the merchandise or not.

FINAL PORT OF EXPORTATION OF MERCHANDISE CROSSING ADJACENT FOREIGN TERRITORY

ART. 911. *Port of exportation—Cancellation of charge against bond.*—Merchandise which leaves the United States at one frontier port, crosses adjacent foreign territory, and reenters the United States at another frontier port before final exportation to a contiguous country, shall be treated as exported when it has passed through the last frontier port. This regulation shall control whether or not the merchandise to be exported is domestic or foreign, or is exported with benefit of drawback. The manifest and shipper's export declaration shall be taken up and the notice of intent, if any, filed at the last port of exit from the United States.

MERCHANDISE ARRIVING FROM A CONTIGUOUS COUNTRY IN SEALED VESSELS OR VEHICLES

ART. 912. *Shipment authorized.*—(a) Tariff Act of 1930, section 463:

To avoid unnecessary inspection of merchandise imported from a contiguous country at the first port of arrival, the master of the vessel or the person in charge of the vehicle in which such merchandise is imported may apply to the customs officer of the United States stationed in the place from which such merchandise is shipped, and such officer may seal such vessel or vehicle. Any vessel or vehicle so sealed may proceed with such merchandise to the port of destination under such regulations as the Secretary of the Treasury may prescribe.

(b) Except to the extent that it is modified by articles 913 to 917, inclusive, the procedure shall be the same as that covering similar classes of shipments entered at the port of first arrival for transportation in bond.

ART. 913. *Manifests.*—(a) The master of the vessel or the person in charge of the vehicle shall present to the customs officer at the place of shipment a manifest on customs Form 7512, nine copies of which shall be required when the merchandise is intended to be entered for consumption or warehouse in the United States and eight copies when in transit for exportation. Such manifests shall be numbered consecutively by the customs officer at the place of shipment and designated "foreign" in the upper right-hand corner above the entry number block, which is reserved for use at the port of first arrival.

(b) The declaration of the "importer" on customs Form 7512 shall be executed by the shipper who shall sign the same as such.

ART. 914. *Sealing of vessel or vehicle—Disposition of manifests and merchandise.*—(a) On receipt of the manifest the customs officer shall, after comparing the contents of the vessel or vehicle with the manifest, cause the said vessel or vehicle to be closed and sealed. The expense of sealing vessels and vehicles, exclusive of the compensation of the customs officer, shall be paid by the carrier.

(b) The customs officer shall retain one copy of the manifest for the files of his office, transmit four copies in a sealed envelope, by the conductor or person in charge of the vessel or vehicle, to the collector of customs at the port of first arrival in the United States, and two copies by mail to the collector at the port of destination, deliver one copy to the conductor or person in charge of the vessel or vehicle to accompany the shipment to destination and, in the case of merchandise to be entered for consumption or warehouse in the United States, forward the remaining copy to the comptroller of customs having jurisdiction over the accounts of the collection district in which the port of destination is located.

(c) Inasmuch as plants and plant products must be inspected at the border, such articles unless specifically exempted, cannot be forwarded in sealed vessels or vehicles under the provisions of section 463 of the tariff act unless previously inspected and released by a representative of the Department of Agriculture. This restriction also applies to purebred animals for which free entry is to be claimed, which are required to be inspected at the border for identification purposes.

(d) Shipments of livestock may not be transported in the United States under section 463 of the tariff act unless they will arrive at destination before it becomes necessary to remove the seals for the purpose of watering and feeding the animals, or unless the route be such that the removal of the seals and the watering, feeding, and reloading of the stock may be done under United States customs supervision.

(e) Tariff Act of 1930, section 464:

If the master of such vessel or the person in charge of any such vehicle fails to proceed with reasonable promptness to the port of destination and to deliver such vessel or vehicle to the proper officers of the customs, or fails to proceed in accordance with such regulations of the Secretary of the Treasury, or unlades such merchandise or any part thereof at other than such port of destination, or disposes of any such merchandise by sale or otherwise, he shall be guilty of a felony and upon conviction thereof shall be fined not more than \$1,000 or imprisoned for not more than 5 years, or both; and any such vessel or vehicle, with its contents, shall be subject to forfeiture.

(f) Failure of the person in charge to deliver to the proper customs officer at destination the manifest of merchandise arriving in a vessel or vehicle sealed in accordance with paragraph (a) of this article is a violation of section 460 of the Tariff Act of 1930. (See art. 220.)

ART. 915. *Procedure at port of arrival—Bonded carrier.*—(a) Upon arrival in the United States of a vessel or vehicle sealed with customs seals, the customs officer at the port of first arrival shall examine the seals to ascertain whether or not they are intact. The four copies of the manifest received by him in the sealed envelope, as well as the carrier's copy accompanying the shipments, shall show the port of arrival and be renumbered in the appropriate series, i. e., I. T. or T. and E. as the case may be. Two of the copies

received in the sealed envelope shall be for the use of the collector, one shall be immediately forwarded to the comptroller of customs having jurisdiction over the accounts of the port of first arrival and the other mailed to the collector at the port of destination.

(b) The carrier to whom the merchandise is released at the port of first arrival shall be bonded, and the agent of such carrier shall execute the receipt on the collector's copy of the manifest.

(c) If the seals are found to be intact, the customs officer shall execute the indorsement entitled "inspected" on the back of the copies of customs Form 7512 used as a manifest and, after obtaining the receipt of the carrier, shall permit the vessel or vehicle to go forward to destination. If the customs seals have been removed before the vessel or vehicle reaches the port of first arrival, or if there is evidence that such seals have been tampered with, the customs officer shall verify the contents of the vessel or vehicle, apply new seals, and make an appropriate notation on the manifest before taking the receipt of the carrier and permitting the vessel or vehicle to go forward.

ART. 916. *Procedure at destination.*—(a) On arrival of the vessel or vehicle at the port of destination the master of the vessel or person in charge of the vehicle must immediately deliver the manifest covering the shipment to the collector of customs at the port, who shall indorse the mail copy of the manifest as provided in paragraph (a) of article 881, and send it as a certificate of delivery to the comptroller of customs in whose district the port of first arrival is located, to be by him properly noted and forwarded to the collector of customs at the port of first arrival.

(b) The collector of customs at the port of destination shall report to the collector at the port of first arrival and to the comptroller of customs for that district, on customs Form 3861, any shortage from the quantity manifested. He shall also report promptly to the customs officer at the place of shipment the nonreceipt of any shipment for which a manifest has been received by him, in which case the customs officer at the place of shipment shall have the shipment traced and, if it is found to have entered the United States, shall forward the report of nonreceipt to the collector of customs at the port of first arrival for appropriate action.

ART. 917. *Merchandise in less than carload lots.*—Merchandise in less than carload lots, originating at a point in a contiguous country at which there is a United States customs officer, may be forwarded from that place under manifest, customs Form 7512. The procedure to be followed will be the same in all respects as that governing the forwarding of merchandise in sealed vessels or vehicles, except as follows:

(1) The package need not be sealed, but in lieu thereof the carrier will be required to furnish and attach to each package the warning labels required in the case of other bonded merchandise shipped in less than carload lots; and

(2) The customs officer at the port of first arrival in the United States will examine the shipment to ascertain whether or not all packages are in good order and have the required warning labels attached thereto. The contents of any bad-order packages shall be verified and appropriate notation made on the manifest before the receipt of the carrier is taken.

CHAPTER XVII

CUSTOMS WAREHOUSES AND CONTROL OF MERCHANDISE THEREIN

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BONDING AND ENTRY

ART. 918. *Bonding of warehouses and entry for warehouse authorized.*—(a) Tariff Act of 1930, section 555:

Buildings or parts of buildings and other inclosures may be designated by the Secretary of the Treasury [Commissioner of Customs] as bonded warehouses for the storage of imported merchandise entered for warehousing, or taken possession of by the collector, or under seizure, or for the manufacture of merchandise in bond, or for the repacking, sorting, or cleaning of imported merchandise. Such warehouses may be bonded for the storing of such merchandise only as shall belong or be consigned to the owners or proprietors thereof and be known as private bonded warehouses, or for the storage of imported merchandise generally and be known as public bonded warehouses. Before any imported merchandise not finally released from customs custody shall be stored in any such premises, the owner or lessee thereof shall give a bond in such sum and with such sureties as may be approved by the Secretary of the Treasury [Commissioner of Customs] to secure the Government against any loss or expense connected with or arising from the deposit, storage, or manipulation of merchandise in such warehouse. Except as otherwise provided in this act, bonded warehouses shall be used solely for the storage of imported merchandise and shall be placed in charge of a proper officer of the customs, who, together with the proprietor thereof, shall have joint custody of all merchandise stored in the warehouse; and all labor on the merchandise so stored shall be performed by the owner or proprietor of the warehouse, under supervision of the officer of the customs in charge of the same, at the expense of the owner or proprietor. The compensation of such officer of the customs and other customs employees appointed to supervise the receipt of merchandise into any such warehouse and deliveries therefrom shall be reimbursed to the Government by the proprietor of such warehouse.

(b) Tariff Act of 1930, section 557:

Any merchandise subject to duty, with the exception of perishable articles and explosive substances other than firecrackers, may be entered for warehousing and be deposited in a bonded warehouse at the expense and risk of the owner, importer, or consignee. Such merchandise may be withdrawn, at any time within 3 years (or 10 months in case of grain) from the date of importation, for consumption upon payment of the duties and charges accruing thereon at the rate of duty imposed by law upon such merchandise at the date of withdrawal; or may be withdrawn for exportation or for transportation and exportation to a foreign country, or for shipment or for transportation and shipment to the Virgin Islands, American Samoa, or the Island of Guam, without the payment of duties thereon, or for transportation and rewarehousing at another port: *Provided*, That the total period of time for which such merchandise may remain in bonded warehouse shall not exceed 3 years (or 10 months in the case of grain) from the date of importation.

(c) Tariff Act of 1930, section 560:

The Secretary of the Treasury [Commissioner of Customs] may cause to be set aside any available space in a building used as a customhouse for the storage of bonded merchandise or may lease premises for the storage of unclaimed merchandise or other imported merchandise required to be stored by the Government, and set aside a portion of such leased premises for the storage of bonded merchandise: *Provided*, That no part of any premises owned or leased by the Government may be used for the storage of bonded merchandise at any port at which a public bonded warehouse has been established and is in operation. All the premises so leased shall be leased on public account and the storage and other charges shall be deposited and accounted for as customs receipts, and the rates therefor shall not be less than the charges for storage and similar services made at such port of entry by commercial concerns for the storage and handling of merchandise. No collector or other officer of the customs shall own, in whole or in part, any bonded warehouse or enter into any contract or agreement for the lease or use of any building to be thereafter erected as a public store or warehouse. No lease of any building to be so used shall be taken for a longer period than 3 years, nor shall rent for any such premises be paid, in whole or in part, in advance.

(d) Tariff Act of 1930, section 561:

Any premises owned or leased by the Government and used for the storage of merchandise for the final release of which from customs custody a permit has not been issued shall be known as a "public store."

(e) Tariff Act of 1930, section 562:

Unless by special authority of the Secretary of the Treasury [Commissioner of Customs] no merchandise shall be withdrawn from bonded warehouse in less quantity than an entire bale, cask, box, or other package; or, if in bulk, in the entire quantity imported or in a quantity not less than 1 ton weight. All merchandise so withdrawn shall be withdrawn in the original packages in which imported unless, upon the application of the importer, it appears to the collector that it is necessary to the safety or preservation of the merchandise to repack or transfer the same: * * *

(f) Tariff Act of 1930, section 312:

The works of manufacturers engaged in smelting or refining, or both, of ores and crude metals, may, upon the giving of satisfactory bonds, be designated as bonded smelting warehouses. * * *

CLASSES OF CUSTOMS WAREHOUSES

ART. 919. *Public stores and bonded warehouses*—Classes 1 to 8—*Class 1.*—Premises owned or leased by the Government and used for the storage of merchandise undergoing examination by the appraiser, under seizure or pending final release from customs custody, shall be known as a "public store." Unclaimed merchandise stored in such premises shall be held under "general order." Where such premises are not sufficient or available for the storage of seized and unclaimed goods, such goods may be stored in a warehouse of class 3, 4, or 5. So far as such warehouses are used for this purpose, they shall be designated "bonded stores." If there be no warehouses of these classes, the collector may, with the approval of the Bureau, rent suitable premises for the storage of seized and unclaimed goods.

Class 2.—Importers' private bonded warehouses used exclusively for the storage of merchandise belonging or consigned to the proprietor thereof.

Warehouses of class 4 or 5 may be bonded exclusively for the storage of goods imported by the proprietor thereof, in which case they will be designated as "importers' private warehouses."

Class 3.—Public bonded warehouses used exclusively for the storage of imported merchandise generally.

A warehouse of this class shall consist of an entire building, or a part of a building entirely separated from the rest of the building by suitable partitions or walls.

Class 4.—Bonded yards or sheds for the storage of heavy and bulky imported merchandise.

Warehouses of this class shall be used exclusively for the storage of heavy and bulky articles. If the collector deems it necessary yards must be inclosed by substantial fences, with entrance gates capable of being secured by customs locks.

The collectors may send to such yards unclaimed or seized goods of a character above described.

Stables or parts thereof may be bonded upon approval of the Bureau for the storage of animals.

Class 5.—Bonded bins or parts of buildings or of elevators to be used for the storage of grain. The bonded portions must be separate from the rest of the building.

Class 6.—Warehouses for the manufacture in bond, solely for exportation, of articles made in whole or in part of imported materials or of materials subject to internal-revenue tax; and for the manufacture for home consumption or exportation of cigars in whole of tobacco imported from one country.

Class 7.—Warehouses bonded for smelting and refining imported ores and crude metals for exportation or domestic consumption.

Class 8.—Bonded warehouses established for the purpose of cleaning, sorting, repacking, or otherwise changing in condition, but not manufacturing, imported merchandise, under customs supervision and at the expense of the proprietor.

A warehouse of this class shall consist of an entire building, or a part of a building entirely separated from the rest of the building by suitable partitions or walls. Warehouses of class 1 and storage warehouses of classes 2, 3, 4, 5, and 6 may be designated as "constructive manipulation warehouses" when the exigencies of the service so require.

GENERAL PROVISIONS

ART. 920. Application to bond.—(a) In order to establish a bonded warehouse the owner or lessee shall make application in writing to the collector, describing the premises and location and stating the class of warehouse.

(b) The application must be accompanied by a certificate signed by the president or secretary of a board of fire underwriters, where such board exists, and at other ports by the officers or agents of two or more insurance companies, stating that the building is a suitable warehouse, acceptable for fire-insurance purposes.

(c) After the collector has examined or caused an examination to be made of the premises he will transmit to the Bureau with his recommendation the application, the insurance certificates, and a report stating the particulars relative to the location, construction, and dimensions of the building, its suitability for the storing of merchandise, whether the building is detached or adjoins other buildings, the location of doors, and all other material facts. The application, together with all reports, documents, and drawings filed in connection therewith, shall be transmitted to the Bureau in duplicate.

(d) The collector will also state whether or not, in his opinion, the business of the port requires the establishment of such warehouse.

ART. 921. Execution of bond.—On approval of the application to bond warehouses, classes 2, 3, 4, 5, and 8, a bond shall be executed in duplicate on customs Form 3581 in such penalty and with such security as the collector may deem proper and forwarded to the Bureau for approval. When approved, one copy will be retained by the Bureau and the other returned to the collector. Bonds may be executed in anticipation of approval and transmitted with the application. All storage warehouses operated by one proprietor in the same customs district may be included in one bond. The penalty on the bond shall not be less than \$5,000 on each of the premises, with a maximum penalty on all premises covered by the bond of \$50,000. This amount may be increased if additional security is deemed necessary. Collectors must see that the bond is in proper form and that instructions printed thereon are observed.

ART. 922. Bond—Renewal of.—The proprietors or occupants of bonded warehouses may be required on 10 days' notice from the collector to renew their bonds; and if they fail so to do, no more goods shall be sent to their warehouses, and those therein shall be removed at their expense.

ART. 923. New bond—When necessary.—(a) The collector will promptly notify the Commissioner of Customs of the death, pecuniary embarrassment, insolvency, or change of status of any of the parties to the bond, or of any circumstances which require a new bond.

(b) If a bonded warehouse is destroyed and rebuilt, a new bond will be required.

(c) The collector will advise the Bureau of all changes in the surroundings of bonded premises likely to affect their security.

ART. 924. Alterations.—Alterations in bonded warehouses can be made only by permission of the collector and, if constituting a material change in the premises, the approval of the Commissioner of Customs is required.

ART. 925. Suspensions.—The use of a bonded warehouse or bonded floor or space may be temporarily suspended by the collector on application of the proprietor provided there are no bonded goods therein. Upon the removal of all free goods, if any, the premises may again be used for the storage of bonded goods. Rebonding will not be necessary.

ART. 926. Discontinuance.—(a) The Bureau may discontinue a bonded warehouse at any time for reasonable cause.

(b) When the proprietor desires to discontinue his bonded warehouse he shall make written application therefor to the collector. If the application be approved by the collector, he will cause all goods in such warehouse upon which the duty has not been paid to be transferred to another bonded ware-

house without expense to the Government. An inventory of all goods so transferred from the warehouse to be discontinued shall be made and compared with the accounts of the warehouse and the records of the customhouse and appropriate action shall be taken in the event any discrepancy is discovered.

(c) The collector will transmit the application to the Bureau with his report and recommendation and will retain custody of the premises until he is notified of the Bureau's approval of the application.

(d) The number of warehouses covered by a general bond may be reduced by discontinuance without necessitating a new bond unless the proprietor desires otherwise.

ART. 927. Offices.—(a) Suitable and comfortable accommodations for the storekeeper shall be provided by the proprietor of the warehouse.

(b) An office for the accommodation of the warehousemen may be allowed in the bonded premises if separated by a partition from the space used for the storage of bonded goods.

ART. 928. Fires, lights, and locks.—(a) Fires shall not be permitted in any warehouse, other than warehouses of classes 6, 7, and 8, except in the office of the storekeeper and warehouseman, and where lights are required only safety lanterns or electric lights shall be used.

(b) All the doors and other entrances of bonded warehouses must be secured by customs locks.

ART. 929. Posting of rules.—Collectors will cause all rules and regulations (customs Form 3561) relating to the management of bonded warehouses to be posted in a conspicuous place in every warehouse.

ART. 930. Storekeeper—Compensation of.—(a) The collector will, when necessary, designate an employee to act as storekeeper of each bonded warehouse or public store. If necessary, more than one may be designated.

(b) The reimbursable compensation of storekeepers for services rendered at bonded warehouses of classes 2, 3, 4, 5, and 8, for periods of less than 1 day, shall be computed on the hourly rate of pay of the officer assigned to such duty, from the time he leaves his station until he returns thereto, provided that a minimum of 1 hour's time shall be charged for each visit, and in no case shall the charge be less than 75 cents. Time consumed after the first hour shall be charged in multiples of 1 hour, fractional parts of an hour of less than 30 minutes being disregarded and those of 30 minutes or more being charged as 1 hour. The amount collectible for periods of a full day shall be the per diem compensation of the officer so assigned.

(c) The full compensation of storekeepers permanently assigned to warehouses, including the compensation of acting storekeepers detailed to relieve full-time storekeepers absent either on annual or sick leave during such detail, shall be reimbursable.

(d) The necessary traveling and subsistence expenses of an acting storekeeper assigned to relieve a full-time storekeeper outside the port limits shall be borne by the proprietor of the warehouse.

(e) If any storekeeper has charge of more than one warehouse, the charge for his services shall be equitably apportioned among the respective warehousemen.

(f) Upon the failure of the warehouseman to pay such charges when due, or to comply with the laws and regulations applicable to bonded warehouses, the collector shall refuse entry of merchandise for such warehouse and report the facts to the Bureau.

ART. 931. Duties of storekeeper.—(a) Storekeepers must keep the keys to customs locks in their possession, and personally open and lock the warehouses. With the exception of 1 hour for lunch, storekeepers will be in constant attendance from 8 a. m. to 5 p. m., or while the warehouse is open. Collectors may extend or change these hours when deemed advisable.

(b) All goods shall be received by and released under the supervision of the storekeeper.

(c) Packages shall be received in warehouse according to the marks and numbers. Packages containing weighable and gaugeable merchandise not bearing shipping marks or numbers will be received under the weigher's or gauger's numbers. Warehousemen will be required to mark all shipments for identification, showing the warehouse entry number and date, together with the year and month when received and the name of the importing vessel or carrier and the place whence imported.

(d) The marks and numbers must be entered on the books and returned by the storekeeper in charge in his daily returns to the collector. They will then be entered in the general warehouse books, and the numbers therein given will be the designating numbers on all permits for withdrawals.

(e) The storekeeper shall supervise all examinations, sampling, reworking, repacking, or manipulating of merchandise that may be done in a bonded warehouse. He shall keep a correct account of all goods received, released, transferred, examined, sampled, reworked, repacked, or manipulated as provided in article 946 and report to the collector any violation of the warehouse regulations by the warehouseman.

(f) Storekeepers in charge of stores of class 1 will keep accounts of all labor performed therein, and in their returns certify the nature and amounts of such charges. They will also keep pay rolls of all persons employed in such stores.

ART. 932. *Superintendent of warehouses.*—(a) A Customs officer may be designated by the collector as superintendent of warehouses at ports where the business requires such an officer, whose duty it shall be to supervise transactions at the several bonded warehouses by visiting each of them frequently in order to insure the promptness and efficiency of the storekeepers, the accuracy of the books and reports, and the observance of all official orders and regulations. He shall promptly report to the collector any irregularities which may occur.

(b) He shall carefully note the condition of the warehouses as regards cleanliness and safety, and see that merchandise is properly and conveniently stored.

ART. 933. *Permits—Releases.*—(a) Tariff Act of 1930; section 484 (j):

* * * Merchandise in a bonded warehouse shall be released from customs custody only to or upon the order of the proprietor of the warehouse. * * *

(b) Upon the receipt of a permit signed by the collector, or other customs officer designated for such purpose, the storekeeper shall release the merchandise covered thereby to the warehouse proprietor, unless the proprietor furnishes a delivery order authorizing release to some other person, in which case the merchandise may be released to the person designated by the proprietor. If the permit bears the endorsement provided for in article 331, release in accordance with the foregoing shall be withheld, subject to the provisions of article 1011 (b), pending the lodging of an order to release on customs Form 7505-B.

(c) Permits must be indorsed to show that storage, cartage, labor, and other charges due the Government have been paid before delivery will be permitted.

(d) Merchandise covered by a notice of lien filed by the carrier shall not be released until the said lien has been satisfied or discharged. (See ch. VI.)

ART. 934. *Expenses of labor and storage.*—(a) All merchandise deposited in public stores or in bonded warehouses shall be held liable for the expenses of labor and storage chargeable thereon at the customary rates and for all other expenses accruing upon the goods.

(b) The rates of storage and labor shall be agreed upon between the importer and the warehouse proprietor, but in case of disagreement the collector may, with the consent of all parties in interest, determine the rates to be charged.

ART. 935. *Storage charges.*—When merchandise is stored in a public store under warehouse entry, general order, or otherwise, the charges for storage due the Government must be collected before the packages are delivered therefrom.

ART. 936. *Examination of goods by importer—Sampling—Repacking.*—Importers may, upon application approved by the collector on customs Form 3499, and under the supervision of the storekeeper, examine, sample, and for safety or preservation only, repack or transfer, merchandise in bonded warehouse.

ART. 937. *Transfer to another warehouse.*—(a) With the concurrence of the proprietors of the delivering and receiving warehouses, merchandise may be transferred under customs supervision and at the expense of the party requesting it, from one bonded warehouse to another in the same port, on the written request of the consignee to the collector, who may issue an order for such transfer on customs Form 7500-A.

(b) All charges must be paid before goods are transferred from a warehouse of class 1.

ART. 938. *Examination packages.*—Merchandise sent from a bonded warehouse to the appraiser's stores for examination shall be returned by the collector to the warehouse for delivery unless the warehouseman shall indorse on the duty-paid permit that the merchandise may be otherwise released.

ART. 939. *Proprietor responsible for goods.*—The warehouseman is responsible for the safe-keeping of the goods stored in any bonded warehouse, and goods so stored shall be released only to or upon his order, the Government being concerned solely in the security of the revenue.

ART. 940. *Merchandise in bonded warehouse not subject to attachment.*—(a) United States Code, title 28, section 747:

All property taken or detained by any officer or other person, under authority of any revenue law of the United States, shall be irrepleviable, and shall be deemed to be in the custody of the law, and subject only to the orders and decrees of the courts of the United States having jurisdiction thereof. (R. S., sec. 934.)

(b) Merchandise in bonded warehouse is not subject to levy, attachment, or other process of a State court, and collectors can not be enjoined by State courts from releasing such merchandise in accordance with section 484 (j) of the tariff act.

(c) The Government will not compel a warehouseman to deliver bonded goods, as the interest of the Government is in the collection of the duty on the merchandise or its exportation, and any question of infringement of private rights by the warehouseman must be left to parties in interest.

(d) Imported goods in bonded warehouse are exempt from taxation under the general laws of the several States.

STORAGE-MANIPULATION WAREHOUSES

ART. 941. *Manipulation in bond authorized.*—Tariff Act of 1930, section 562:

* * * Upon permission therefor being granted by the Secretary of the Treasury [Commissioner of Customs], and under customs supervision, at the expense of the proprietor, merchandise may be cleaned, sorted, repacked, or otherwise changed in condition, but not manufactured, in bonded warehouses established for that purpose and be withdrawn therefrom for exportation to a foreign country or for shipment to the Virgin Islands, American Samoa, or the Island of Guam, without payment of the duties, or for consumption, upon payment of the duties accruing thereon, in its condition and quantity, and at its weight at the time of withdrawal from warehouse, with such additions to or deductions from the final appraised value as may be necessary by reason of change in condition. The basis for the assessment of duties on such merchandise so withdrawn for consumption shall be the entered value or the adjusted final appraised value, which ever is higher, and if the rate of duty is based upon or regulated in any manner by the value of the merchandise such rate shall be based upon or regulated by such adjusted final appraised value; but for the purpose of the ascertainment and assessment of additional duties under section 489 of this act adjustments of the final appraised value shall be disregarded. The scouring or carbonizing of wool shall not be considered a process of manufacture within the provisions of this section.

ART. 942. *General regulations applicable.*—The general provisions of the regulations governing warehouses bonded for the storage of imported merchandise shall, so far as applicable, apply to bonded manipulation warehouses.

ART. 943. *Entry.*—(a) Merchandise to be manipulated under section 562, may be entered on customs Form 7502 and sent direct to a storage-manipulation warehouse.

(b) Merchandise entered for warehouse may be transferred therefrom to a storage-manipulation warehouse; or merchandise entered for storage-manipulation warehouse may be transferred therefrom, after manipulation, to the storage portion of the same warehouse, to another storage warehouse, or to a manufacturing warehouse of class 6.

ART. 944. *Manipulation.*—(a) Application to manipulate should be made in duplicate on customs Form 3499 to the collector of customs having jurisdiction of the manipulation warehouse. When satisfied that the contemplated manipulation comes within the provisions of section 562, the collector may issue a permit (customs Form 3499), making any necessary modifications in such form. Where safety or preservation of the merchandise is not involved, manipulation can not be allowed under section 562 of the Tariff Act of 1930 merely for the purpose of obtaining a lower rate of duty; that is, if the merchandise after manipulation would be treated as an entirety if imported in the manipulated condition.

(b) Should the collector be in doubt as to whether or not the manipulation for which application has been made comes within the provisions of the law he will refer the application to the Bureau for decision and await instructions.

(c) When goods are repacked the storekeeper will report on the back of the permit the marks and numbers of the original packages, and the marks and numbers of the packages after repacking; and the storekeeper, weigher, or gauger will report the weights or gauge of the merchandise after manipulation and the value of the manipulated merchandise shall be determined by the appraiser. In the case of wool scoured in manipulation warehouse, the weight of the wool in its scoured condition should be ascertained at the time of withdrawal.

(d) Merchandise belonging to but one importer should be in a designated manipulation space at one time. In cases where the collector shall be satisfied that no confusion in the records would result and that the customs revenues would at all times be properly guarded, exception may be made to this rule.

(e) Articles which have been repacked or manipulated, and their containers and packages, and the packages and containers described as articles in article 528 (f), should not be withdrawn from warehouse for consumption unless they are marked to indicate the country of origin of the articles, in accordance with the provisions of section 304 of the Tariff Act of 1930 and article 528 (f). The storekeeper shall note the fact of such marking on the back of the permit, customs Form 3499.

ART. 945. *Withdrawal.*—Manipulated merchandise may be withdrawn under any form of withdrawal entry, provided that no such withdrawal shall be accepted for less than an entire repacked package.

ACCOUNTS

ART. 946. *Record of receipts, releases, etc.*—(a) Records shall be kept of goods received, released, transferred, examined, sampled, recoopered, repacked, or manipulated under warehouse entries on customs Form 5215. An index may be kept to this record, alphabetically arranged by the names of vessels or common carriers and date of arrival.

(b) In this record receipts must be shown in detail, specifying each package when necessary. When a release is given it shall be noted opposite the record of the withdrawal permit in such manner as to show at all times the quantity of goods remaining.

(c) All permits, customs Form 7505-A, and orders to release, customs Form 7505-B, shall be recorded on the credit side of the record. Permits shall be returned to the collector on the day on which all the merchandise specified thereon has been released. If the importer has requested that release be withheld, as provided in article 331, the permit shall be accompanied by the order to release. Daily returns of partial

releases shall be made by forwarding the order to the collector on the day of the release of the merchandise covered thereby. In such cases the storekeeper shall retain the permit, noting thereon each release as made, until the day of the last release, at which time he shall endorse the permit "Release complete" and return it to the collector with the last order for release attached thereto.

(d) The storekeeper shall prepare a record on customs Form 5209 of all unclaimed or abandoned merchandise received at the public store or bonded store of which he is in charge. A record of all such merchandise received at the port shall be prepared in duplicate in the collector's office on customs Form 5209. The original shall be maintained as a permanent record in the collector's office; the duplicate shall be transmitted to the comptroller at the close of each month, or shorter period, as requested by the comptroller. The entry or other disposition of such merchandise shall be recorded by the storekeeper on his record and at the customhouse on the record there maintained. When merchandise received during a given period is disposed of before the record for such period has been transmitted to the comptroller, a notation shall be made in the collector's office on the comptroller's copy, but no follow-up report shall be prepared for the comptroller in the collector's office of merchandise received during previous periods and disposed of during a current period. Such disposition shall be recorded by the comptroller from entries or other documents in his possession.

(e) The storekeeper's return to the collector of customs of merchandise received, delivered, released, withdrawn, or transferred must be certified by the proprietor of the warehouse as correct.

ART. 947. *Inventories.*—Inventories of merchandise in warehouse shall be made once every year or oftener if the collector deems it necessary. Such inventories must be checked with the collector's warehouse ledger record, as well as with the storekeeper's record of receipts and deliveries, and all appropriate action taken in the event any discrepancy is found.

FOREIGN-TRADE ZONES

ART. 948. *Definitions.*—(a) United States Code, title 19, section 81a:

When used in this chapter—

(a) The term "Secretary" means the Secretary of Commerce;

(b) The term "Board" means the Board which is hereby established to carry out the provisions of this chapter. The Board shall consist of the Secretary of Commerce, who shall be chairman and executive officer of the Board, the Secretary of the Treasury, and the Secretary of War;

(c) The term "State" includes any State, the District of Columbia, Alaska, Hawaii, and Puerto Rico;

(d) The term "corporation" means a public corporation and a private corporation, as defined in this chapter;

(e) The term "public corporation" means a State, political subdivision thereof, a municipality, a public agency of a State, political subdivision thereof, or municipality, or a corporate municipal instrumentality of one or more States;

(f) The term "private corporation" means any corporation (other than a public corporation) which is organized for the purpose of establishing, operating, and maintaining a foreign-trade zone and which is chartered under special act enacted after June 18, 1934, of the State or States within which it is to operate such zone;

(g) The term "applicant" means a corporation applying for the right to establish, operate, and maintain a foreign-trade zone;

(h) The term "grantee" means a corporation to which the privilege of establishing, operating, and maintaining a foreign-trade zone has been granted;

(i) The term "zone" means a "foreign-trade zone" as provided in this chapter.

(June 18, 1934, c. 590, sec. 1, 48 Stat. 998.)

(b) When used in these regulations—

(1) The term "act" means Public, No. 397, of the Seventy-third Congress.

(2) The terms "foreign articles" and "foreign merchandise" mean articles of merchandise of every description (except prohibited articles), brought into a zone otherwise than from customs territory.

(3) The term "domestic merchandise" means articles of merchandise of every description (except prohibited articles), which are the growth, product, or manufacture of the United States, or which have previously been imported

into customs territory and upon which all duties and customs charges or penalties have been paid.

(4) The term "customs territory" shall mean territory of the United States not included in a zone.

(5) The term "United States" includes the several States, the District of Columbia, Alaska, Hawaii, and Puerto Rico.

(6) The term "zone" means a foreign-trade zone provided for in the act.

(7) The terms "collector" and "collector of customs", unless otherwise specified, mean the collector of customs in whose district the zone is located.

(8) The term "privileged merchandise" means foreign merchandise in a zone for which immediate liquidation of duties has been requested and/or domestic merchandise in a zone for which an application for customs supervision in the zone has been made.

(9) The term "nonprivileged merchandise" means all merchandise properly in a zone, other than privileged merchandise.

(10) The term "person of record" means the person who has filed the application for immediate liquidation (art. 950 (b) (2)), or the application for customs supervision of entry (art. 950 (c) (2)), or a transferee of the customs rights of any such person under any such application, as shown by endorsement on the application.

ART. 949. Establishing, operating, and maintaining zones.—United States Code, title 19, section 81b:

(a) The Board is hereby authorized, subject to the conditions and restrictions of this chapter and of the rules and regulations made thereunder, upon application as hereinafter provided, to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States.

(b) Each port of entry shall be entitled to at least one zone, but when a port of entry is located within the confines of more than one State such port of entry shall be entitled to a zone in each of such States, and when two cities separated by water are embraced in one port of entry, a zone may be authorized in each of said cities or in territory adjacent thereto. Zones in addition to those to which a port of entry is entitled shall be authorized only if the Board finds that existing or authorized zones will not adequately serve the convenience of commerce.

(c) In granting applications preference shall be given to public corporations.

(d) In case of any State in which harbor facilities of any port of entry are owned and controlled by the State and in which State harbor facilities of any other port of entry are owned and controlled by a municipality the Board shall not grant an application by any public corporation for the establishment of any zone in such State, unless such application has been authorized by an act of the legislature of such State (enacted after June 18, 1934). (June 18, 1934, c. 590, sec. 2, 48 Stat. 999.)

ART. 950. Admission of merchandise—Treatment—Shipment to customs territory—Appraisal—Reshipment to zone.—(a) United States Code, title 19, section 81c:

Foreign and domestic merchandise of every description, except such as is prohibited by law, may, without being subject to the customs laws of the United States, except as otherwise provided in this chapter, be brought into a zone and may not be manufactured or exhibited in such zone but may be stored, broken up, repacked, assembled, distributed, sorted, graded, cleaned, mixed with foreign or domestic merchandise, or otherwise manipulated, and be exported, and foreign merchandise may be sent into customs territory of the United States therefrom, in the original package or otherwise; but when foreign merchandise is so sent from a zone into customs territory of the United States it shall be subject to the laws and regulations of the United States affecting imported merchandise: *Provided*, That when the privilege shall be requested the collector of customs shall supervise the unloading of foreign merchandise in the zone, cause such merchandise or any portion thereof to be appraised and the duties liquidated thereon. Thereafter it may be stored or manipulated under the supervision and regulations prescribed by the Secretary of the Treasury, and within 2 years after such unloading such merchandise, whether mixed with domestic merchandise or not, may be sent into customs territory upon the payment of such liquidated duties thereon; and if not so sent into customs territory within such period of 2 years such merchandise shall be disposed of under rules and regulations prescribed by the Secretary of the Treasury and out of the proceeds the duties shall be paid and the remainder, if any, shall be delivered to the owners of the property: *Provided further*, That subject to such regulations respecting identity and the safeguarding of the revenue as the Secretary of the Treasury may deem necessary, articles the growth, product, or manufacture of the United States, and articles pre-

viously imported on which duty has been paid, or which have been admitted free of duty, may be taken into a zone from the customs territory of the United States, and may be brought back thereto free of duty, whether or not they have been combined with or made part while in such zone, of other articles: *Provided*, That if in the opinion of the Secretary of the Treasury their identity has not been lost such articles not entitled to free entry by reason of noncompliance with the requirements made hereunder by the Secretary of the Treasury shall be treated when they reenter the customs territory of the United States as foreign merchandise under the provisions of the tariff laws in force at that time. (June 18, 1934, c. 590, sec. 3, 48 Stat. 999.)

(b) *Bringing foreign merchandise into a zone.*—(1) Foreign merchandise may be brought into a zone and there stored and/or manipulated as authorized in the act without compliance with the customs laws and regulations relating to the entry of merchandise into customs territory.

(2) If the immediate liquidation of duties on foreign merchandise to be brought into a zone is desired, an application therefor shall be filed with the collector of customs. Such application shall be filed in duplicate on a form substantially similar to customs Form 3499, before the unloading of the vessel or other carrier, and shall be made by the consignee within the meaning of section 483 of the Tariff Act of 1930. The application shall specify in detail the merchandise for which the privilege of immediate liquidation of duties is desired, the carrier and date of arrival at the zone, and the place in the zone where the merchandise will be stored and/or manipulated. Upon the receipt of such application the collector of customs shall provide for the supervision of the unloading of the designated merchandise, and for the maintenance of customs supervision thereof until it is entered into customs territory or abandoned to the Government.

(c) *Bringing domestic merchandise into a zone.*—(1) When domestic merchandise which is not intended to be returned to customs territory is brought into a zone, its admission into and retention in the zone shall not be subject to any customs requirements, except such as may be necessary for the purposes of the drawback laws and the general administration of the act and these regulations. Upon the shipment of such merchandise from a zone otherwise than to customs territory or to another zone, export declarations shall be filed in accordance with articles 1305 to 1320, inclusive.

(2) When domestic merchandise which is intended to be returned to customs territory with a claim for exemption from duty is to be brought into a zone, the person concerned shall file with the collector of customs an application for customs supervision of the entry of the merchandise into the zone. Such application shall be in duplicate on a form substantially similar to customs Form 3499. It shall describe the merchandise in detail and specify the time at which the merchandise will arrive in the zone and the place in the zone where it will be stored and/or manipulated. Upon the receipt of such application the collector of customs shall provide for the supervision of the receipt of the merchandise in the zone and for the maintenance of customs identification thereof until it is returned to customs territory or exported.

(d) *Immediate liquidation.*—(1) When an application for immediate liquidation has been made, as provided for in article 950 (b) (2), the person of record shall file with the collector of customs an entry in triplicate on a form substantially in accordance with customs Form 7502. Such entry shall be filed within 48 hours, exclusive of Sundays and holidays, after the unloading of the merchandise in the zone, unless the collector authorizes in writing a longer time.

(2) The procedure to be followed in connection with the preparation and filing of the entry, the making of notations on invoices, the preparation of customs Form 6417, the designation of examination packages or quantities, and the appraisement of the merchandise shall be the same as that prescribed in the case of consumption entries, except that no duties need be deposited.

(3) The consignee filing an application for an immediate liquidation of the entry of privileged merchandise shall file a bond in the form herein set forth in an amount equal to double the estimated duties. Both principal and sureties

shall continue liable under the bond until the liquidated duties are paid.

The bond shall be in the following form:

KNOW ALL MEN BY THESE PRESENTS:

That _____ of _____
as principal and _____ of _____
and _____ of _____
as sureties, are held and firmly bound unto the UNITED STATES
OF AMERICA in the sum of _____ dollars
(\$ _____), for the payment of which we bind ourselves,
our heirs, executors, administrators, successors, and assigns, jointly
and severally, firmly by these presents.

WHEREAS certain articles described in entry No. _____
dated _____, 19____, have been brought into
the foreign-trade zone located at _____, from
_____ in the _____, arrived
_____ 19____; and

WHEREAS an application has been made by the principal herein
for the appraisal of the merchandise described in the entry, and
the liquidation of the duties thereon;

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH,
That—

If the above-bounden principal shall, within 2 years after the
merchandise first arrived in a foreign-trade zone, pay the full
amount of liquidated duties found due on the said articles,
whether such articles shall have been wholly consumed or destroyed
in the zone, exported, sent into customs territory, or otherwise
disposed of, then this obligation shall be void; otherwise it shall
remain in full force and effect.

Signed, sealed, and delivered in the presence of—

_____	_____	_____	[SEAL]
(Name)	(Address)		
_____	_____	(Principal)	
(Name)	(Address)		
_____	_____	_____	[SEAL]
(Name)	(Address)	(Surety)	
_____	_____	_____	[SEAL]
(Name)	(Address)	(Surety)	
_____	_____	_____	[SEAL]
(Name)	(Address)	(Surety)	

(4) The merchandise covered by an application for immediate liquidation shall be transferred under customs supervision from the place of unloading to the place of delivery designated in the application, or to the place of appraisalment and therefrom to the designated place of delivery, as the case may be. Upon the arrival of the merchandise at the place of delivery, a record thereof shall be made by a customs storekeeper on a form substantially similar to customs Form 5215. Such merchandise shall not be manipulated or removed from such place of delivery until the liquidation requested has been completed.

(5) The grantee operating a zone shall provide therein a suitable place for the customs examination and appraisalment of merchandise. Merchandise covered by an application for immediate liquidation shall be promptly appraised on an order from the collector of customs. The examination of merchandise for the purposes of such appraisalment shall be, insofar as may be practicable, at the place provided therefor in the zone, but in any case where he may deem it advisable, the collector may direct that the examination be made at any other suitable place, within or without the zone, approved by the appraiser.

(6) As soon as an entry has been completed by the filing of all necessary documents and the appropriate reports have been made to the collector, the entry shall be liquidated in accordance with the provisions of chapter XIV, insofar as they can be applied. Customs officers shall give priority to the disposition of all matters which will expedite the liquidation of these entries.

(7) The tariff status of merchandise covered by an application for immediate liquidation shall be determined in accordance with the condition and quantity of the merchandise and the rates of duty in force at the time such merchandise arrives within the limits of the zone in which it is to be first stored and/or manipulated.

(8) No allowance or abatement of duties shall be made by reason of the exportation of merchandise covered by an application for immediate liquidation. If the liquidated duties applicable to such merchandise have not been paid

within 2 years after it first arrives in the zone, the collector shall proceed to collect such duties under the conditions of the bond provided for in article 950 (d) (3).

(e) *Customs supervision of entry of domestic merchandise.*—(1) The original copy of the application mentioned in article 950 (c) (2) shall be used in lieu of an entry, to cover the merchandise for which customs supervision of entry has been requested, and shall be supported by a completely detailed inventory of the merchandise, showing the marks and numbers of the packages, the weight, gauge, measure, or quantity of merchandise in each package, and such descriptions as will enable customs officers readily to identify the goods.

(2) The merchandise covered by the application shall be transferred under customs supervision, immediately upon its arrival in the zone, to the place of delivery designated in the application, or to such other place for examination as may be designated by the collector and therefrom to the designated place of delivery, as the case may be. The merchandise shall be promptly examined to identify it with the application and inventory, and the examining officer shall endorse on the inventory the result of his examination and such notations as may be of assistance in the future identification of the goods. The collector may, in his discretion, require that the goods in their condition at the time of entry into the zone be appropriately marked for identification.

(f) *Customs control of merchandise in a zone.*—(1) Merchandise which is prohibited by law shall not be admitted into a zone. The admission into a zone of merchandise, the importation of which into the United States is restricted but not absolutely prohibited, such as certain special classes of merchandise as set forth in chapter X, shall be under such provisions as may be prescribed by the Department of Agriculture or other Government agency having jurisdiction in the particular case. No narcotic drug as defined in the act of May 26, 1922, known as the "Narcotic Drugs Import and Export Act, as amended", shall be permitted to be introduced into a zone, except that such quantities of narcotic drugs as are required for direct emergency medical needs within a zone may be admitted into said zone from customs territory of the United States subject to the requirements of the act of December 17, 1914, known as the "Harrison Narcotic Law, as amended", and regulations thereunder. Any prohibited merchandise, including narcotic drugs not admissible into a zone as herein provided, found within a zone shall be seized and disposed of according to law.

(2) Any merchandise properly in a zone may there be stored, broken up, repacked, assembled, distributed, sorted, graded, cleaned, mixed with foreign or domestic merchandise, or otherwise manipulated, but may not be there exhibited or manufactured. Customs officers on duty in a zone shall maintain general supervision of all merchandise brought into a zone in order to enforce the provisions of the act and these regulations, and shall report any violations or irregularities to the collector of customs.

(3) Before any merchandise brought into a zone may be manipulated as authorized in the act, permission for such manipulation shall be obtained from the collector of customs. The application for such permission shall be filed with the collector in duplicate on a form substantially similar to customs Form 3499, and shall describe in detail the work to be done. If satisfied that the contemplated manipulation is authorized in section 3 of the act, the collector shall endorse, on both copies of the application, a permit for the manipulation. In the case of privileged merchandise or of nonprivileged merchandise to be mixed or combined with privileged merchandise, the collector shall deliver the duplicate copy of the application to the customs officer who will supervise the manipulation. In other cases the collector shall return the duplicate copy to the applicant, who shall retain such copy for examination by customs officers at the place where the merchandise is to be manipulated. Should the collector be in doubt, as to

whether or not the contemplated manipulation is authorized in the act, he shall refer the application to the Commissioner of Customs for a decision and await instructions. In the event the applicant is dissatisfied with the decision of the Commissioner of Customs, appeal may be made to the Board established under the act.

(4) Privileged merchandise may be stored in a zone only in places secured by customs locks or seals, and may be withdrawn from such places or manipulated in the zone only under the immediate supervision of customs officers, and only in quantities of not less than one entire package, or 1 ton in weight in the case of parts of bulk merchandise. If any privileged merchandise is mixed or otherwise combined in a zone with other merchandise, the whole mixture or combination shall thereafter be subject to the same requirements as to storage and customs supervision as privileged merchandise.

(a) The transfer within the zone of privileged merchandise from one place of storage or manipulation to another place of storage or manipulation may be made under customs supervision on the written request of the person of record, accompanied by the concurrence in writing of the proprietors of the delivering and receiving places of storage or manipulation. Before such transfer is made the collector shall issue an order therefor on a form substantially similar to customs Form 7500-A.

(b) In the case of any diminution in the quantity or value of privileged merchandise in a zone which does not result in any change in the number of units thereof, or their quantitative relation to each other, each unit shall be subject to its original duty or exemption from duty; and in the case of any diminution in the quantity or value of privileged merchandise in a zone resulting from any operation or circumstance which changes the number, value, or quantitative relation of the units, the total new units shall be subject to the same duty or exemption from duty as the total original units, and such duty or exemption shall be applicable to each new unit in accordance with its relation in quantity and/or value to the total quantity and/or value of the new units. If any privileged merchandise is wholly consumed or destroyed in a zone, or is removed therefrom otherwise than by transfer to customs territory or another zone, any liquidated duties due thereon shall be promptly paid, and the customs records covering the identification thereof shall be closed with an appropriate notation.

(5) A record shall be kept of the receipt of each lot of privileged merchandise in a zone, and of its release, transfer, and/or manipulation, on a form substantially similar to customs Form 5215. Daily returns shall be made on this form by customs officers charged with the supervision of the privileged merchandise, one copy of which shall be retained at the place where the merchandise is deposited.

(a) On the debit side of this record receipts must be shown in detail, each package and the weight or gauge being specified when necessary. All records of releases and transfers shall be made on the credit side of the record and returned daily to the collector. When a release is given an appropriate notation shall be made in such manner as to show at all times the quantity of merchandise remaining.

(b) All reports of receipts and deliveries must be certified as correct by the proprietor of the place from or to which the merchandise is removed. Such person shall be required to mark merchandise for identification in such manner and in such cases as the collector may deem necessary, and the collector may in his discretion impose upon any person concerned with the manipulation such additional requirements as may assist in maintaining the identity of the manipulated merchandise or its components.

(6) When permission has been granted for manipulating privileged merchandise in a zone, customs storekeepers shall keep records of all the merchandise covered by the applica-

tion and permit to manipulate, including privileged merchandise and any nonprivileged merchandise which is to be mixed or otherwise combined with the privileged merchandise in the manipulation.

(a) When the manipulation has been completed, the customs officers who supervised the operation will endorse on the duplicate copy of the application and permit the marks and numbers of the original packages, the marks and numbers of the packages after manipulation, and the weights, gauges, or quantities of the merchandise before and after manipulation.

(b) Merchandise covered by only one application for immediate liquidation or for customs supervision of entry from customs territory shall be in a designated manipulation space at one time; but in cases where the collector shall be satisfied that no confusion in the records will result, and the customs revenues will at all times be properly safeguarded, exceptions may be made to this rule.

(g) *Entry of merchandise into customs territory from a zone.*—(1) The general tariff laws and regulations relating to merchandise arriving at a port of entry in customs territory from a foreign port or place shall be applicable to merchandise consisting wholly of nonprivileged merchandise which is transferred from a zone into customs territory in the same manner as though the merchandise so transferred had been imported into the United States on the date of such transfer; except that no such merchandise shall be entitled to any exemption from duties, taxes, or charges by reason of its being of the growth, produce, or manufacture of the United States, or previously imported into the United States.

(2) When classes of merchandise subject to different requirements under these regulations have been mixed or combined in a zone, the mixed or combined merchandise may be brought into customs territory and there entered under any form of entry provided for in the general customs laws and regulations, except as provided for in paragraph 3 below.

(3) Merchandise brought into a zone under the provisions of article 950 (b) (2) will be regarded as abandoned to the Government if remaining in a zone after 2 years from its arrival in the zone. If such merchandise is mixed or combined with other merchandise, and the mixture or combination remains in a zone after 2 years from the earliest date of arrival of any component brought into the zone under article 950 (b) (2), the entire mixture or combination will be regarded as abandoned. If brought into customs territory within the 2-year period, any such merchandise and any such mixture or combination must be entered for consumption and the duties thereon paid upon its arrival at the port of destination in customs territory.

(a) When any merchandise entered under article 950 (b) (2), or any mixture or combination containing such merchandise, is sent from a zone into customs territory, the collector of customs shall issue a certificate in triplicate, describing the merchandise in its present condition, and certifying the amount of duty applicable to the shipment by reason of the presence therein of privileged merchandise. The amount of duty so certified shall be carefully computed with due regard to the provisions of article 950 (f) (4) (b).

(b) The duplicate copy of this certificate shall be issued to the person of record for use in connection with the consumption entry for the shipment, and the original will be transmitted promptly to the port where the consumption entry will be made for use there in verifying the entry tendered to cover the shipment and the duplicate copy of the certificate filed in connection with such entry. The triplicate copy will be retained in file with the original copy of the entry filed under the provisions of article 950 (d) (1).

(4) (a) Merchandise brought into a zone under the provisions of article 950 (c) (2), which has not been mixed or com-

bined in the zone with any merchandise brought thereinto otherwise than under article 950 (c) (2), may be returned to customs territory and there released from customs custody without formal entry, provided the customs identification of the goods has been maintained continuously in the zone and there has not been any noncompliance with any provision of these regulations applicable thereto. If the customs identification of such merchandise in the zone is not continuously maintained, or if there is any noncompliance with a provision of these regulations applicable to such merchandise, it shall be treated thereafter as nonprivileged merchandise.

(b) If any merchandise brought into a zone under article 950 (c) (2) has been mixed or combined in the zone with other merchandise, but in such manner that the identification of the domestic merchandise in the mixture or combination has been maintained continuously on the customs records in the zone, and the mixed or combined merchandise, or any part thereof, is to be brought into customs territory, the person of record may make application to the collector of customs for a certificate covering the identification of the domestic merchandise in the mixture or combination, and indicating the exemption from duty applicable to such domestic merchandise.

(c) In proper cases, the collector shall issue the requested certificate in triplicate, describing the merchandise in its present condition and certifying as to the quantity and/or value of the mixture or combination which is entitled to exemption from duty by reason of the entry of its components into the zone under article 950 (c) (2). The duplicate copy of this certificate shall be issued to the person of record for use in connection with the entry for the goods, and the original will be transmitted promptly to the port where the entry will be made for use in verifying the duplicate copy filed with such entry. The triplicate copy will be retained in file with the original copy of the application referred to in article 950 (e) (1).

(d) The issuance of the certificate of identification contemplated by this paragraph shall be denied in any case where the customs identification of the merchandise or its components for which the certificate is requested has not been continuously maintained since the first arrival of the merchandise or components in a zone under the provisions of article 950 (c) (2), or if there has been any noncompliance with any provision of these regulations applicable to such merchandise or components. If any shipment claimed to contain merchandise or components brought into a zone under article 950 (c) (2) is tendered for entry in customs territory, and no certificate of identification as contemplated by this section is filed in connection with the entry covering such shipment, such merchandise or component shall be treated as nonprivileged merchandise.

(h) *Tariff classification.*—(1) Articles composed entirely of nonprivileged merchandise shall be subject, on entry from a zone into customs territory, to tariff classification and appraisalment in accordance with their condition and quantity at the time of such entry. The value of such articles, whether or not the product of manipulation in a zone, shall be determined for all customs purposes in accordance with sections 402 and 503 of the Tariff Act of 1930, and if such articles are the product of manipulation in a zone, the value shall be adjusted in accordance with the provisions of section 562 of the Tariff Act of 1930.

(2) Articles composed entirely of privileged merchandise subject to duty, or of such merchandise and privileged merchandise entitled to exemption from duty, shall be subject, on entry from a zone into customs territory, to the payment of only the liquidated duties certified in accordance with article 950 (g) (3) (a) to be applicable thereto.

(3) Articles composed in part of privileged merchandise and in part of nonprivileged merchandise shall be subject, on entry from a zone into customs territory, to tariff classification and appraisalment according to their condition and quantity at the time of such entry. For the purpose of assessing duties, however, the article shall be constructively separated into components composed, respectively, of privi-

leged and of nonprivileged merchandise. The privileged component in each case shall be subject to the payment of only the liquidated duties certified in accordance with article 950 (g) (3) (a) to be applicable thereto, and the nonprivileged component shall be subject to duty in accordance with the tariff classification of the complete article as an entirety, the value of such component being determined as in the case of articles composed entirely of nonprivileged merchandise, as set forth in article 950 (h) (1).

(4) Except as otherwise specially provided for in this article, the tariff classification of merchandise arriving in customs territory from a zone shall be determined in accordance with the general customs laws and regulations as if the merchandise to be classified had arrived from a foreign port or place on the date of its arrival from the zone.

(i) *Marking.*—When brought into customs territory from a zone, every foreign article, and its immediate container, and the package in which such article is brought into customs territory shall be marked to indicate the country of origin, in accordance with the provisions of section 304, Tariff Act of 1930, and the regulations promulgated thereunder, provided, that when the individual identity of a foreign article, which itself is incapable of being marked, has been lost by reason of manipulation in a zone, the container and package shall be marked to indicate the country of origin of the components of the manipulated article. Articles may be marked in the zone without incurring the 10 per centum additional (marking) duty provided by section 304 of the tariff act.

(j) *Transfer of merchandise from one zone to another.*—(1) Any merchandise properly in a zone may be transferred to another zone under the procedure prescribed in chapter XVI for merchandise entered for transportation and exportation, except that the entry and manifest on customs Form 7512 shall definitely show that they cover a zone-to-zone transaction, and no export declaration will be required upon delivery of the merchandise into the zone of destination.

(2) When privileged merchandise is transferred from one zone to another, the collector of customs in whose district the first zone is located shall transmit to the collector of customs in whose district the zone of destination is located, a certificate as provided for in article 950 (g) (3) (a) or 950 (g) (4) (b), as the case may be, and the merchandise shall be subject in the zone of destination to the same conditions as to customs supervision and identification as in the first zone.

(3) Privileged merchandise which may be returned from a zone to customs territory and there released without formal entry, in accordance with article 950 (g) (4), may be so released for transfer to another zone, and upon arrival at the zone of destination there entered under the provisions of article 950 (c).

(k) *Disposition of abandoned merchandise.*—Merchandise which has become abandoned to the Government as provided for in article 950 (g) (3) shall be sold at the next regular sale in accordance with the provisions of articles 1012, 1013, 1016 to 1020, inclusive, and 1025, insofar as these may be applied. From the net proceeds of the sale of such merchandise, after the expenses of sale are paid, the duties and taxes shall be paid, and the remainder, if any, shall be delivered to the owners of the property. Should the proceeds of sale be insufficient to pay the duties and taxes, after payment of charges having priority, the balance will be collected upon the bond.

ART. 951. *Customs officers and guards.*—United States Code, title 19, section 81d:

The Secretary of the Treasury shall assign to the zone the necessary customs officers and guards to protect the revenue and to provide for the admission of foreign merchandise into customs territory. (June 18, 1934, c. 590, sec. 4, 48 Stat. 1000.)

ART. 952. *Vessels entering or leaving zone—Coastwise trade.*—(a) United States Code, title 19, section 81e:

Vessels entering or leaving a zone shall be subject to the operation of all the laws of the United States, except as otherwise pro-

vided in this chapter, and vessels leaving a zone and arriving in customs territory of the United States shall be subject to such regulations to protect the revenue as may be prescribed by the Secretary of the Treasury. Nothing in this chapter shall be construed in any manner so as to permit vessels under foreign flags to carry goods or merchandise shipped from one foreign trade zone to another zone or port in the protected coastwise trade of the United States. (June 18, 1934, c. 590, sec. 5, 48 Stat. 1000.)

(b) *Vessels entering and leaving a zone.*—All laws of the United States shall apply to vessels entering and leaving a zone, in the same manner as to vessels entering and leaving a port in customs territory. Customs laws of the United States relating to the unloading of merchandise from vessels shall not apply in the case of merchandise not subject to the provisions of articles 950 (b) (2) or 950 (c) (2) of these regulations.

(c) *Vessels arriving in customs territory from a zone.*—(1) A vessel arriving in customs territory from a zone shall be subject to the laws and regulations of the United States applicable to vessels in the class of trade in which such vessel is engaged.

(2) Merchandise from a zone may be transported by vessel to customs territory only in bond as provided for in chapter XVI, except that domestic merchandise exempt from duty and entry requirements in accordance with article 950 (g) (4) may be laden on a vessel under customs supervision, after proper identification, and may thereafter be transported to customs territory in the same manner and under the same conditions as domestic merchandise transported from one port in customs territory to another such port.

(3) Nothing in these regulations shall be construed in any manner so as to permit vessels under foreign flags to carry merchandise shipped from one zone to another zone or port in the protected coastwise trade of the United States.

ART. 953. *Application for establishment of zone—Expansion of zone.*—United States Code, title 19, section 81f:

(a) Each application shall state in detail—

(1) The location and qualifications of the area in which it is proposed to establish a zone, showing (A) the land and water or land or water area or land area alone if the application is for its establishment in or adjacent to an interior port; (B) the means of segregation from customs territory; (C) the fitness of the area for a zone; and (D) the possibilities of expansion of the zone area;

(2) The facilities and appurtenances which it is proposed to provide and the preliminary plans and estimate of the cost thereof, and the existing facilities and appurtenances which it is proposed to utilize;

(3) The time within which the applicant proposes to commence and complete the construction of the zone and facilities and appurtenances;

(4) The methods proposed to finance the undertaking;

(5) Such other information as the Board may require.

(b) The Board may upon its own initiative or upon request permit the amendment of the application. Any expansion of the area of an established zone shall be made and approved in the same manner as an original application. (June 18, 1934, c. 590, sec. 6, 48 Stat. 1000.)

ART. 954. *Granting of application.*—United States Code, title 19, section 81g:

If the Board finds that the proposed plans and location are suitable for the accomplishment of the purpose of a foreign-trade zone under this chapter, and that the facilities and appurtenances which it is proposed to provide are sufficient it shall make the grant. (June 18, 1934, c. 590, sec. 7, 48 Stat. 1000.)

ART. 955. *Rules and regulations.*—United States Code, title 19, section 81h:

The Board shall prescribe such rules and regulations not inconsistent with the provisions of this chapter, or the rules and regulations of the Secretary of the Treasury made hereunder and as may be necessary to carry out this chapter. (June 18, 1934, c. 590, section 8, 48 Stat. 1000.)

ART. 956. *Cooperation of Board with other agencies.*—United States Code, title 19, section 81i:

The Board shall cooperate with the State, subdivision, and municipality in which the zone is located in the exercise of their police, sanitary, and other powers in and in connection with the free zone. It shall also cooperate with the United States Customs Service, the Post Office Department, the Public Health Service, the Bureau of Immigration, and such other Federal agencies as have jurisdiction in ports of entry described in section 81b of this chapter. (June 18, 1934, c. 590, sec. 9, 48 Stat. 1000.)

ART. 957. *Cooperation of other agencies with Board.*—United States Code, title 19, section 81j:

For the purpose of facilitating the investigations of the Board and its work in the granting of the privilege, in the establishment, operation, and maintenance of a zone, the President may direct the executive departments and other establishments of the Government to cooperate with the Board, and for such purpose each of the several departments and establishments is authorized, upon direction of the President, to furnish to the Board such records, papers, and information in their possession as may be required by him, and temporarily to detail to the service of the Board such officers, experts, or engineers as may be necessary. (June 18, 1934, c. 590, sec. 10, 48 Stat. 1001.)

ART. 958. *Agreements as to use of property.*—United States Code, title 19, section 81k:

If the title to or right of user of any of the property to be included in a zone is in the United States, an agreement to use such property for zone purposes may be entered into between the grantee and the department or officer of the United States having control of the same, under such conditions, approved by the Board and such department or officer, as may be agreed upon. (June 18, 1934, c. 590, sec. 11, 48 Stat. 1001.)

ART. 959. *Facilities to be provided and maintained.*—United States Code, title 19, section 81l:

Each grantee shall provide and maintain in connection with the zone—

(a) Adequate slips, docks, wharves, warehouses, loading and unloading and mooring facilities where the zone is adjacent to water; or, in the case of an inland zone, adequate loading, unloading, and warehouse facilities;

(b) Adequate transportation connections with the surrounding territory and with all parts of the United States, so arranged as to permit of proper guarding and inspection for the protection of the revenue;

(c) Adequate facilities for coal or other fuel and for light and power;

(d) Adequate water and sewer mains;

(e) Adequate quarters and facilities for the officers and employees of the United States, State, and municipality whose duties may require their presence within the zone;

(f) Adequate enclosures to segregate the zone from customs territory for protection of the revenue, together with suitable provisions for ingress and egress of persons, conveyances, vessels, and merchandise;

(g) Such other facilities as may be required by the Board. (June 18, 1934, c. 590, sec. 12, 48 Stat. 1001.)

ART. 960. *Permission to others to use zone.*—United States Code, title 19, section 81m:

The grantee may, with the approval of the Board, and under reasonable and uniform regulations for like conditions and circumstances to be prescribed by it, permit other persons, firms, corporations, or associations to erect such buildings and other structures within the zone as will meet their particular requirements: *Provided*, That such permission shall not constitute a vested right as against the United States, nor interfere with the regulation of the grantee or the permittee by the United States, nor interfere with or complicate the revocation of the grant by the United States: *And provided further*, That in the event of the United States or the grantee desiring to acquire the property of the permittee no good will shall be considered as accruing from the privilege granted to the zone: *And provided further*, That such permits shall not be granted on terms that conflict with the public use of the zone as set forth in this chapter. (June 18, 1934, c. 590, sec. 13, 48 Stat. 1001.)

ART. 961. *Operation of zone as public utility—Cost of customs service.*—(a) United States Code, title 19, section 81n:

Each zone shall be operated as a public utility, and all rates and charges for all services or privileges within the zone shall be fair and reasonable, and the grantee shall afford to all who may apply for the use of the zone and its facilities and appurtenances uniform treatment under like conditions, subject to such treaties or commercial convention as are now in force or may hereafter be made from time to time by the United States with foreign governments, and the cost of maintaining the additional customs service required under this chapter shall be paid by the operator of the zone. (June 18, 1934, c. 590, sec. 14, 48 Stat. 1001.)

(b) *Reimbursement of customs expenses.*—(1) The Commissioner of Customs shall assign to each zone the necessary customs officers and guards to protect the revenue and to provide for the transfer of merchandise into customs territory.

(2) All necessary cost of merchandising the additional customs service required under the act and these regulations shall be reimbursed to the Government by the operator of the zone, payment to be made monthly to the collector of customs

for deposit to the credit of the Treasurer of the United States as a refund to the appropriation "Collecting the revenue from customs."

ART. 962. Residents—Rules as to entering and leaving—Exclusion of goods—Retail trade.—United States Code, title 19, section 810:

(a) No person shall be allowed to reside within the zone except Federal, State, or municipal officers or agents whose residence is deemed necessary by the Board.

(b) The Board shall prescribe rules and regulations regarding employees and other persons entering and leaving the zone. All rules and regulations concerning the protection of the revenue shall be approved by the Secretary of the Treasury.

(c) The Board may at any time order the exclusion from the zone of any goods or process of treatment that in its judgment is detrimental to the public interest, health, or safety.

(d) No retail trade shall be conducted within the zone except under permits issued by the grantee and approved by the Board. Such permits shall sell no goods except such domestic or duty-paid for duty-free goods as are brought into the zone from customs territory. (June 18, 1934, c. 590, sec. 15, 48 Stat. 1002.)

ART. 963. Accounts—Reports of grantee—Reports of Board.—United States Code, title 19, section 81p:

(a) The form and manner of keeping the accounts of each zone shall be prescribed by the Board.

(b) Each grantee shall make to the Board annually, and at such other times as it may prescribe, reports containing a full statement of all the operations, receipts, and expenditures, and such other information as the Board may require.

(c) The Board shall make a report to Congress on the first day of each regular session, containing a summary of the operation and fiscal condition of each zone and transmit therewith copies of the annual report of each grantee. (June 18, 1934, c. 590, sec. 16, 48 Stat. 1002.)

ART. 964.—Transfer of grant.—United States Code, title 19, section 81q:

The grant shall not be sold, conveyed, transferred, set over, or assigned. (June 18, 1934, c. 590, sec. 17, 48 Stat. 1002.)

ART. 965. Revocation of grant—Grounds—Proceedings—Appeal to circuit court of appeals.—United States Code, title 19, section 81r:

(a) In the event of repeated willful violations of any of the provisions of this chapter by the grantee, the Board may revoke the grant after 4 months' notice to the grantee and affording it an opportunity to be heard. The testimony taken before the Board shall be reduced to writing and filed in the records of the Board, together with the decision reached thereon.

(b) In the conduct of any proceeding under this section for the revocation of a grant the Board may compel the attendance of witnesses and the giving of testimony and the production of documentary evidence, and for such purpose may invoke the aid of the district courts of the United States.

(c) An order under the provisions of this section revoking the grant issued by the Board shall be final and conclusive, unless within 90 days after its service the grantee appeals to the circuit court of appeals for the circuit in which the zone is located by filing with the clerk of said court a written petition praying that the order of the Board be set aside. Such order shall be stayed pending the disposition of appellate proceedings by the court. The clerk of the court in which such a petition is filed shall immediately cause a copy thereof to be delivered to the Board, and it shall forthwith prepare, certify, and file in the court a full and accurate transcript of the record in the proceedings held before it under this section, the charges, the evidence, and the order revoking the grant. The testimony and evidence taken or submitted before the Board, duly certified and filed as a part of the record, shall be considered by the court as the evidence in the case. (June 18, 1934, c. 590, sec. 18, 48 Stat. 1002.)

ART. 966. Penalty for violations.—United States Code, title 19, section 81s:

In case of a violation of this chapter, or any regulation under this chapter, by the grantee, any officer, agent, or employee thereof responsible for or permitting any such violations shall be subject to a fine of not more than \$1,000. Each day during which a violation continues shall constitute a separate offense. (June 18, 1934, c. 590, sec. 19, 48 Stat. 1003.)

ART. 967. Separability of provisions.—United States Code, title 19, section 81t:

If any provision of this chapter, or the application of such provision to certain circumstances be held invalid, the remainder of the chapter and the application of such provisions to circumstances other than those as to which it is held invalid shall not be affected thereby. (June 18, 1934, c. 590, sec. 20, 48 Stat. 1003.)

ART. 968. Right to alter, amend, or repeal chapter.—United States Code, title 19, section 81u:

The right to alter, amend, or repeal this chapter is hereby reserved. (June 18, 1934, c. 590, sec. 21, 48 Stat. 1003.)

MANUFACTURING WAREHOUSES

ART. 969. Manufacturing in bond authorized.—(a) **Tariff Act of 1930, section 311:**

All articles manufactured in whole or in part of imported materials, or of materials subject to internal-revenue tax, and intended for exportation without being charged with duty, and without having an internal-revenue stamp affixed thereto, shall, under such regulations as the Secretary of the Treasury may prescribe, in order to be so manufactured and exported, be made and manufactured in bonded warehouses similar to those known and designated in Treasury Regulations as bonded warehouses, class 6: *Provided*, That the manufacturer of such articles shall first give satisfactory bonds for the faithful observance of all the provisions of law and of such regulations as shall be prescribed by the Secretary of the Treasury: *Provided further*, That the manufacture of distilled spirits from grain, starch, molasses, or sugar, including all dilutions or mixtures of them or either of them, shall not be permitted in such manufacturing warehouses.

Whenever goods manufactured in any bonded warehouse established under the provisions of the preceding paragraph shall be exported directly therefrom or shall be duly laden for transportation and immediate exportation under the supervision of the proper officer who shall be duly designated for that purpose, such goods shall be exempt from duty and from the requirements relating to revenue stamps.

The provisions of section 3433 of the Revised Statutes shall, so far as may be practicable, apply to any bonded manufacturing warehouse established under this act and to the merchandise conveyed therein.

(b) Section 404, title IV, Liquor Tax Administration Act, approved June 26, 1936, amends section 311, Tariff Act of 1930, by adding the following:

Distilled spirits and wines which are rectified in bonded manufacturing warehouses, class 6, and distilled spirits which are reduced in proof and bottled in such warehouses, shall be deemed to have been manufactured within the meaning of this section, and may be withdrawn as hereinbefore provided, and likewise for shipment in bond to Puerto Rico, subject to the provisions of this section, and under such regulations as the Secretary of the Treasury may prescribe, there to be withdrawn for consumption or be rewarehoused and subsequently withdrawn for consumption: *Provided*, That upon withdrawal in Puerto Rico for consumption, the duties imposed by the customs laws of the United States shall be collected on all imported merchandise (in its condition as imported) and imported containers used in the manufacture and putting up of such spirits and wines in such warehouses: *Provided further*, That no internal-revenue tax shall be imposed on distilled spirits and wines rectified in class 6 warehouses if such distilled spirits and wines are exported or shipped in accordance with the provisions of this section * * *.

(c) When such spirits and wines are withdrawn for shipment to Puerto Rico, the procedure outlined in article 259 (d) and (e) shall be followed.

ART. 970. Character of warehouse—Use.—(a) Buildings or parts of buildings and other inclosures may be designated as bonded manufacturing warehouses, provided the Commissioner of Customs is satisfied that the location, construction, and arrangement thereof are such as to afford adequate protection to the revenue. Such warehouses should be used solely and exclusively for the purpose for which they are bonded.

(b) The general provisions pertaining to warehouses for the storage of bonded merchandise shall, so far as relevant, apply to bonded manufacturing warehouses.

ART. 971. Establishment and control.—Application for the establishment of such a warehouse shall be made to the collector of customs at the port where situated, setting forth the size, construction, and location of the premises, and the manufacture proposed to be carried on, and the kinds of materials intended to be stored and used therein.

ART. 972. Bond.—Similar proceedings shall be had as required for bonding a warehouse of class 2, except that the bond must be executed in triplicate when materials subject to internal-revenue tax are to be used, in which case one copy of the bond shall be sent to the collector of internal revenue of the district, who, after approving the same, will

return it to the collector of customs, to be transmitted by him to the Commissioner of Customs for his approval. When approved, one copy will be retained in the Bureau and two sent to the collector of customs, who will deliver one to the collector of internal revenue.

ART. 973. *Formulas.*—(a) Tariff Act of 1930, section 311.

Before commencing business the proprietor of any manufacturing warehouse shall file with the Secretary of the Treasury [Commissioner of Customs] a list of all the articles intended to be manufactured in such warehouse, and state the formula of manufacture and the names and quantities of the ingredients to be used therein.

(b) Such list shall be filed in duplicate with the collector of customs, who shall transmit one copy to the Bureau, and such list shall set forth all the articles intended to be manufactured in such warehouse, giving the specific names under which the articles are to be exported and under which they will be known to the trade, and stating the names of all the ingredients entering into the manufacture of such articles, with the quantities of such ingredients or materials as may be dutiable or taxable.

(c) Proprietors of such warehouses are required to conform strictly to the formulas filed with the bond, and in no instance shall an article be permitted to be manufactured in or withdrawn from the warehouse which does not contain all the ingredients and in the quantities specified in the formula for the manufacture of such article, or which contains any other article than those specified in the formula.

(d) Manufactured articles shall be marked with the trade name of the goods, and may be marked, in addition, with the formulas and with such insignia or name as may be indicated or desired by the purchaser, provided such additional marking shall in no manner conflict with the requirements of the formula or afford opportunity to mislead purchasers.

ART. 974. *Storage of dutiable or taxable goods.*—All bonded manufacturing warehouses shall have a portion thereof separated from the remainder of the premises and secured by customs locks, to be used exclusively for the storage and keeping of all imported merchandise and of domestic spirits, or other materials subject to internal-revenue tax, transferred into such warehouse for manufacture. A like compartment will be provided, which shall be used exclusively for the storage and keeping of merchandise or articles manufactured.

ART. 975. *Access—Samples.*—The premises shall be so secured as to prevent any person from having access thereto in the absence of the storekeeper in charge, and the goods stored therein shall be so arranged as to give all practicable convenience to such officer making the required examination or taking samples for analysis.

ART. 976. *Conveyance and transfer of materials.*—Tariff Act of 1930, section 311:

Any materials used in the manufacture of such goods, and any packages, coverings, vessels, brands, and labels used in putting up the same may, under the regulations of the Secretary of the Treasury, be conveyed without the payment of revenue tax or duty into any bonded manufacturing warehouse, and imported goods may, under the aforesaid regulations, be transferred without the exaction of duty from any bonded warehouse into any bonded manufacturing warehouse; but this privilege shall not be held to apply to implements, machinery, or apparatus to be used in the construction or repair of any bonded manufacturing warehouse or for the prosecution of the business carried on therein.

A careful account shall be kept by the collector of all merchandise delivered by him to any bonded manufacturing warehouse, and a sworn monthly return, verified by the customs officers in charge, shall be made by the manufacturer containing a detailed statement of all imported merchandise used by him in the manufacture of exported articles.

ART. 977. *Entry—Permit—Bond.*—(a) Imported merchandise to be used in a bonded manufacturing warehouse must be entered at the port at which such warehouse is located, on

customs Form 7521. If the merchandise is not to be taken immediately to the manufacturing warehouse, a warehouse or rewarehouse entry, as the case may be, shall be made, and customs Form 7521 used as a combined withdrawal and entry for manufacturing warehouse. If it has been imported or entered for warehouse at another port, it may be forwarded to the port at which the manufacturing warehouse is located under an immediate transportation without appraisement entry, or warehouse withdrawal for transportation, whichever is applicable.

(b) Customs Form 7521 shall be prepared in quintuple and disposed of as follows:

One copy shall be used as an entry or combined withdrawal and entry;

One copy shall be sent to the Comptroller;

One copy shall be used as a permit;

One copy shall be used as a transfer order and sent to the storekeeper as a permit to receive; and

One copy shall be used for statistical purposes.

(c) Before the transfer of the merchandise to the manufacturing warehouse is permitted, a bond on customs Form 7571, in an amount equal to double the estimated duties, shall be required unless a general bond on customs Form 3583 has been given.

ART. 978. *Free materials—Application to receive.*—When the proprietor of any bonded manufacturing warehouse desires to receive therein any domestic merchandise, except that subject to internal-revenue tax, to be used in the manufacture of articles permitted to be manufactured in such warehouse, including packages, coverings, vessels, brands, and labels used in putting up such articles, an application shall be executed in the following form, one copy to be filed with the collector and the other with the storekeeper in charge of the warehouse:

Application to Receive Free Materials

PORT OF -----

To the Collector of Customs:

Application is hereby made to receive into the bonded manufacturing warehouse known as -----, situated at -----, the following-described articles and materials, viz:

Marks	Nos.	Description	Quantity	Value
-----	-----	-----	-----	-----
-----	-----	-----	-----	-----
-----	-----	-----	-----	-----

CUSTOMHOUSE,

PORT OF -----

To the storekeeper in charge of bonded manufacturing warehouse known as -----, situated at -----:

The above-described articles and materials are hereby permitted to be received into the warehouse in your charge, to be used therein for the preparation and putting up and export of manufactured articles as provided by law.

Collector.

ART. 979. *Transfer of domestic spirits and wines.*—For the transfer of domestic spirits from an internal-revenue bonded warehouse to a bonded manufacturing warehouse, see Internal Revenue Regulation 29, revised August 18, 1914, and paragraph 92 of Bureau of Industrial Alcohol Gauging Manual. For the transfer of domestic wines from internal-revenue bonded winery or bonded wine storeroom to a bonded manufacturing warehouse, see Treasury Decision, Bureau of Internal Revenue Number 4713. When such transfers are made, a bond on customs Form 7571 will be required unless the warehouse is covered by a bond on customs Form 3583.

ART. 980. *Withdrawal for exportation of articles manufactured in bond.*—(a) Tariff Act of 1930, section 311:

Articles or materials received into such bonded manufacturing warehouse or articles manufactured therefrom may be withdrawn or removed therefrom for direct shipment and exportation or for transportation and immediate exportation in bond to foreign countries or to the Philippine Islands under the supervision of the officer duly designated therefor by the collector of the port.

who shall certify to such shipment and exportation, or lading for transportation, as the case may be, describing the articles by their mark or otherwise, the quantity, the date of exportation, and the name of the vessel: *Provided*, That the byproducts incident to the processes of manufacture, including waste derived from cleaning rice in bonded warehouses under the act of March 24, 1874, in said bonded warehouses may be withdrawn for domestic consumption on the payment of duty equal to the duty which would be assessed and collected by law if such waste or byproducts were imported from a foreign country: *Provided*, That all waste material may be destroyed under Government supervision. All labor performed and services rendered under these provisions shall be under the supervision of a duly designated officer of the customs and at the expense of the manufacturer. * * *

No flour, manufactured in a bonded manufacturing warehouse from wheat imported after ninety days after the date of the enactment of this act, shall be withdrawn from such warehouse for exportation without payment of a duty on such imported wheat equal to any reduction in duty which by treaty will apply in respect of such flour in the country to which it is to be exported. * * *

(b) Except cigars manufactured in bond, and supplies for vessels, no articles or materials received into a bonded manufacturing warehouse or articles manufactured therefrom, shall be withdrawn or removed therefrom, except for direct shipment and exportation or for transportation and immediate exportation in bond to foreign countries, or to the Philippine Islands, under the supervision of a customs officer.

(c) The coverings of imported articles or materials, if not subject to duty or internal-revenue tax apart from the articles or materials which they contain, are not "articles or materials" within the meaning of section 311, and need not be exported, but may be removed from the warehouse under customs supervision.

(d) Coverings, packages, and vessels imported empty to be used in putting up the manufactured articles and brands and labels imported for that purpose, if subject to duty or internal-revenue tax, constitute "articles or materials" within the meaning of section 311 and, unless duty paid or tax paid, as the case may be, at the time of entry, must be exported.

ART. 981. *Withdrawal of waste or byproducts for consumption*.—When waste or byproducts are withdrawn for consumption, customs Form 7505 shall be used, modified as necessary, and describing in detail the byproduct and the imported material from which produced. Such waste or byproduct shall be appraised at its wholesale value at the time of withdrawal in the principal markets of the country from which the material was imported, determined in accordance with the provisions of section 402 of the Tariff Act of 1930. Upon payment of the duty the withdrawal permit will be issued for delivery and a proper credit given upon the manufacturer's bond.

ART. 982. *Export procedure*.—(a) The general procedure covering warehouse withdrawals for exportation shall be followed in the case of articles withdrawn for exportation from a bonded manufacturing warehouse, except that in the case of flour each copy of customs Form 7512 shall bear the following legend:

"Produced from wheat imported after September 15, 1930, without payment of duty thereon. Must not be exported to Cuba without permission from the collector at the port of withdrawal."

(b) Tariff Act of 1930, section 311:

Articles manufactured under these provisions may be withdrawn under such regulations as the Secretary of the Treasury may prescribe for transportation and delivery into any bonded warehouse at an exterior port for the sole purpose of immediate export therefrom:

(c) In such cases an extra copy of customs Form 7512 shall be prepared for the use of the storekeeper at the bonded warehouse at which the merchandise is to be stored awaiting exportation, and all copies of the form used shall have written or stamped across the face thereof the words "for immediate export only."

(d) When the merchandise is withdrawn by a party other than the manufacturer, either at the manufacturing ware-

house or at an exterior port where the same is stored awaiting exportation, the authority of the manufacturer must be indorsed on the face of the withdrawal, together with the consent of the surety on the bond.

ART. 983. *Shortages*.—Shortage, irregular delivery, and nondelivery while under transportation in bond of merchandise withdrawn from bonded manufacturing warehouse will be a charge against the bonded carrier.

ART. 984. *Proofs of manufacture and exportation*.—(a) The manufacturer shall file in the case of each transaction or period of manufacture a statement under oath, verified by the storekeeper in charge of the warehouse, showing the date and number of the bond, the quantity and identity of the dutiable merchandise, or merchandise subject to internal-revenue tax, used, and the quantity and description of the articles into which manufactured, together with the quantities of byproducts and waste incurred, if any. In the case of articles manufactured with the use of distilled spirits, the statement shall also be verified by the foreman or chemist of the factory and shall show the number of packages of spirits used, the marks and numbers, the number of wine, proof, and taxable gallons, and the degree of proof thereof.

(b) The same proofs of exportation shall be required as in the case of other warehouse withdrawals for exportation.

(c) Upon the filing of such proofs, the bond given by the manufacturer, or the charges against his general bond, may be canceled.

CIGAR-MANUFACTURING WAREHOUSES

ART. 985. *Manufacture and withdrawal*.—(a) Tariff Act of 1930, section 311:

* * * Cigars manufactured in whole of tobacco imported from any one country, made and manufactured in such bonded manufacturing warehouses, may be withdrawn for home consumption upon the payment of the duties on such tobacco in its condition as imported under such regulations as the Secretary of the Treasury may prescribe, and the payment of the internal-revenue tax accruing on such cigars in their condition as withdrawn, and the boxes or packages containing such cigars shall be stamped to indicate their character, origin of tobacco from which made, and place of manufacture. * * *

(b) Tobacco to be so used must be entered for warehouse, but may be transferred direct from the importing vessel or from bonded warehouse of class 2 or 3 into bonded manufacturing warehouses of class 6 and stored in separate compartments therein under customs locks pending its withdrawal for use in the manufacture of cigars. Before any such tobacco may be transferred to the manufacturing department on such premises for use in the manufacture of cigars it must be withdrawn in original packages and duty paid thereon in the same manner and under the same regulations as govern withdrawal of merchandise for consumption from warehouses of class 3.

(c) Cigars so manufactured for home consumption may be removed therefrom only after internal-revenue stamps and the caution notice and customs stamps shall have been affixed to each box containing such cigars.

(d) A record of all tobacco received in bonded manufacturing warehouses and delivered from compartments to the manufacturing department will be kept on customs Form 3595.

(e) Cigars may also be exported from bonded manufacturing warehouses without payment of duty or internal-revenue tax under the laws and regulations governing the withdrawal of merchandise from warehouses of class 6.

ART. 986. *Customs cigar stamps*.—(a) Before removal of the cigars from the bonded premises there must be affixed to each box thereof the stamp provided by the Government indicating their character according to the method of manufacture, origin of tobacco, place of manufacture, and that they were manufactured in bond. These stamps will be sold to manufacturers by collectors of customs at the rate of \$1 per thousand, and the proceeds deposited to the credit of the Treasurer of the United States and accounted for as miscellaneous receipts on account of "Sale of cigar stamps."

(b) A record of stamps and shipments will be kept on customs Form 3593.

ART. 987. Cancellation of customs and internal-revenue stamps.—Before removal of the cigars from the bonded premises both the customs and internal-revenue stamps must be canceled in a legible manner by means of a rubber stamp or by perforation, showing the name of the manufacturer, the place where the factory is located, and the date of cancellation.

ART. 988. Caution notice.—Each box of such cigars before removal must have affixed thereto, either by branding or by use of a paper label, a caution notice in the following form:

Made in No. ———, customs bonded manufacturing warehouse, class 6.

NOTICE.—The manufacturer of the cigars herein contained has complied with all the requirements of law. Every person is cautioned not to use either this box for cigars again or the stamp thereon again, nor to remove the contents of this box without destroying said stamp, under the penalties provided by law in such cases.

ART. 989. Transfer of scraps, cuttings, and clippings of tobacco.—(a) Proprietors of premises bonded for the manufacture of cigars may remove therefrom scraps, cuttings, and clippings of tobacco produced in the premises for transfer to cigar or tobacco manufacturers operating under the internal-revenue laws. Such proprietors will be required to keep a record of each transfer of scraps, cuttings, and clippings, and application for permission for such transfer shall be in the following form:

Application and Permit for Transfer of Scraps, Cuttings, and Clippings

PORT OF ———,
————, 19——

The COLLECTOR OF CUSTOMS,

SIR: Application is hereby made to transfer ——— pounds of scraps, cuttings, and clippings of tobacco upon which duty has been paid from our bonded manufacturing warehouse, class 6, to ———, factory No. ———, district ———, State of ———.

Proprietor of Bonded Manufacturing Warehouse, Class 6

PORT OF ———,
————, 19——

The above application is hereby granted. The storekeeper will deliver material stated and make his return below.

Collector.

(b) The application having been approved, the United States storekeeper located at the bonded cigar manufacturing warehouse will certify to the quantity of such scraps, cuttings, or clippings of tobacco delivered by him for transfer to the factory designated in the application on the following form:

PORT OF ———,
————, 19——

I hereby certify that ——— pounds of scraps, cuttings, and clippings of tobacco, upon which duty has been paid, have been delivered by me from the bonded manufacturing warehouse, class 6, of ———, for transfer to ———.

United States Storekeeper.

(c) The collector of customs will thereupon notify the collector of internal revenue of the district in which the factory is located on the following form that permission for such transfer has been granted:

DISTRICT OF ———,
PORT OF ———,
————, 19——

To the Collector of Internal Revenue.

SIR: Permission has been granted the ———, bonded manufacturing warehouse of class 6, located at ———, to transfer ——— pounds of scraps, cuttings, and clippings of tobacco to factory No. ———, district of ———, owned by ———.

Collector of Customs.

SMELTING AND REFINING WAREHOUSES

ART. 990. Smelting and refining in bond authorized.—Tariff Act of 1930, section 312:

* * * Ores or crude metals may be removed from the vessel or other vehicle in which imported, or from a bonded warehouse, into a bonded smelting warehouse without the payment of duties

thereon, and there smelted or refined, or both together with ores or crude metals of home or foreign production: *Provided*, That the bonds shall be charged with a sum equal in amount to the regular duties which would have been payable on such ores and crude metals if entered for consumption at the time of their importation, and the several charges against such bonds shall be canceled upon the exportation or delivery to a bonded manufacturing warehouse established under the preceding section of this title of a quantity of the same kind of metal equal to the quantity of metal producible from the smelting or refining, or both, of the dutiable metal contained in such ores or crude metals, due allowance being made of the smelter wastage as ascertained from time to time by the Secretary of the Treasury: *Provided further*, That the said metal so producible, or any portion thereof, may be withdrawn for domestic consumption or transferred to a bonded customs warehouse and withdrawn therefrom and the several charges against the bonds canceled upon the payment of the duties chargeable against an equivalent amount of ores or crude metals from which said metal would be producible in their condition as imported: *Provided further*, That on the arrival of the ores and crude metals at such establishments they shall be sampled and assayed according to commercial methods under the supervision of Government officers: *Provided further*, That all labor performed and services rendered pursuant to this section shall be under the supervision of an officer of the customs, to be appointed by the Secretary of the Treasury and at the expense of the manufacturer: *Provided further*, That all regulations for the carrying out of this section shall be prescribed by the Secretary of the Treasury: * * *

ART. 991. Application to establish smelting or refining warehouse—Bond.—(a) Application for the establishment of works of manufacturers engaged in the smelting or refining, or both, of ores and crude metals in bond to be known as a warehouse of class 7, must be made by the manufacturer, through the collector of the district in which such works are situated, giving the location of the premises and setting forth the work proposed to be carried on therein.

(b) The same procedure will be followed as that required for bonding a warehouse of class 2 and the bond will be on customs Form 3583.

(c) Manufacturers may give a general bond covering such of their plants as are designated bonded smelting or bonded smelting and refining warehouses, which bond shall also be conditioned for the performance of all the requirements of law or regulations governing such smelting or refining in bond except that for the production of bills of lading, and shall be in lieu of a separate bond for each plant. Said bond shall remain on file in the Bureau and a copy thereof shall be forwarded to the collector of customs of each district in which the manufacturer seeks to conduct business. The penalty of all such bonds will be fixed by the Commissioner of Customs.

ART. 992. Renewal of bond.—The manufacturer shall on 10 days' notice from the collector be required to renew his bond, and if he fails to do so no further permits shall be granted for removal from or transfer to such warehouse of ores or crude metals. At the request of the proprietor the warehouse may be discontinued at any time in the discretion of the Commissioner of Customs.

ART. 993. Discontinuance.—The manufacturer may relinquish the business at any time on application to the collector and approval by the Commissioner of Customs on compliance with directions of the collector in respect to such articles and merchandise as may be found remaining in the warehouse.

ART. 994. Additions to or deductions from bonded premises.—The manufacturer may also upon application to the Commissioner of Customs through the collector of the district in which the plant is located, be permitted to add to or take from the list of bonded premises covered by the general bond.

ART. 995. Entry procedure.—(a) Upon the importation of ores or crude metals in any form at any seaboard or frontier port of the United States intended for a bonded smelting or refining warehouse situated at some other port of entry, they may be forwarded under an immediate transportation without appraisement entry.

(b) Upon the arrival of imported ores or crude metals in any form for the purpose of being smelted or refined, or both, at a port where a bonded smelting or refining ware-

house is established, they shall be entered for warehouse. The entry having been executed and the bond on customs Form 7555 or copy of the general bond filed, the collector will issue a permit to the inspector to send such ores or metals from the importing vessel or vehicle by designated bonded vessels or vehicles to the smelting and refining warehouse named in the entry. If the ores or metals are transported by conveyance not owned or controlled by the manufacturer, any loss therefrom will be chargeable against the carrier's bond. If these vessels or vehicles are owned by the manufacturer, any loss therefrom will be chargeable against his general bond, provided the warehouse is operating under such a bond.

(c) As all of the essential conditions of the warehouse-entry bond, customs Form 7555, so far as they relate to the smelting and refining of ores, appear in the proprietor's manufacturing-warehouse bond, customs Form 3583, if ore is imported and warehoused by the proprietor of the smelting and refining warehouse, the importation can be charged against the warehouse bond without taking a separate warehouse-entry bond for each importation. However, if ore is warehoused in a bonded smelting or refining warehouse not owned or controlled by the importer of the ore, each importation entered for warehouse must be supported by a separate warehouse-entry bond on customs Form 7555, unless the importer has filed a general bond as authorized in T. D. 40651.

(d) A statistical copy of the entry should be forwarded to the Section of Customs Statistics, New York, N. Y., as provided in T. D. 39828.

ART. 996. *Bonded ores or metals to be kept separate from nonbonded—Sampling and assaying of ores.*—(a) Bonded ores or metals shall, until after they have been sampled and weighed, be kept separate and distinct from nonbonded material.

(b) Upon receipt of ores or similar merchandise in the bonded warehouse the storekeeper or officer assigned to that duty shall immediately, after weighing, obtain proper and adequate samples from those taken for commercial purposes, and in accordance with the commercial method of the plant. The samples so obtained shall be forwarded to the Government chemist for commercial assay which shall be the wet assay with a deduction of $1\frac{1}{2}$ units for lead only. This deduction of $1\frac{1}{2}$ units should appear on the Government assay certificate.

ART. 997. *Allowance for moisture.*—Allowance shall be made for moisture in the imported ores or crude metals in any form and such allowance shall be determined by the storekeeper or Government chemist when present at the plant. The moisture sample of the ore, which should be representative, that is, taken from different parts of an importation, shall be weighed in the condition as imported immediately after the importation itself has been weighed. The sample shall then be thoroughly dried out by heat in accordance with the commercial method at the plant and reweighed. The difference between the two weights shall be the percentage of moisture allowed on importation.

ART. 998. *Sampling and assaying of crude metals.*—(a) In the case of crude metals in any form, the sampling and assaying shall be done under Government supervision and in accordance with the commercial practice in effect at the plant.

(b) If the importations at any smelting or refining warehouse are sufficient to justify it, and the manufacturers make application therefor, a Government chemist will be stationed at such warehouse at the expense of the manufacturer.

SMELTING AND REFINING

ART. 999. *Allowance for wastage—Withdrawal for consumption.*—(a) The allowance to be made for wastage in smelting and refining, or both, of imported ores and crude metals in any form will be ascertained and fixed by the Commissioner of Customs for each smelting warehouse, and for each refining warehouse, and for each combined smelting

and refining warehouse. The full dutiable contents of such ores or crude metals, as ascertained by commercial assay made by the Government chemist, less the wastage allowance (including dutiable metals entirely lost in smelting or refining, or both), shall constitute the quantity of metal producible from such ores or crude metals, and the quantity which must be either exported, transferred to a bonded manufacturing warehouse or to a bonded customs warehouse, in order to secure the cancellation of the charge made against the bond, as shown by the warehouse or rewarehouse ledger entry. Upon the withdrawal for consumption of metal so smelted or refined, or both, duty shall be collected thereon without the allowance for wastage, except that provided for lead in cooper, gold, or silver ores and copper mattes, and for zinc in lead and copper ores, entirely lost in smelting or refining, or both.

(b) From time to time, at the direction of the chief officer of customs, a proper assay shall be made of the metal producible from the imported ores or crude metals, from a sample taken under Government supervision in accordance with the commercial practice in effect at the plant.

ART. 1000. *Manufacturers' statements.*—(a) Manufacturers engaged in smelting or refining, or both, shall immediately notify the collector of the district in which located of any material change in the character of the ores or crude metals, smelted or refined, or both, and of any change in the methods of smelting or refining, or both; and shall file with the collector an annual statement, in duplicate, not later than 60 days after the termination of the manufacturers' fiscal year. Such annual statement shall show, among other things, the quantities of ore and crude metal on hand at the beginning of the period covered by the statement, and the dutiable contents thereof; quantities of ore and crude metal received during that period, and the dutiable contents thereof; total ore and crude metal to be accounted for, and the dutiable contents thereof; quantities of ore and crude metal on hand at the end of the period, and the dutiable contents thereof; quantities of ore and crude metal worked during the period, and the dutiable contents thereof; intermediary products on hand at the beginning and end of the period, and the dutiable contents thereof; net gain or loss in intermediary products as a result at the end of the period, and the dutiable contents thereof; net quantities of ore and crude metal worked during the period, and the dutiable contents thereof to be accounted for in metals or wastage; quantities and kinds of metal produced in the plant on hand at the end of the period, and the dutiable contents thereof; total quantities of metal produced during the period, the dutiable contents thereof, and the wastage. By "dutiable contents" is meant the quantity of each kind of metal contained in the material. If there is a gain in the intermediary products, the amount should be subtracted from the total ore and crude metal. If there is a loss, the amount should be added to the total ore and crude metal.

(b) The original copy of the annual statement should be forwarded promptly to the Commissioner of Customs, for the establishment of the wastage allowance.

(c) Complete smelting and refining records shall be kept from which said annual statement shall be prepared.

ART. 1001. *Withdrawal for exportation.*—The general procedure governing warehouse withdrawals for exportation shall be followed in the case of the withdrawal for exportation of metal from a bonded smelting or refining warehouse. The collector shall credit the warehouse ledger account with the quantity of metal to be exported, plus the wastage established for the particular plant from which withdrawal is made, together with other dutiable metal entirely lost in smelting or refining, or both.

ART. 1002. *Withdrawal for transfer to bonded customs warehouse or bonded manufacturing warehouse.*—(a) Such transfers shall be at the risk and expense of the applicant, and the general regulations governing the transfer of bonded merchandise from one warehouse to another, or the transfer of imported materials from a bonded customs warehouse

to a bonded manufacturing warehouse shall be followed so far as applicable.

(b) On the transfer of the metal to a bonded customs warehouse the duties shall be carried forward at the full amount charged on the imported ores or crude metals; that is, on a quantity of metal of the same kind as imported, equal to the quantity of metal transferred, plus the wastage, together with any other dutiable metal charged on entry, but on the transfer of the metal to a bonded manufacturing warehouse, the duties shall be carried forward in the bonded manufacturing warehouse account computed only on a quantity of metal of the same kind as imported, equal to the quantity of metal transferred.

(c) In the case of transportation to another port, the transportation entry shall show the quantity of metal withdrawn, the wastage applicable thereto, the like dutiable contents of the imported material from which such metal was produced together with any dutiable metal charged on entry, and the credit on the warehouse ledger shall be made accordingly.

ART. 1003. *Smelting and refining in separate establishments.*—(a) In case the operation of smelting and refining is not carried on in the same establishment, the smelted and unrefined products obtained from the smelting of imported materials in a bonded smelting warehouse may be removed therefrom for shipment to a bonded refining warehouse located either at the same or at another port under the general procedure for transfer from one bonded warehouse to another.

(b) Where the transfer is to a bonded refining warehouse located at another port, the smelted and unrefined products or bullion obtained from the smelting of the imported material shall, before withdrawal, be weighed, sampled, and assayed, the sampling to be performed under Government supervision in accordance with the commercial practice in effect at the plant.

(c) The withdrawal entry for transportation shall show the gross weight of the smelted and unrefined products withdrawn, and the dutiable metal contained therein, plus the wastage, that is, the weight of the dutiable metal contained in the smelted and unrefined products, plus the wastage applicable thereto, including the duties properly chargeable thereon as shown by the import entry, except those for which credit has been given on the warehouse ledger account for zinc contained in lead or copper ores and lead contained in copper, gold, or silver ores or copper mattes lost in smelting.

(d) The rewarehouse entry covering the smelted and unrefined products at the bonded refining warehouse to which the same is transferred shall be made out in accordance with the withdrawal entry for transportation, both as to the respective weights and duty.

(e) Upon withdrawal for export of the metal from the bonded refining warehouse, the warehouse account of said refining warehouse shall be credited with the amount of metal so withdrawn, plus the refining wastage prescribed for said refining warehouse, plus the smelting wastage prescribed for the bonded smelting warehouse in which the smelted and unrefined products were produced, together with any dutiable metals entirely lost in the smelting or refining, or both. However, when the metal is withdrawn for consumption duty shall be collected on an equivalent amount of ores or crude metals from which said metal would be producible, in their condition as imported, no allowance for either smelting or refining wastage being permitted, except that for zinc in lead or copper ores, and lead in copper, gold, or silver ores or copper mattes lost in smelting or refining, or both.

ART. 1004. *Withdrawal of metal refined in part from imported crude metal and crude metal produced from imported materials.*—Upon withdrawal for exportation of metal from a bonded warehouse engaged in refining, or both smelting and refining, part of which metal is obtained from imported crude metal, and part from crude metal produced from

smelting imported materials, the warehouse account will be credited with the quantity of metal so withdrawn, plus (1) the wastage allowance for refining prescribed for that establishment, and (2) the wastage allowance prescribed for smelting for the establishment in which the imported materials were smelted, including any dutiable metals shown on the warehouse entry or the rewarehouse entry made at the bonded refining warehouse, but upon withdrawal of the metal for consumption no allowance shall be made for wastage, including dutiable metals entirely lost in smelting or refining, or both, except for zinc contained in lead or copper ores, and lead contained in copper, gold or silver ores, or copper mattes, lost in smelting or refining, or both.

ART. 1005. *Affidavits of manufacturers as to dutiable metals entirely lost.*—In the foregoing regulations where reference is made to dutiable metals entirely lost in smelting or refining, or both, such allowance shall be made only upon affidavit of the manufacturer furnished with his annual statement, that no such dutiable metals were recovered. The annual wastage allowance as established by the Commissioner of Customs shall be accepted as showing the recoverable lead in copper mattes, copper, gold and silver ores, and the blanket affidavit of wastage shall be accepted for dutiable purposes as showing the total destruction of zinc in copper and lead ores.

ART. 1006. *Withdrawal for exportation from one port to be credited on warehouse ledger account at another port.*—(a) Tariff Act of 1930, section 312:

* * * The several charges against the bonds of any smelting warehouse established under the provisions of this section may be canceled upon the exportation or transfer to a bonded manufacturing warehouse from any other bonded smelting warehouse established under this section of a quantity of the same kind of metal, in excess of that covered by open bonds, equal to the amount of metal producible from the smelting or refining, or both, of the dutiable metal contained in the imported ores and crude metals, due allowance being made of the smelter wastage as ascertained from time to time by the Secretary of the Treasury.

(b) On exportation of such metal the procedure outlined in article 1001 shall be followed. A certified copy of the export entry will be forwarded in all cases to the collector at the port where credit is to be applied, and an assay of the metal shall accompany such withdrawal.

(c) Transfer may be made from one port of entry to another by transportation and rewarehouse entry executed in regular form without physical shipment of the metal. The proper credit and charge at various ports of entry thus being established, care should be exercised to see that enough like metal is on hand to satisfy the new bond obligations.

(d) The wastages allowed under paragraphs (a) and (c) shall be those established for the plant or plants at which the imported metals were actually treated.

CHAPTER XVIII

DISPOSITION OF MERCHANDISE UNCLAIMED OR IN WAREHOUSE BEYOND THE TIME FIXED BY LAW

Art.

1007. Storage of unclaimed merchandise.
1008. Unclaimed merchandise abandoned.
1009. Withdrawal from general order for entry.
1010. Merchandise in warehouse beyond the time fixed by law.
1011. Duty-paid merchandise remaining in public stores or bonded warehouse.
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1023. Surplus.
1024. Deficit.
1025. Merchandise remaining unsold—Of no commercial value.

ART. 1007. *Storage of unclaimed merchandise.*—(a) Unclaimed merchandise of which the collector has taken possession shall be sent under a permit (customs Form 3193) to a warehouse of class 3, 4, or 5 specially designated for the

purpose by the collector, according to the character of the merchandise, or to a public store. The general order number shall be placed on all packages of such merchandise.

(b) Whenever the collector shall take possession of a cargo which is unclaimed and not unladen, he shall require as a condition for granting a permit to discharge that the vessel be removed at the expense of the owner to the place, wharf, or pier, most convenient to the general order stores.

(c) Storage at the ordinary rates, and all expenses, must be paid by the owner or consignee of the merchandise upon due entry thereof, but if the goods are sold they shall be paid from the proceeds of sale.

(d) Storekeepers at warehouses used for storing unclaimed goods will be required to keep the same records and make the same return of receipts and deliveries as required by the regulations governing storekeepers of private bonded warehouses.

ART. 1008. *Unclaimed merchandise abandoned.*—(a) Tariff Act of 1930, section 491:

Any merchandise of which possession has been taken by the collector which shall remain in bonded warehouse or public store for one year from the date of importation without entry thereof having been made and the duties and charges thereon paid, and any merchandise, destined to a foreign country, entered for transportation in bond through the United States, which shall remain in the United States during a period of one year from the date of its arrival at the port of exit (but in no case less than 1 year after the effective date of this act) without having been entered for consumption or warehouse, shall be considered unclaimed and abandoned to the Government and shall be appraised by the appraiser of merchandise and sold by the collector at public auction under such regulations as the Secretary of the Treasury shall prescribe.

(b) All unclaimed merchandise remaining in warehouse at the expiration of the time specified in section 491 should be sold at the next regular sale.

ART. 1009. *Withdrawal from general order for entry.*—Merchandise in general order less than one year may be exported without examination and appraisement, or may be entered for transportation without appraisement to any other port of entry designated by the consignee; but at the expiration of 1 year from the date of original arrival, it must be treated as abandoned, unless entered for consumption or warehouse within that time.

ART. 1010. *Merchandise in warehouse beyond the time fixed by law.*—(a) Tariff Act of 1930, section 559:

Merchandise upon which any duties or charges are unpaid, remaining in bonded warehouse beyond 3 years (or 10 months in the case of grain) from the date of importation, shall be regarded as abandoned to the Government and shall be sold under such regulations as the Secretary of the Treasury shall prescribe, and the proceeds of sale paid into the Treasury, as in the case of unclaimed merchandise covered by section 493 of this act, subject to the payment to the owner or consignee of such amount, if any, as shall remain after deduction of duties, charges, and expenses.

(b) Such merchandise shall be sold at the next regular sale after the time within which the merchandise may remain in warehouse has expired. The proceeds of sale shall be disposed of as provided in article 1021.

(c) No application for remission or refund of duty on account of casualty occurring after the expiration of three years from date of importation will be entertained.

ART. 1011. *Duty-paid merchandise remaining in public stores or bonded warehouse.*—(a) Merchandise entered for warehouse and duty-paid, remaining in public store after the expiration of the bonded period, and other duty-paid or free merchandise for which permits to release have been issued remaining in such store at the expiration of 1 year from the date of importation will be treated as abandoned to the Government and sold at the next regular sale for the Government's charges. This will not affect the immediate sale of perishable merchandise as provided by law.

(b) Tariff Act of 1930, section 559:

Merchandise upon which all duties and charges have been paid, remaining in bonded warehouse beyond 3 years (or 10 months in the case of grain) from the date of importation, shall be held to be no longer in the custody or control of the officers of the customs.

Such merchandise for which permits to release have been issued will be released to the warehouseman. Other duty-paid and free merchandise for which permits to release have been issued remaining in bonded warehouse at the expiration of 1 year from the date of importation will likewise be released to the warehouseman.

ART. 1012. *Articles subject to internal-revenue tax.*—(a) Tariff Act of 1930, section 492:

Except as provided in section 3369 of the Revised Statutes, as amended (relating to tobacco and snuff), and in section 901 of the revenue act of 1926 (relating to distilled spirits), any merchandise abandoned or forfeited to the Government under the preceding or any other provision of the customs laws, which is subject to internal-revenue tax and which the collector shall be satisfied will not sell for a sufficient amount to pay such taxes, shall be forthwith destroyed under regulations to be prescribed by the Secretary of the Treasury, instead of being sold at auction.

(b) United States Code, title 26, section 890:

*** In case it shall appear that any abandoned, condemned, or forfeited tobacco, snuff, cigars, or cigarettes, when offered for sale, will not bring a price equal to the tax due and payable thereon, such goods shall not be sold for consumption in the United States; and upon application made to the Commissioner, he is authorized to order the destruction of such tobacco, snuff, cigars, or cigarettes, by the officer in whose custody and control the same may be at the time, and in such manner and under such regulations as the Commissioner may prescribe, or he may, under such regulations, order delivery of such tobacco, snuff, cigars, or cigarettes, without payment of any tax, to any hospital maintained by the United States for the use of present or former members of the military or naval forces of the United States. (R. S. sec. 3369; Oct. 14, 1921, c. 107, 42 Stat. 205). (U. S. Code, title 26, sections 836 (R. S. sec. 3369; Oct. 14, 1921, c. 107, 42 Stat. 205), contains an exactly similar provision with respect to cigars and cigarettes.)

(c) United States Code, title 26, section 1324:

Notwithstanding the provisions of section 1154 of this chapter, or section 1492 of Title 19, any distilled spirits forfeited or abandoned to the United States may be sold, in such cases as the Commissioner may by regulation provide, to the proprietor of any industrial alcohol plant for denaturation, or redistillation and denaturation, without the payment of the internal-revenue tax thereon. (Feb. 26, 1926, c. 27, sec. 901, 44 Stat. 105.)

(d) Articles subject to internal-revenue tax (except forfeited distilled spirits and except voluntarily abandoned merchandise not cleared by the Division of Procurement (see art. 1235)) may be sold if the collector is of the opinion that they will bring an amount sufficient to pay the internal-revenue tax, even though such amount is not sufficient to pay the customs duty.

(NOTE.—The authority in paragraphs (a) and (c) of this article concerning sale of forfeited distilled spirits has been superseded by the provisions of United States Code, title 27, section 209.)

(e) When the collector is of the opinion that any abandoned, condemned, or forfeited tobacco, snuff, cigars, or cigarettes will not, on the sale thereof, bring an amount sufficient to pay the internal-revenue tax, he should make a report thereof to the Commissioner of Internal Revenue and request instructions as to the disposition of the articles. To avoid delay, the collector may, before reporting such articles to the Commissioner, obtain from the nearest official of the United States Public Health Service a certificate as to whether or not the articles are suitable for use in Government hospitals for ex-service men, and forward it to the Commissioner with the report. If the certificate from the United States Public Health Service shows that the articles are suitable for use in the above-mentioned hospitals, the collector should also obtain and forward with his report a statement from the nearest branch of the Veterans' Bureau as to the hospital to which the articles may be delivered.

(f) All other articles subject to internal-revenue tax which, in the opinion of the collector, are of insufficient value to justify their sale should be forthwith destroyed.

ART. 1013. *Sale.*—(a) Regular sales of unclaimed and abandoned merchandise will be made once in every year, or oftener, at the discretion of the collector. Such sales may

be conducted by the collector or any employee designated by him, or by a public auctioneer.

(b) Before unclaimed merchandise shall be sold it must be appraised at its foreign market value as defined in section 402 (c) of the Tariff Act of 1930. Such merchandise shall also be appraised at its actual domestic value at the time and place of examination, whether or not it has depreciated or appreciated in value since the date of exportation. The quantity of merchandise in each lot appraised shall also be reported.

(c) Before drugs, insecticides, seeds, plants, nursery stock, and other articles required to be inspected by the Department of Agriculture are advertised they shall be inspected by a representative of the Department of Agriculture to ascertain whether or not they comply with the requirements of the law and the regulations of that Department, and if found not to comply with such requirements, should be forthwith destroyed.

(d) All merchandise at ports of entry subject to sale, including explosives, perishable articles, and articles liable to depreciation as specified in the following article, shall be promptly reported to the headquarters port for disposition. The collector may, in his discretion, sell such merchandise at the headquarters port or at some other port within the district.

ART. 1014. *Special sale—Explosives—Perishable merchandise.*—(a) Tariff Act of 1930, section 491:

* * * All gunpowder and other explosive substances and merchandise liable to depreciation in value by damage, leakage, or other cause to such extent that the proceeds of sale thereof may be insufficient to pay the duties, storage, and other charges, if permitted to remain in public store or bonded warehouse for a period of 1 year, may be sold forthwith, under such regulations as the Secretary of the Treasury may prescribe.

(b) Unclaimed explosives, dangerous articles, fruit, and perishable articles will be sold on 3 days' public notice, and the proceeds disposed of and accounted for as in case of other unclaimed merchandise.

(c) Unclaimed merchandise in warehouse which, in the opinion of the collector, may, from depreciation in value by damage, leakage, or other cause, prove insufficient on sale to pay the duties, storage, and other charges, if allowed to remain in warehouse for the period of 1 year, and unclaimed merchandise remaining on the dock which, in the opinion of the collector, would prove insufficient to pay the cost of cartage and storage, will be sold at public auction, on giving public notice of not less than 6 nor more than 10 days, as the collector may determine, and the proceeds disposed of and accounted for in like manner.

(d) When it is probable that entry will be made at an early date for unclaimed perishable merchandise, collectors may send the same to a bonded cold-storage warehouse, if one is available. If entry is not made within a reasonable time the merchandise should be sold.

ART. 1015. *Withdrawal of merchandise from sale.*—Merchandise subject to sale (except merchandise abandoned under section 506 (1) or 563 (b) of the tariff act) may be entered or withdrawn for consumption at any time prior to sale upon payment of the duties, internal-revenue tax, if any, and all charges and expenses that may have accrued thereon. Unclaimed merchandise may not be exported without payment of duty nor entered for warehouse or transportation to another port after the expiration of 1 year from the date of importation.

ART. 1016. *Notice of sale—Catalogs.*—(a) A brief notice of the time and place of sale will be given for 3 successive weeks immediately preceding the sale in one newspaper of extensive circulation published at the port, to be selected by the collector and authorized on standard Form 1053. Such notice shall designate the place where catalogs may be obtained, and reasonable opportunity shall be afforded persons desirous of purchasing to inspect the merchandise.

(b) If the collector shall be satisfied that the proceeds of sale will not be sufficient to pay the expenses and duties, a

written or printed notice of the sale, in lieu of such advertisement, shall be conspicuously posted in the customhouse and, if deemed necessary, at some other proper place for 3 weeks, as aforesaid.

(c) Such catalogs will specify the marks, numbers, and description of packages, and their contents, including the quantity of each article, and the appraised foreign value thereof at the date of exportation, and also the appraised actual market value at the time and place of the examination of the merchandise. The catalogs will be distributed at the sale, and announcement made that the Government does not guarantee quality or value and that no allowance will be made for any deficiency found after sale.

(d) When the name and address of the consignee can be ascertained from the manifest of the importing vessel, or otherwise, notice of the date of sale should be mailed him. When unclaimed merchandise is consigned to "Order", or no consignee is given in the manifest, collectors should, where practicable, notify the shipper or his representative, or agent of the carrier, of the date when the goods are to be sold.

ART. 1017. *Record of sale.*—A record of the sale shall be kept on customs Form 5177, specifying the marks, numbers, description of packages, their contents, quantity, and appraised value, the name of the vessel in which imported, the name of the person or persons to whom consigned on the manifest, the name of the purchaser, and the amount for which each lot was sold.

ART. 1018. *Comptroller's record.*—Collectors shall notify the respective comptrollers of customs of the transfer of unclaimed and abandoned merchandise for sale and of the date when such sales are to take place.

ART. 1019. *Auctioneer—Expenses of sale.*—(a) The duties of the auctioneer will be confined to selling the merchandise, and his charge for such service shall in no case exceed the usual commissions at the port. Such commissions shall be allowed only on the gross sum actually realized on the sale.

(b) Accounts for the auctioneer's charges and all other expenses of sale which may have accrued, properly chargeable on the merchandise, must be presented to the collector for payment within 10 days from the date of sale. Such expenses must be apportioned pro rata on the amounts received for the different lots sold.

ART. 1020. *Bills of sale.*—At the close of the sale a bill for the goods sold will be prepared on customs Form 5117a or 5117b and disposed of in accordance with chapter XXII.

ART. 1021. *Payment of charges—Warehouse merchandise.*—(a) From the proceeds of sales of merchandise remaining in warehouse beyond the time fixed by law the following charges will be paid, in the order named:

First. Expenses of advertisement and sale.

Second. Duties at the same rates as if the merchandise had been regularly withdrawn for consumption.

Third. Any other charges due the United States in connection with the merchandise.

Fourth. Any sum due for freight, charges, or contributions in general average, of which due notice shall have been given in the manner prescribed by law.

Fifth. Storage and other charges for which the merchandise may be liable.

(b) In case of merchandise warehoused in public stores, the storage and labor due thereon will be paid from the proceeds next after the expenses of sale.

ART. 1022. *Payment of charges—Unclaimed merchandise.*—(a) The charges against the proceeds of sale of unclaimed merchandise will be paid in the order specified in the preceding article, except that cartage and storage in bonded warehouses will take priority next after expenses of sale. When the proceeds are insufficient to pay both cartage and storage, such charges shall be paid pro rata.

(b) The duties chargeable on such merchandise will be assessed on the dutiable value found on appraisal at the rate of duty chargeable at the time the merchandise became abandoned.

ART. 1023. Surplus.—(a) Tariff Act of 1930, section 493:

The surplus of the proceeds of sales under section 491 of this act, after the payment of storage charges, expenses, duties, and the satisfaction of any lien for freight, charges, or contribution in general average, shall be deposited by the collector in the Treasury of the United States, if claim therefor shall not be filed with the collector within 10 days from the date of sale, and the sale of such merchandise shall exonerate the master of any vessel in which the merchandise was imported from all claims of the owner thereof, who shall, nevertheless, on due proof of his interest, be entitled to receive from the Treasury the amount of any surplus of the proceeds of sale.

(b) If the surplus proceeds of sale have been covered into the Treasury, application therefor must be made by the claimant direct to the Comptroller General.

(c) The surplus proceeds of sale of merchandise in warehouse beyond 3 years (or 10 months in the case of grain) shall be paid to the owner or consignee. (See art. 1010.)

ART. 1024. Deficit.—(a) Should the proceeds of the sale of merchandise in warehouse beyond 3 years (or 10 months in the case of grain) be insufficient to pay the duties, after payment of all charges having priority, the balance will be collected upon the warehouse entry bond, by suit, if necessary.

(b) When the proceeds of sale of unclaimed merchandise are insufficient to pay the charges and duties, the consignee is liable for such duties, provided he has made entry for the merchandise or claimed the same; otherwise the merchandise should be regarded as shipped to the consignee without his consent, and no effort should be made to collect from such consignee any balance of duties due.

ART. 1025. Merchandise remaining unsold.—Of no commercial value.—Merchandise remaining unsold shall be included in the next regular sale of unclaimed and abandoned merchandise, unless the collector is or the opinion that such merchandise is unsalable, or of no commercial value, in which case it should be destroyed.

CHAPTER XIX

CARTAGE AND LIGHTERAGE

Art.

1026. Bonding and licensing of cartmen authorized.

1027. Classes of cartage.

1028. Government cartage.

1029. Importers' cartage.

1030. Licensing cartmen and lightermen—Marking of vehicles and lighters.

1031. Designation of cartman or lighterman.

1032. Tickets and discrepancies.

1033. Liability—Reports of loss or damage.

1034. Inability to deliver merchandise.

1035. Supervision of cartage and lighterage.

1036. Employees' identification cards.

1037. Suspension or revocation of license of cartman or lighterman.

ART. 1026. Bonding and licensing of cartman authorized.—Tariff Act of 1930, section 565:

The cartage of merchandise entered for warehouse shall be done by cartmen to be appointed and licensed by the collector of customs and who shall give a bond, in a penal sum to be fixed by such collector, for the protection of the Government against any loss of, or damage to, such merchandise while being so carted. The cartage of merchandise designated for examination at the appraiser's stores and of merchandise taken into custody by the collector as unclaimed shall be performed by such persons as may be designated, under contract or otherwise, by the Secretary of the Treasury, and under such regulations for the protection of the owners thereof and of the revenue as the Secretary of the Treasury shall prescribe.

ART. 1027. Classes of cartage.—The cartage of merchandise in customs custody is of two kinds—"Government cartage", which must be done by a licensed customhouse cartman under contract or appointment for that purpose, and "importers' cartage", which may be done by any licensed customhouse cartman.

ART. 1028. Government cartage.—(a) The cartage of merchandise packages designated for examination at the "appraiser's stores" shall be done by a cartman under contract for that purpose. Contracts for Government cartage shall be let annually after not less than 30 days' notice by publi-

cation in one or more newspapers, or otherwise, if the Bureau shall so direct. Bids for such cartage will be submitted to the Bureau. The contract will be let by the Secretary of the Treasury to the lowest responsible bidder upon a bond being given in a sum to be fixed by the Commissioner of Customs for the faithful performance of such contract. Such contract cartman must be licensed as a customs cartman. The cartage will be paid by the Government through the collector of customs for the district in which the service is rendered.

(b) The cartage of merchandise designated for examination elsewhere than at the appraiser's stores shall be done by the contract cartman whenever practicable, but may, in the discretion of the collector, be done by any licensed customhouse cartman.

(c) Merchandise taken possession of by the collector by reason of incomplete entry shall be conveyed under such contract to the place designated by the collector for appraisement, at the expense of the importer.

(d) Unclaimed merchandise will be carted to the public stores or bonded warehouse by bonded cartmen designated by the Secretary of the Treasury and under special contract for that purpose, and if by contract, bond will be required for the faithful performance of the work. The cost of such cartage must not exceed the regular commercial rates for like service and will not be paid by the Government, but will be charged against the merchandise and collected on delivery or paid from the proceeds of sale.

(e) Seized merchandise will be delivered to the custody of the collector by the most practicable means available to the seizing officer.

ART. 1029. Importers' Cartage.—(a) Any licensed customs cartman may transfer merchandise, at the expense of the importer or party in interest, from the importing vessel or other conveyance to bonded warehouse, from one vessel or conveyance to another, from one bonded warehouse to another, from the public stores to bonded warehouses, and from warehouse for transportation or for exportation, and merchandise exported under the internal-revenue laws without payment of tax.

(b) The collector may also appoint and license any importer as a customhouse cartman for the purpose of carting his imported merchandise.

(c) If an importer does not cart his merchandise, or designate a licensed customs cartman for the purpose, it must be carted by the cartman authorized by contract or appointed by the collector; the cost thereof to be paid by the importer or owner of the merchandise before its release from customs custody.

(d) Nothing in this article shall apply to the cartage of examination-packages to the appraiser's stores or elsewhere, except as provided in paragraph (b) of the preceding article.

ART. 1030. Licensing cartmen and lightermen—Marking of vehicles and lighters.—(a) Customs cartage and lighterage licenses will be issued for terms of one year, on customs Form 3857. Before issuing a customhouse license the collector will require the cartman or lighterman to execute a bond in an amount to be fixed by the collector on customs Form 3855. Such bond will also be required of the contractors and appointees for the Government cartage. Before issuing customhouse licenses for bonded lighters or other such vessels, there must be presented to the collector the marine documents for said vessel, if any have been issued.

(b) Any cartman licensed by the city or State authorities, and producing evidence of good moral character, may, upon presenting his license, be licensed as a customhouse cartman.

(c) The penalty on the bond shall not be less than \$5,000, with a maximum penalty of \$50,000. The penalty on the bond may be increased by the collector within these limitations, if, in his opinion, additional security is necessary. If the maximum penalty herein provided is deemed insufficient, the collector should report the facts to the Bureau for action. The penalty on the bond should be fixed at an amount

sufficient to cover all carts or lighters operated by the principal.

(d) All licensed carts, trucks, or drays must be conspicuously marked with the words "Customhouse license No. ———."

(e) On every cart or other vehicle used by an importer in carting his own merchandise, in addition to the customhouse license number as above prescribed, there must be painted in black letters in straight lines upon a white background in square form, in close proximity to the license number, the name of the person or firm owning or employing such cart or vehicle.

(f) All licensed barges, scows, and other lighters must be conspicuously marked with the words "Customhouse license No. ———" and, in addition, marked with the name of the party owning the same.

(g) Customs officers shall not deliver any bonded goods to carts or lighters not marked as herein required.

(h) Cartage licenses may be extended from year to year so long as the required bond is considered sufficient.

ART. 1031. *Designation of cartman or lighterman.*—Importers and exporters shall designate on the entry and permit of bonded merchandise the bonded cartman or lighterman by whom they wish their merchandise to be conveyed, and such designation shall be officially initialed at the customhouse.

ART. 1032. *Tickets and discrepancies.*—(a) Customs Form 6043-A or 6043-B, "Ticket for goods carted or lightered", shall be used in cases where goods are carted or lightered, unless another form is specifically authorized. Such forms shall be prepared in quadruplicate for goods sent to public store, bonded store, or bonded warehouse, and in triplicate in all other cases.

(b) As soon as the goods are received in the public store, bonded store, or bonded warehouse the customs storekeeper and, if in bonded store or bonded warehouse, the representative of the proprietor, shall check the goods against the ticket and countersign the ticket. The storekeeper shall forward the original of the ticket to the collector at the close of the day on which the goods were received, as his report of goods received. The duplicate shall be returned to the cartman or lighterman as his receipt, the triplicate retained by the storekeeper, and the quadruplicate by the inspector or other forwarding officer.

(c) When discrepancies are discovered between the goods received and the goods described on the cart or lighter tickets, they must be immediately called to the attention of the forwarding officer, by telephone whenever feasible. If the discrepancy can not be satisfactorily explained, the receiving officer shall make an immediate report of the facts to his superior officer.

(d) A receipt on customs Form 6043-C, "Ticket for Goods Delivered From Store, etc.", shall be taken from the cartman or lighterman for all goods delivered from public store or bonded store, or withdrawn from public store, bonded store, or bonded warehouse for exportation, transportation, or transfer. Such receipt shall not be taken in the case of withdrawals from bonded warehouse for consumption, inasmuch as the merchandise is released to or upon the order of the proprietor of the warehouse, who acknowledges such release on customs Forms 7505-A and 7505-B. If the goods are withdrawn for exportation, transportation, or transfer, customs Form 6043-C shall be prepared in quadruplicate, the original to be forwarded to the collector at the close of business each day as a report of goods withdrawn, the duplicate for the cartman or lighterman, the triplicate for the use of the officer to whom the goods are to be delivered, and the quadruplicate for the storekeeper's record. In all other cases the ticket shall be prepared in triplicate, the original for the collector, the duplicate for the cartman or lighterman, and the triplicate for the storekeeper's record.

(e) The cartman or lighterman shall countersign the above-described tickets in the space provided as a receipt for the goods, noting any bad order or discrepancy. One

ticket may not cover merchandise entered under more than one bond.

(f) Customs storekeepers shall file customs Forms 6043-A and 6043-B for goods received in numerical order by warehouse bond and entry numbers, and customs Form 6043-C for deliveries and withdrawals shall be filed in the same order and be attached, whenever feasible, to the ticket or tickets covering the receipt of the goods.

ART. 1033. *Liability—Reports of loss or damage.*—(a) The cartman or lighterman conveying the merchandise shall be held liable under his bond for its prompt delivery in sound condition, unless otherwise noted on the ticket. Any negligence or carelessness will be cause for revocation of the license of any person guilty of the same.

(b) Any loss or detention of bonded goods and any accident happening to a licensed vehicle or vessel while carrying the same, must be immediately reported by the cartman or lighterman to the collector.

ART. 1034. *Inability to deliver merchandise.*—Should the warehouse be closed or the warehouseman refuse to receive it, the merchandise will be returned to the sending inspector or deposited in the public store for safe-keeping, unless otherwise ordered by the collector. The cartman shall notify such inspector of his inability to deliver the merchandise and the reason therefor. The inspector will promptly report the facts to the surveyor, or the collector if there be no surveyor, for instructions.

ART. 1035. *Supervision of cartage and lighterage.*—(a) All licensed vehicles or lighters shall be subject to the control and direction of the officer having charge of the merchandise.

(b) The carts or lighters must be present to take the merchandise when the officer is ready to send it, otherwise, after waiting a reasonable time, he shall send the merchandise by any licensed cart or lighter available.

ART. 1036. *Employees' identification cards.*—All those employees of licensed cartmen or lightermen who receive or transport imported merchandise shall be furnished with identification cards on customs Form 3873. Each such card shall be made out in duplicate, the original to be in the possession at all times of the person to whom issued and the duplicate to remain in the customhouse files. The card shall not be valid unless bearing the United States customs seal and shall be signed by the person to whom issued. It shall be taken up if presented by any person other than the one to whom issued. The card must be surrendered when the holder leaves the employment of the firm mentioned on the face thereof. On the suspension, revocation, or lapse of the license issued to any cartage firm, all outstanding identification cards issued to its employees shall be taken up by the collector.

ART. 1037. *Suspension or revocation of license of cartman or lighterman.*—Inspectors or other officers of the customs may demand of any person claiming to be a customhouse cartman or lighterman or employee thereof his license or identification card for inspection. If it is not produced, or if the carts or other vehicles are not marked as required, or in case the cartman or lighterman refuses or neglects to obey any proper order of the inspector, or any order, rule, or regulation of the Treasury Department or of the collector or surveyor relative to the cartage or lighterage of merchandise, such refusal or neglect shall be at once reported in writing by the inspector to the collector, who may suspend or revoke the license of the cartman or lighterman guilty of the offense.

CHAPTER XX

DRAWBACK

ARTICLES MANUFACTURED OR PRODUCED WHOLLY OR IN PART FROM IMPORTED OR SUBSTITUTED MERCHANDISE

Art.

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1040. Exportation involving transshipment at a port in a United States possession.

1041. Identification of imported merchandise and ascertainment of quantities entitled to drawback.

- 1042. Same—When substituted material is used.
- 1043. Drawback rates—Establishment of.
- 1044. Notice of intent to export—Local or direct exportation from a seaboard or frontier port.
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- 1049. Lading at night, Sundays, and legal holidays.
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ARTICLES EXPORTED FREE OF INTERNAL REVENUE TAX OR WITH REFUND OF SAID TAX

- 1099. Procedure.

ARTICLES MANUFACTURED OR PRODUCED WHOLLY OR IN PART FROM IMPORTED OR SUBSTITUTED MERCHANDISE

Art. 1038. Drawback authorized.—(a) Tariff Act of 1930, section 313 (a):

Upon the exportation of articles manufactured or produced in the United States with the use of imported merchandise, the full amount of the duties paid upon the merchandise so used shall be refunded as drawback, less 1 per centum of such duties, except that such duties shall not be so refunded upon the exportation of flour or by-products produced from wheat imported after 90 days after the date of the enactment of this Act. * * *

(b) Tariff Act of 1930, section 313 (f):

Upon the exportation of meats, whether packed or smoked, which have been cured in the United States with imported salt,

there shall be refunded, upon satisfactory proof that such meats have been cured with imported salt, the duties paid on the salt so used in curing such exported meats, in amounts not less than \$100.

(c) Tariff Act of 1930, section 313 (g):

The provisions of this section shall apply to materials imported and used in the construction and equipment of vessels built for foreign account and ownership, or for the government of any foreign country, notwithstanding that such vessels may not within the strict meaning of the term be articles exported.

This provision of law applies only to material used in the original construction and equipment of the vessels and not to material used in altering or repairing the same.

The term "foreign account and ownership" includes only vessels built and equipped for the account of the owner or owners residing in a foreign country for the purpose and with a bona fide intention that the vessel shall, when completed, become a vessel of a foreign country owned and operated under the flag of a foreign country.

(d) Tariff Act of 1930, section 313 (h):

No drawback shall be allowed under the provisions of this section or of section 6 of the Act entitled "An Act temporarily to provide revenue for the Philippine Islands, and for other purposes", approved March 8, 1902 (relating to drawback on shipments to the Philippine Islands), unless the completed article is exported, or shipped to the Philippine Islands, within 3 years after importation of the imported merchandise.

(e) Tariff Act of 1930, section 313 (i) as amended by section 403 of the Liquor Tax Administration Act of June 26, 1936:

The Secretary of the Treasury is authorized to prescribe regulations governing (1) the identification of imported merchandise used in the manufacture or production of articles entitled to drawback of customs duties, the ascertainment of the quantity of such merchandise used, of the time when such merchandise was received by the manufacturer or producer of the exported articles, and of the amount of duties paid thereon, the determination of the facts of the manufacture or production of such articles in the United States and their exportation therefrom, the time within which drawback entries on such articles shall be filed and completed, to entitle such articles to drawback, and the payment of drawback due thereon; (2) the identification of merchandise withdrawn for consumption and returned to customs custody for exportation, the determination of the facts of non-conformity thereof to sample or specifications and of exportation thereof from the United States, and the payment of the drawback due thereon; (3) the determination and payment of drawback of internal-revenue tax on domestic distilled spirits and wines, including the requirement of such notices, bonds, bills of lading, and other evidence of payment of tax and exportation as the Secretary of the Treasury deems necessary; (4) the remission of duties on imported salt used in curing fish, including the production of proof that the salt has been so used; and (5) the refunding of duties paid upon imported salt used in curing exported meats, including the production of proof that the salt has been so used; and designating the person to whom refund or payment of drawback shall be made.

ART. 1039. Exportation—United States possessions.—(a) United States Code, title 19, section 152:

* * * Where materials on which duties have been paid are used in the manufacture of articles manufactured or produced in the United States, there shall be allowed on the shipment of said articles to the Philippine Archipelago, a drawback equal in amount to the duties paid on the materials used, less 1 per centum of such duties, under such rules and regulations as the Secretary of the Treasury may prescribe. (March 8, 1902, c. 140, sec. 6, 32 Stat. 55.)

Drawback will be paid on articles shipped to the Philippine Islands only upon the receipt of a certificate signed by the collector of customs of the said islands, showing either the payment of duty on the merchandise at the port of entry or that it is provided for in the free list of the Philippine tariff.

(b) The Canal Zone is considered foreign territory for the purpose of the drawback law.

(c) There is no authority of law for the payment of drawback of customs duty on articles manufactured or produced in the United States which are shipped to Alaska, Puerto Rico, Hawaii, the Virgin Islands, American Samoa, or the island of Guam.

ART. 1040. Exportation involving transshipment at a port in a United States possession.—Merchandise exported with

benefit of drawback on a vessel clearing for or by way of a domestic port outside of the continental United States, e. g., San Juan, should be forwarded to such domestic port under a transportation and exportation entry.

ART. 1041. *Identification of imported merchandise and ascertainment of quantities entitled to drawback.*—(a) Each manufacturer or producer shall keep records which will establish as to all articles manufactured or produced for exportation with benefit of drawback, the date or inclusive dates of manufacture or production, the quantity and identity of the imported duty-paid merchandise or of articles manufactured or produced under drawback regulations (described hereafter in this article as drawback products) used, the quantity and description of the articles manufactured or produced, and the quantity of waste incurred. If claim for wastage is waived, the manufacturer or producer shall keep records which will establish the quantity and identity of the imported duty-paid merchandise or drawback products appearing in the articles manufactured or produced, in which case records need not be kept of either the quantity of waste incurred or of the quantity of imported duty-paid merchandise or drawback products used, unless such records are necessary to enable the manufacturer or producer to establish the quantity of imported duty-paid merchandise or drawback products appearing in the articles. When the waste has a value, and the manufacturer or producer has not limited its claims to the quantity of imported duty-paid merchandise or drawback products appearing in the articles, the records shall show the value of the imported duty-paid merchandise or drawback products used and the value of the waste, in order that in the liquidation of the drawback entry the quantity of imported duty-paid merchandise or drawback products used may be reduced by the quantity thereof which the value of the waste will replace. The records of the manufacturer or producer shall also show the quantity of duty-free or domestic merchandise used, if any, when such records are necessary to the determination of the quantity of imported duty-paid merchandise or drawback products used in the manufacture or production of the articles or appearing therein. A sworn abstract of the records kept by the manufacturer or producer shall be filed with the drawback entry.

(b) The imported duty-paid merchandise or drawback products shall be stored in a manner which will enable the manufacturer or producer to determine, in conjunction with its storage records, the import entry, certificate of delivery, or certificate of manufacture, and delivery number or numbers under which received, and to establish the identity of the imported duty-paid merchandise or drawback products (with respect to such import entry, certificate of delivery, or certificate of manufacture and delivery number or numbers) used in the manufacture or production of the articles, and whether such articles have been exported (or shipped to the Philippine Islands) within 3 years after importation of the imported duty-paid merchandise.

(c) The articles manufactured or produced shall be stored or marked in a manner which will preserve the identification established by means of the storage records and the records of manufacture or production.

(d) When identification is made against several lots of imported merchandise of different dutiable values, or subject to different rates of duty, or drawback products subject to different allowances of drawback, the drawback shall be based first upon the lot or lots of the lowest dutiable value, rate of duty, or drawback allowance, as the case may be, then upon the lot or lots of the next higher dutiable value, rate of duty, or drawback allowance, and so on, from lower to higher, until all the lots concerned have been accounted for. The same principle shall apply in cases where the articles, after manufacture or production, are commingled in storage.

(e) Builders of vessels upon which drawback is to be claimed under section 313 (g) shall keep the records provided for in this article, so far as applicable. A sworn abstract of such records shall be filed with the collector of

customs at the headquarters port of the collection district in which the vessel is built in ample time prior to clearance of the vessel for its foreign destination to enable that officer to have the abstract verified by examination of the vessel and the builder's records pertaining thereto.

(f) Each manufacturer or producer shall file a sworn statement in the Bureau of Customs, as provided in article 1043 (f), describing the methods which it will follow and the records which it will keep for the purpose of establishing that the articles upon which drawback will be claimed have been manufactured or produced in the United States with the use of imported duty-paid merchandise within the meaning of section 313 (a), and that the records of identification, manufacture or production, and storage prescribed by this article have been maintained. The sworn statement shall contain an agreement to follow the methods and keep the records therein described with respect to all articles manufactured or produced for exportation with benefit of drawback. If the sworn statement shows that the methods and records described therein enable the manufacturer or producer to comply with the law and regulations, the Commissioner of Customs will issue a rate of drawback authorizing the collector or collectors of customs at the port or ports named in the sworn statement to allow drawback, upon compliance with the law and regulations, on the articles described in the sworn statement. The same procedure will apply in the case of vessels built for foreign account and ownership, or for the government of any foreign country.

ART. 1042. *Same—When substituted material is used.*—(a) Tariff Act of 1930, section 313 (b):

If imported duty-paid sugar or non-ferrous metal, or ore containing non-ferrous metal, and duty free or domestic merchandise of the same kind and quality are used in the manufacture or production of articles within a period not to exceed 1 year from the receipt of such imported merchandise by the manufacturer or producer of such articles, there shall be allowed upon the exportation (or shipment to the Philippine Islands) of any such articles, notwithstanding the fact that none of the imported merchandise may actually have been used in the manufacture or production of the exported articles, an amount of drawback equal to that which would have been allowable had the sugar or non-ferrous metal, or ore containing non-ferrous metal, used therein been imported; but the total amount of drawback allowed upon the exportation of such articles, together with the total amount of drawback allowed in respect of such imported merchandise under any other provision of law, shall not exceed 99 per centum of the duty paid on such imported merchandise.

(b) Articles manufactured or produced in accordance with section 313 (b) with the use of sugar, nonferrous metal, or ore containing nonferrous metal, or with the use of articles manufactured or produced in the United States with the use of sugar, nonferrous metal, or ore containing nonferrous metal, will be subject to the provisions of this chapter, so far as applicable, and the records of the manufacturer or producer shall show:

(1) The quantity, identity, kind, and quality of the duty-paid sugar, nonferrous metal, or ore containing nonferrous metal, or of the articles manufactured or produced under drawback regulations with the use of sugar, nonferrous metal, or ore containing nonferrous metal (hereinafter described as designated merchandise) designated as the basis for the allowance of drawback on the exported articles;

(2) That such designated merchandise has been used by the manufacturer or producer of the exported articles within 1 year from the date on which it was received by such manufacturer or producer;

(3) That the exported articles upon which drawback is claimed were manufactured or produced with the use of sugar, nonferrous metal, or ore containing nonferrous metal, or domestic products thereof, as the case may be, of the same kind and quality as the merchandise designated as the basis for the allowance of drawback on such exported articles;

(4) That the exported articles were manufactured or produced within 1 year from the date the designated merchandise was received by the manufacturer or producer of the exported articles;

(5) That duty-free or domestic merchandise of the same kind and quality as the designated merchandise was used by the manufacturer or producer of the exported articles within 1 year from the date on which the designated merchandise was received by such manufacturer or producer; and

(6) The quantity of sugar, nonferrous metal, or ore containing nonferrous metal, or domestic products thereof, of the same kind and quality as the designated merchandise, used in the manufacture or production of the exported articles.

(c) When valuable wastes are incurred in manufacture or production, and the manufacturer or producer has not limited its claims to the quantity of sugar, nonferrous metal, or ore containing nonferrous metal, or domestic products thereof, appearing in the articles manufactured or produced for exportation with benefit of drawback, the records shall show the quantity and value of the merchandise used in the manufacture or production of the articles and the quantity and value of the waste incurred, in order that the deduction provided for in article 1041 (a) may be made in liquidation.

(d) Duty-paid sugar, nonferrous metal, or ore containing nonferrous metal, or articles manufactured or produced under drawback regulations with the use of sugar, nonferrous metal, or ore containing nonferrous metal, which have been used at one plant of a given manufacturer or producer within 1 year from the date on which received by such manufacturer or producer, may be designated as the basis for the allowance of drawback on articles manufactured or produced in accordance with these regulations at other plants of the same manufacturer or producer.

(e) It is not necessary that the exported articles be of the same kind and quality as the articles which were manufactured or produced with the use of the merchandise designated as the basis for the allowance of drawback on the exported articles. However, the exported articles must have been manufactured or produced with the use of sugar, nonferrous metal, or ore containing nonferrous metal, or domestic products thereof, of the same kind and quality as the designated merchandise.

ART. 1043.—*Drawback rates—Establishment of.*—(a) Each manufacturer or producer of articles which are to be exported with benefit of drawback must make application to the Bureau of Customs, prior to the exportation of such articles, for the establishment of a rate of drawback.

(b) In the case of a vessel upon which drawback is to be claimed under section 313 (g), the builder shall file the above application and the abstract provided for in article 1041 (c) in ample time to permit verification of the abstract and inspection of the vessel prior to its clearance.

(c) Applications shall show the following: (1) Name of the manufacturer or producer; (2) location of general offices; (3) location of the factory; (4) kinds of articles manufactured; (5) name of imported or tax-paid materials used; (6) brief description of the process of manufacture or production; (7) probable date of manufacture or production; (8) probable date of exportations; (9) whether drawback will be claimed on articles manufactured or produced prior to the filing of the application.

(d) Customs Form 4477, "application for a rate of drawback", may be obtained from collectors of customs. When it is desired to export articles before an application in the form prescribed by paragraph (c) can reach the Bureau in the regular course of the mails, a telegraphic application will be accepted provided it shows the name of the manufacturer or producer, the designation of the imported or tax-paid materials used, the name of the articles which are being exported, and the location of the factory at which manufactured, and provided it is promptly followed by an application in the form prescribed in paragraph (c).

(e) Upon receipt of applications in the Bureau, they will be forwarded to the supervising customs agent in charge of the district in which the factory lies. A customs agent will then be designated to make an investigation at the factory

for the purpose of witnessing the operations and examining the records kept to preserve the identity of the imported material used and establish the quantities thereof which may be entitled to the allowance of drawback.

(f) The investigating officer will assist the manufacturer or producer in preparing the sworn statement required by paragraph (f) of article 1041, describing its methods and records. The use of duty-paid or tax-paid merchandise or drawback products and the manufacture or production of articles not specified in the application, as well as factories not named therein, may be included in the sworn statement prepared as a result of such application. The supervising customs agent shall transmit the sworn statement to the Bureau in triplicate, together with three copies of his report in the case. The Commissioner of Customs will thereafter establish the rate of drawback, if the facts developed by the investigation warrant such action, as provided by paragraph (f) of article 1041.

(g) Where drawback entries are to be filed at more than one headquarters port, two copies of the sworn statement and report will then be required for each additional port. The procedure outlined in this and the two preceding paragraphs shall be followed, so far as applicable, when applications for extensions or amendments of drawback rates or when supplemental sworn schedules or supplemental advisory sworn schedules are filed in accordance with paragraphs (k), (l), or (n) of this article.

(h) Drawback claims may be filed covering merchandise exported on and after the receipt of the application, but entries shall not be liquidated and the drawback paid on any exportations until the rate has been established.

(i) When the rate has been established, drawback may be allowed on articles manufactured or produced in accordance therewith, which are exported on or after the effective date named therein, provided the regulations as to timely notice of intent, inspection, supervision of lading, etc., have been complied with.

(j) In no case will drawback be allowed on articles provided for in a rate of drawback which are exported before the receipt in the Bureau of the application which resulted in the preparation of the sworn statement upon which the rate of drawback was based.

(k) When a manufacturer or producer in whose behalf a rate of drawback has been established, or who has filed a sworn statement looking to the establishment of such a rate, desires an allowance of drawback on articles not provided for in the rate or described in the sworn statement, it shall file an application in the Bureau of Customs for the extension of the rate to cover the additional articles. After investigation, the submission of a report of the supervising customs agent, and the filing of a supplemental sworn statement of the manufacturer or producer, incorporating by reference the conditions of its basic sworn statement, so far as applicable, and agreeing to comply with the provisions of article 1041 and/or 1042 with respect to such additional articles, the Commissioner of Customs will issue an extension authorizing the collector or collectors of customs at the port or ports concerned to allow drawback under such extension, upon compliance with the law and regulations, on the additional articles exported on or after the date on which the application for the extension was filed in the Bureau. No drawback shall be allowed on articles exported before such date unless specifically authorized by the Commissioner. The same procedure shall govern in cases where the manufacturer or producer desires to have its drawback rate extended to include additional factories or to permit the use of other kinds of duty-paid or tax-paid merchandise or drawback products, or wishes to have the rate amended to provide for a different basis for liquidation of its drawback entries or to cover changes in methods of identification, manufacture, etc.

(l) When authorized in the drawback rate, supplemental sworn schedules showing changes in the kinds or quantities of imported materials used, additional articles, and different

styles and capacities of containers may be filed with collectors of customs. The collector with whom such documents are lodged shall stamp thereon the date of receipt and forward them for verification to the proper supervising customs agent. That officer, after verification, will then transmit three copies of the said document to the Bureau with his report in triplicate. Upon approval by the Bureau, drawback may be allowed on the articles covered by such schedules which were exported on and after the date they were lodged with the collector.

(m) No drawback shall be allowed on articles exported prior to such date unless specifically authorized by the Bureau.

(n) When required by the drawback rate or requested by collectors of customs, supplemental advisory sworn schedules for the information of liquidating officers shall be filed with collectors of customs, verified, and approved by the Bureau, as in the case of supplemental sworn schedules. Inasmuch as advisory schedules are not used as a basis for liquidation, specific authority is not necessary to permit the payment of drawback on articles covered thereby which are exported prior to the date on which such documents are lodged with collectors of customs. No drawback shall be allowed, however, on products covered by advisory schedules until after they shall have been verified by investigating officers and approved by the Bureau.

(o) The reports required by paragraphs (f), (k), (l), and (n) shall in all cases state the date on which the articles described in the sworn statement, supplemental sworn statement, sworn schedule, advisory sworn schedule, supplemental sworn schedule, or supplemental advisory sworn schedule were first manufactured or produced in accordance with the provisions thereof for exportation with benefit of drawback.

(p) All applications for the amendment or extension of rates of drawback which may be filed with collectors of customs shall be promptly forwarded to the Bureau, which will in turn transmit them to the proper officer for investigation. The effective date of any amendment or extension which may be issued as a result of such applications will be the date on which they were received in the Bureau, and no drawback shall be allowed on articles exported before such date unless specifically authorized by the Commissioner of Customs.

(q) Investigations relating to the establishment and extension of drawback rates and all other investigations relating to the verification of drawback claims, schedules, sworn statements, and allowances, shall be made by the customs agency service.

ART. 1044. *Notice of intent to export—Local or direct exportation from a seaboard or frontier port.*—(a) At least 6 hours, but not more than 90 days, before the lading of the merchandise to be exported, the claimant for drawback, or his duly authorized agent, shall file with the collector of customs at the port of exportation a notice of intent to export on customs Form 7511. A duplicate copy of the notice of intent shall be delivered to the customs officer in charge at the place of lading at the time the goods are delivered to the exporting vessel or conveyance. Such notices of intent shall give the name of the exporting vessel, or in the case of a vehicle the name of the carrier, and place of lading, describe the merchandise by marks and numbers and state in detail the kind and contents of the packages, the quantity, weight (gross and net), gauge, or measure.

(b) On receipt and acceptance at the customhouse of the notice of intent, the collector shall note thereon the date and hour of receipt and transmit the document to the surveyor, or to the customs officer in charge at the place of lading, with the order to inspect.

(c) The notice of intent may be indorsed as follows: "Collector of customs: ———. After the inspector's return is made, forward this document to the collector of customs at ——— (to be indicated by exporter), where the entry for

drawback will be filed." In such cases the notice of intent shall be filed in duplicate (except when additional copies are required by the collector) and the original, after the return of the inspector and the date of clearance of the exporting vessel or conveyance have been indorsed thereon, shall be forwarded to the port where the entry is to be filed, as indicated by the exporter, together with all necessary papers such as manifests and weigher's, gauger's, or sampler's returns; the duplicate copy of the notice of intent, properly indorsed by the inspector, shall be retained by the collector at the port of exportation as his record of the transaction.

(d) When drawback is claimed on an aircraft departing from the United States under its own power, or on merchandise exported by aircraft, notices of intent shall be filed in the manner herein prescribed with the collector of customs at the port from which, or at the port nearest the point from which, the aircraft last takes off for its foreign destination. Notices of intent shall not be filed or accepted at one port in cases which contemplate or specify relanding of the aircraft at another port or point in the United States and taking off from such latter port or point for its foreign destination.

ART. 1045. *Same—Transportation and exportation shipments.*—(a) Merchandise which is to be transported, either coastwise or inland, from one customs port to another to be exported thence, whether or not covered by a through bill of lading, may be entered for drawback at the port of origin.

(b) Notices of intent shall be filed at the port of origin in the same manner as provided for direct exportations from a seaboard or frontier port, and one additional copy shall be filed which shall be certified by the collector at that port and forwarded to the port of exit.

(c) A manifest on customs Form 7512 of the merchandise laden on each vessel, car, or conveyance must be prepared by the shipper in triplicate, signed by the proper agent of the transporting carrier and certified by the proper customs officer, one copy to accompany the vessel, car, or conveyance for delivery by the carrier's agent to the collector at the port of exit, one copy to be retained by the collector at the port of origin, and one copy to be mailed by the collector or inspecting officer at the port of origin to the collector at the port of exit.

(d) At least 6 hours prior to the lading of the merchandise at the port of exit if transshipped, or 6 hours before departure if not transshipped, the exporter or his agent shall complete the mail copy of the notice of intent and manifest by designating to the collector of customs the vessel, car, or conveyance in which the merchandise will be exported, and advising that officer of the place of deposit of the merchandise for inspection and lading. Where the merchandise is to be transferred from one point to another in a customs district, the collector of customs shall issue an order directing the inspector in charge of the station where the merchandise was received to deliver the merchandise to a bonded truck or lighter for transfer to the point of lading.

(e) After the merchandise has been exported the inspector at the port of exit will make his return on the mail copies of the notice of intent and manifest. The notice of intent shall be returned to the collector at the port of origin and the manifest retained at the port of exit as a record of the transaction.

(f) In cases where merchandise arrives at the frontier port in cars with the customs seals intact and the number on the seals agree with the numbers shown on the manifest, no further examination of the merchandise will be deemed necessary.

(g) When the merchandise covered by the notice of intent and manifest is not exported within 90 days from the date of receipt of such documents, or has been removed from the custody of the carrier, or if for any other reason a return on the notice of intent cannot be made, the collector of customs at the port of exit shall return the notice of intent to the port of shipment, giving the facts in such case.

(h) The transfer, lading, and inspection of these shipments shall be made under the regulations covering shipments in bond (ch. XVI). The shipper's export declaration shall be executed on customs Form 7525 and filed at the port of exit.

ART. 1046. *Same—Exportations on through bills of lading from places at which no customs officer is located.*—(a) When merchandise is shipped from a place where no customs officer is located to its foreign destination on a through bill of lading, notices of intent shall be filed at the port of exit from the United States as in the case of direct exportations.

(b) A manifest on customs Form 7512 of the merchandise laden on each vessel, car, or conveyance must be prepared by the shipper in duplicate and signed by the proper agent of the transporting carrier. One copy of the manifest shall be attached to the notice of intent, which shall be filed in duplicate with the collector of customs, and the other copy of the manifest with a third copy of the notice of intent attached thereto, shall accompany the vessel, car, or conveyance for delivery by the carrier's agent to the proper customs officer at the port of exit upon arrival of the goods, in order to secure customs inspection, weighing, gauging, and sampling.

(c) In the case of this class of shipments the manifest shall be modified by striking out the words "Collector of customs of above district" in the carrier's receipt and substituting therefor the name of the shipper. (See art. 873.)

ART. 1047. *Same—Shipments on local or through bills of lading to port of exit.*—Shipments of merchandise transported, without compliance with the regulations relating to transportation and exportation shipments, to the seaboard or frontier port under either local or through bills of lading and thence to the foreign destination, are considered local or direct exportations from the port of exit from the United States and notices of intent shall be filed in accordance with the provisions of article 1044.

ART. 1048. *Receipts.*—When requested, receipts for notices of intent will be signed by the customs officer, provided such receipts are prepared by the party desiring the same and are submitted to the customs officer with the notice of intent; receipts for shippers' notices of intent will not be given unless accompanied by the merchandise.

ART. 1049. *Lading at night, Sundays, and legal holidays.*—If the merchandise covered by a notice of intent is to be laden on the exporting vessel or conveyance at night or on a Sunday or legal holiday, an application for a special license and the services of an inspector shall be made, as provided by the act of February 13, 1911, and section 452, Tariff Act of 1930, and the regulations made in pursuance thereof, unless an inspector is regularly on duty at the place and time of lading. Payment of drawback will not be denied in the absence of customs inspection and supervision of lading of such merchandise if the regulations, including the application for a special license when required, were otherwise complied with and the failure to secure customs inspection and supervision of lading was not due to any act or omission on the part of the exporter or carrier or the agent of either.

ART. 1050. *Diversion of shipments.*—(a) Whenever the merchandise is diverted from the vessel or conveyance or from the place of lading named in the notice of intent, to another vessel or conveyance or to another place of lading, notice in writing of the change must be given to the collector or to the inspector before lading in ample time to secure inspection.

(b) Notice of diversion will be waived, however, in cases where it shall appear, to the satisfaction of the Commissioner of Customs, that the shipment was diverted from the vessel named in the notice of intent to another vessel of the same line, or another vessel loading at the same pier or set of piers, without knowledge by the parties in interest, their agents or representatives, in time to file notice of diversion, provided that the merchandise was delivered at the pier in time for inspection and supervision of lading on the vessel named in the notice of intent.

ART. 1051. *Inspection and supervision of lading.*—(a) Upon receipt by the inspecting officer of the copy of the notice of intent accompanying the goods, or of the copy transmitted by the collector, he shall proceed to identify the packages and shall supervise the lading thereof on board the exporting vessel or conveyance.

(b) Packages containing such articles shipped to the Philippine Islands with benefit of drawback must be marked by the shipper "drawback claimed" in a conspicuous, legible, and permanent manner.

(c) The inspector shall note on the copies of the notices of intent received by him the date and hour of their receipt and shall certify thereon as to inspection and lading, and return all such notices of intent to the collector.

(d) When no portion of the merchandise covered by a notice of intent to export is laden within 90 days from the date of receipt of such notice by the inspector, he shall return the notice to the collector with a report of all the facts relative thereto. If the lading is begun within 90 days and is in progress at the expiration of that period, the notice shall be retained by the inspector until the lading has been completed, provided such lading is not discontinued.

ART. 1052. *Mail exportations.*—(a) Where drawback is claimed on merchandise exported by registered mail or parcel post, notices of intent shall be filed in the same manner as for exportations by vessel or other conveyance. Upon receipt of such notices of intent, the collectors shall direct the proper officer to supervise the mailing of the merchandise, and to make report thereof, attaching to the notice of intent the parcel post or registered mail receipt.

(b) Where it is desired to export merchandise with benefit of drawback, through the mails, from a post office located at a point where no customs officer is stationed, the exporter shall advise the Bureau to that effect, and request that the necessary arrangements be made with the Post Office Department for official inspection and supervision of mailing of such merchandise. Upon receipt by the exporter of notification from the Bureau that the local postmaster has been furnished with instructions regarding the procedure to be followed in such cases, the merchandise, together with notices of intent, may be presented to such postmaster. One extra copy of each notice of intent shall be filed with the postmaster and may be retained as a part of his official records. Exporters will advise the postmaster of the port to which the notices of intent are to be forwarded by him for use by the collector of customs in liquidating the drawback entry.

(c) All packages so exported, in addition to the other requirements, must have stamped or written thereon, and signed by the exporter, a waiver of the right to withdraw such packages from the mails (customs Form 3413), and the officer in making his return on the notice of intent shall report accordingly.

ART. 1053. *Inspection, gauging, sampling, weighing.*—(a) It is essential in the administration of the drawback law that exporters must in all cases provide the requisite opportunity and the necessary facilities for official inspection, sampling, and ascertainment of quantities. Collectors shall, in their discretion, indicate on the notices of intent whether the merchandise is to be sampled, weighed, gauged, or measured, and shall give general instructions to inspectors respecting drawback goods which require sampling, weighing, gauging, or measuring, in order that in the event such sampling, etc., is not obtained under the copy of the notice of intent filed at the customhouse, the inspector may obtain the same under the copy filed with him at the time the goods are deposited at the place of lading.

(b) Whenever practicable, merchandise subject to sampling, weighing, gauging, or measuring shall be sampled, weighed, gauged, or measured at the place of deposit for lading after the goods have been placed in the custody of the exporting carrier. Inspection, sampling, weighing, gauging, and measuring will not be made at a place other than stations, yards, piers, and other regular places of lading where customs officers are stationed for the purpose, except where it is shown to the satisfaction of the collector that such

inspection, etc., at such regular place of lading is physically impracticable, and then only upon the condition that the applicant pay the expenses of inspection, etc.

(c) When requested, the Government officer will replace samples taken with like merchandise furnished by the exporter. Packages opened by customs officers for any purpose after the same have been placed in the custody of the exporting carrier will, upon the request of the carrier, be marked to denote that the same were opened for the purpose of official examination.

ART. 1054. *Failure to obtain actual inspection and supervision of lading.*—(a) Whenever the inspecting officer is unable to certify to the actual inspection and lading of the merchandise, he shall, in making his return, state the reason therefor, the date and hour of receipt of the notice of intent and of the lading of the merchandise, and whether or not a shipper's notice of intent accompanied the goods; and shall, after the vessel or cars have cleared, examine the records of the delivering and exporting steamship or transportation lines for the purpose of verifying the particulars stated in the notice of intent to export and make his certificate accordingly whether the notice was timely or not.

(b) In such cases the certificate of the inspector shall be accepted as sufficient evidence of lading, and the drawback will be allowed, provided the notice of intent was timely and the regulations were otherwise complied with, and the failure to inspect was not the fault of the exporter or carrier or the agent of either.

ART. 1055. *Failure to file notices of intent—Local shipments.*—The failure to file a timely notice of intent with the collector, in accordance with the provisions of article 1044, shall not bar the payment of drawback, provided a notice of intent is delivered to the inspecting officer as required, nor shall failure to deliver a copy of the notice of intent to the inspecting officer bar the payment of drawback, provided a timely notice of intent was filed with the collector, and provided further that no other act or omission on the part of the shipper, the carrier, or the agent or either, resulted in the failure to secure inspection.

ART. 1056. *Same—Transportation and exportation shipments.*—(a) Failure to file a notice of intent at the port of origin or to complete the notice of intent and manifest at the port of exit, in accordance with the provisions of article 1045, will not bar the payment of drawback, provided the merchandise was officially inspected and laden at the other port.

(b) Failure to obtain inspection at both ports will not bar the payment of drawback, provided an opportunity to inspect was furnished by filing a timely notice of intent and manifest with the collector or with the inspector at the port of origin, by delivering the manifest to the inspector at the port of exit, by completing the mail copy of the manifest and notice of intent at the port of exit in accordance with the regulations, or by filing a notice of intent with the collector or inspector at the port of exit as in the case of local or direct exportations; and further provided that the failure of inspection was not due to any act or omission on the part of the shipper, the carrier, or the agent of either.

(c) When the shipment is not officially inspected and laden at the port of exit, the collector at that port will, upon the request of the shipper or his agent, specifying the exporting carrier, the name of the vessel, or the number and initials of the car and the date of exportation, indorse the copy of the notice of intent received by him to show the facts of exportation of the merchandise as indicated by the records of the exporting carrier or outward manifest of the exporting vessel, and return the notice of intent to the port of origin. A copy of the notice of intent so indorsed may be accepted in lieu of the inspector's return of lading, provided the merchandise was officially inspected and laden at the port of origin or there was an opportunity to inspect as provided in the preceding paragraph of this article.

(d) If the records of the exporting carrier do not sufficiently identify the merchandise to satisfy the collector as to the actual exportation thereof, he may require a landing certificate as additional evidence of exportation.

(e) When the merchandise is diverted en route to the port of exit by the carrier without the knowledge or consent of the exporter, and leaves the United States at a different place from that named in the notice of intent and manifest, the collector at the port of actual exportation will, upon the receipt of the mail copies of the notice of intent and manifest, and upon being advised as to the name of the exporting carrier, and name of the vessel or the number and initials of the cars and date of exportation, indorse the copies of the notice of intent and manifest to show the facts of exportation as indicated by the records of the exporting carrier or outward manifest of the exporting vessel.

(f) In such cases the notice of intent so indorsed, together with a landing certificate signed by the foreign revenue officer at the foreign destination of the merchandise, may be accepted in lieu of the inspector's return of lading, provided the merchandise was officially inspected and laden at the port of origin and has remained in the continuous possession of the carrier until exported. The mail copy of the notice of intent will be forwarded by the collector at the port where filed to the port of actual exportation upon the request of the exporter.

ART. 1057. *Same—Shipments on through bills of lading from places at which no customs officer is located.*—(a) Failure to file a timely notice of intent with the collector of customs, in accordance with the provisions of article 1046, will not bar the payment of drawback on such shipment provided the manifest and copy of the notice of intent accompanied the vessel or car to the port of exit and were duly delivered to the customs officers there as required under the terms of the manifest, nor will drawback be denied where the copy of the notice of intent and manifest are not delivered to the inspecting officer, if a timely notice of intent was filed with the collector, provided that if in either case there is a failure of inspection, such failure is not due to any act or omission on the part of the shipper, the carrier, or the agent of either.

(b) Where merchandise is exported in accordance with the provisions of article 1046, otherwise than by sea, drawback will not be allowed in cases of noninspection, unless the carrier has notified the proper customs officer at the port of exit of the arrival and point of departure of the merchandise.

ART. 1058. *Same—Notices of intent in duplicate required to complete record.*—In all instances under the three preceding articles where only the shipper's notice of intent has been filed, no drawback shall be allowed until a notice of intent in duplicate shall have been filed with the collector of customs in order to complete the record.

ART. 1059. *Completion of drawback claims—Entry and certificate of manufacture.*—(a) A drawback entry and certificate of manufacture on customs Form 7575 shall be filed in duplicate within 2 years from the date of clearance of the exporting vessel or conveyance. The entry, which may include several shipments covered by notices of intent, each shipment constituting a claim within the meaning of this article, must when filed be complete as to all documents necessary to the liquidation thereof, including certificates of delivery of imported material and certificates of manufacture and delivery of manufactured or partly manufactured articles, and all necessary official documents issued from one customs officer to another must be applied for prior to filing the entry.

(b) A statement in duplicate of the papers filed, showing the dates when official documents were applied for, may be presented with the drawback entry. When such statement has been verified as to the papers filed, one copy shall be receipted and returned to the claimant and the other copy shall be attached to the drawback entry. The landing cer-

tificate, if one is required, shall be furnished prior to the liquidation of the entry.

(c) Certificates of manufacture may be filed prior to the filing of the entry and in such cases shall be referred to in the entry by official number in lieu of particulars of importation and manufacture. In such cases the entry shall be on customs Form 7573.

(d) In case the drawback entry is filed at a port other than that at which the certificate of manufacture is on file, the collector at the port where the certificate is filed shall, after liquidation and at the request of the party filing the certificate, or the party to whom such merchandise was delivered, as shown by said certificate, issue an extract therefrom for use at the port where the entry is filed. Such extracts shall be transmitted to the collector at the latter port, and for the purpose of identification reference may be made thereto as in the case of an original certificate. Such extracts shall be on customs Form 4537.

(e) When completely manufactured articles are purchased for exportation and the drawback is to be paid to the purchaser, the entry shall be on customs Form 7573 and shall be accompanied by a certificate of manufacture and delivery on customs Form 7577, if such a certificate is not already on file.

(f) Whenever a drawback entry is made by the manufacturer or his agent, and he is not the exporter, he shall declare on the entry that the right to the drawback claimed was reserved with the knowledge and consent of the exporter.

(g) In the case of vessels there shall be filed with the drawback entry a sworn copy of the contract under which the vessel was built or the pertinent part thereof showing that it was built for foreign account and ownership, a certificate of clearance for the foreign port if cleared from a port other than that at which the entry is filed, and a certified copy of the registry certificate or in lieu thereof a certificate of the consul of the foreign nation to which the vessel belongs showing that the said vessel has been registered under the flag of that country. In the case of warships the certificates of clearance and foreign registry will not be required.

(h) Claims for drawback not completed within the 2 years above prescribed shall be treated as abandoned.

ART. 1060. *Certificates of importation and extracts.*—(a) Where the merchandise identified in the drawback entry or certificate of manufacture was not imported at a port within the customs collection district where the entry or certificate of manufacture is filed, the collector of customs of the district where the merchandise was imported shall, upon the written request of the importer or the party to whom the delivery of such merchandise has been certified, issue to the collector at the port named a certificate of importation, which shall be on customs Form 5265, bearing a notation showing the date of filing of the application on which the certificate is issued.

(b) Should any portion of the material described in the certificate of importation be used in the manufacture of articles exported from a port other than that at which it is on file, the collector holding the certificate shall, on written request, issue an extract for use at such other port and transmit it to the collector at that port. Such extract shall be on customs Form 5267.

(c) In the case of articles manufactured from metals withdrawn from bonded smelting and refining establishments, the collector at the port of withdrawal shall issue, in lieu of certificates of importation, certificates showing the date of withdrawal, date of importation, party making same, quantity and character of metal, and rate and amount of duty paid.

(d) Certificates of importation shall not be issued until the import entry covering the merchandise to be certified shall have been liquidated and such liquidation made final by operation of law or acceptance in writing by the importer. Such certificate and extracts therefrom must name

the party to whom delivery has been certified in case a certificate of delivery has been filed with the collector issuing such certificates or extracts.

(e) When a certificate of manufacture covering burlap bags is filed, showing transfer of the bags after manufacture, the exporter may present an application addressed to the collector of customs at the port where the burlap or other textile material was imported, requesting the issuance of a certificate of importation, and the collector of customs at the port where the certificate of manufacture is filed will indicate on the application, before forwarding it to the collector of customs at the port of importation, that the proper certificate of delivery is indorsed on the certificate of manufacture to the person requesting the certificate of importation, thus obviating the necessity of filing further certificates or delivery with the collector of customs who issues the certificate of importation.

ART. 1061. *Certificates of delivery of imported merchandise.*—(a) In case the materials used in the manufacture of articles exported with benefit of drawback were not imported by the manufacturer of such articles, no drawback of the duties paid thereon shall be allowed until there shall be filed with the collector where drawback entry is made, a certificate of delivery on customs Form 7543, or official evidence of the existence of such a certificate filed at another port, made under oath, fully describing the materials delivered, and tracing such materials from the custody of the importer to the custody of the manufacturer. Reference may be made to this certificate by the manufacturer in his certificate of manufacture in lieu of particulars of importation, provided the certificate covers but one importation. The certificate of delivery herein provided for shall be filed in duplicate with the collector, who will transmit the copy to the comptroller of customs for the district. The copy need not be signed or sworn to, and may be a carbon of the original.

(b) If the materials are not delivered directly from the importer to the manufacturer, each intermediate transfer shall be noted on the certificate of delivery by an affidavit of the party through whose possession the materials passed, as provided on customs Form 7543.

(c) The party actually withdrawing merchandise from bonded warehouse shall be considered the importer of record for drawback purposes and certificates of delivery covering prior transfers of such merchandise while in warehouse will not be required.

ART. 1062. *Certificates of manufacture and delivery—Manufactured or partly manufactured articles or materials.*—

(a) Where the imported material used has passed through some process of manufacture before delivery and the partly or completely manufactured article is used in the manufacture of some other article for exportation, or where completely manufactured articles are purchased for exportation without further manipulation, a certificate of manufacture and delivery shall be filed on customs Form 7577. Such certificates of manufacture and delivery will be required whether the drawback is claimed by the exporter or has been reserved by the manufacturer.

(b) In drawback entries covering the exported articles, reference may be made to such certificates in lieu of particulars of importation and manufacture, except in cases where the article or materials have been further manipulated before exportation, in which event such additional manufacturing steps must be covered by a proper certificate of manufacture.

(c) Any intermediate transfer of such manufactured articles shall be certified on the certificate of manufacture and delivery.

(d) In case the drawback entry is filed at a port other than that at which the certificate of manufacture and delivery is on file, extracts may be issued on customs Form 4537.

ART. 1063. *Bills of lading.*—(a) At the time of filing, an entry for drawback shall be accompanied by a bill of lading issued by the proper representative of the exporting vessel,

conveyance, or line, covering the merchandise described in the entry. The bill of lading must in all cases show that the merchandise was shipped by or on account of the party making the drawback entry, or must bear an indorsement of the party in whose name or on whose account the merchandise was shipped, showing that the party making entry is authorized to make it and to receive the drawback. The terms of the bill of lading may limit and define its use by declaring it to be for customs purposes only and not negotiable, and if a copy of the original bill of lading be filed it must bear the signature of the party issuing the same.

(b) Memorandum copies of bills of lading issued by transportation companies, or bills of lading bearing merely the initials of a representative of the transportation company, will not be accepted in lieu of the bill of lading described above.

(c) Collectors of customs may issue extracts of bills of lading filed with drawback entries on customs Form 4475.

(d) If for any cause the party making the drawback entry can not produce the required bill of lading, he may, through the collector, submit to the Commissioner of Customs a sworn statement showing cause of failure, with such evidence as may be had of exportation and of his right to make the drawback entry. The collector transmitting such statements and evidence shall submit therewith his report and recommendations relative to the case.

ART. 1064. *Landing certificates.*—(a) A landing certificate will be required whenever the collector at the port of exportation or at the port where the drawback entry is filed shall have reason to believe that the shipment is not a bona fide exportation; in cases referred to the Bureau for instructions because of noncompliance with the regulations, in which the Bureau specifically directs that a landing certificate shall be produced; and in cases where a landing certificate is otherwise required by law or regulation.

(b) Foreign landing certificates shall be required in all cases for aircraft on which drawback is claimed which depart from the United States under their own power, and the collector may require such additional evidence as he may deem necessary to satisfy himself that the aircraft or any part thereof has been actually exported. Such landing certificates must show the exact time of landing in the foreign country of the aircraft in question and describe the aircraft and parts thereof on which drawback is claimed in sufficient detail to enable the collector to identify the same with the notice of intent.

(c) Whenever a landing certificate is required it shall be signed by a revenue officer of the foreign country to which the merchandise is exported, unless it is shown that such country has no customs administration, in which case the certificate may be signed by the consignee or by the vessel's agent at the place of landing, and sworn to before a notary public or other officer authorized to administer oaths and having an official seal.

(d) In cases where the landing certificate is specifically required by the collector or by the Bureau, but not otherwise, reasonable notice shall be given to the exporter or his agent. When such notice is given more than one year from the date of exportation the landing certificate shall be filed within 1 year from the date of the notice. In all other cases the certificate must be filed within 2 years from the date of exportation of the merchandise.

(e) In cases where the landing certificate is required by the collector of customs, other evidence of such landing, if satisfactory to the collector, may be accepted in lieu of the landing certificate herein provided for.

(f) Where landing certificates are required and the same can not be produced, an application for the waiver thereof may be made to the Bureau through the collector of customs within the time required for filing the certificate, accompanied by such evidence of exportation and landing abroad as may be available. Such applications will be granted pro-

vided the Bureau is satisfied from the evidence submitted that the merchandise has been actually exported.

ART. 1065. *Supplies for certain vessels.*—(a) Tariff Act of 1930, section 309:

(a) Articles of foreign or domestic manufacture or production may, under such regulations as the Secretary of the Treasury may prescribe, be withdrawn from bonded warehouses or bonded manufacturing warehouses free of duty or internal-revenue tax for supplies (not including equipment) of vessels of war, in ports of the United States, of any nation which may reciprocate such privilege toward the vessels of war of the United States in its ports, or for supplies (not including equipment) of vessels of the United States employed in the fisheries or in the whaling business, or actually engaged in foreign trade or trade between the Atlantic and Pacific ports of the United States or between the United States and any of its possessions, but no such article shall be landed at any port or place in the United States or in any of its possessions.

(b) Articles of domestic manufacture or production laden as supplies upon any such vessel shall be considered to be exported within the meaning of the drawback provisions of this Act.

(b) The term "supplies" does not include equipment.

(c) The allowance of drawback on articles manufactured or produced from imported materials tax-paid under section 601 (c), (4), (5), (6), or (7) of the Revenue Act of 1932, which are laden as supplies on the vessels enumerated in section 630 of the Revenue Act of 1932 is permitted.

(d) A notice of intent on customs Form 7515 must be filed in accordance with the provisions of article 1044. The inspector in making his return of lading will report whether the articles described in the notice of intent appear on the records of the exporting vessel as ships' supplies.

(e) The procedure outlined in the drawback regulations as to the filing of applications for a rate of drawback, notices of intent, and other required documents shall be followed, so far as applicable, in filing claims for drawback on ships' supplies.

(f) A receipt covering the merchandise showing marks, numbers, and quantity, signed by the master, or an authorized officer of the vessel or steamship company, will be accepted in lieu of a bill of lading.

(g) Drawback will not be paid until proof has been presented in the form of an affidavit of the master or other officer of the vessel on which the articles were laden, having knowledge of the facts, showing that the supplies have been used on board the vessel and that no portion thereof has been landed in the United States or in any of its possessions, except that in cases where the drawback on a single lading is less than \$25, an affidavit of such master or other officer, showing that the merchandise has been laden on board the particular vessel as supplies and that they will be used for no other purpose, will be accepted. In the case of vessels of war the said affidavits will not be required.

(h) Drawback entries shall be filed on customs Form 7573 or 7575, as applicable, modified to read "lade", "laden", or "lading" instead of "export", "exported", or "exporting", and the "Declaration of exportation" amended to read as follows:

DECLARATION OF LADING

I, _____ (member of firm, officer, representing corporation, agent, or attorney), of _____, do solemnly and truly declare that, according to the best of my knowledge and belief, the particulars of lading stated in this entry, the notices of intent, and receipts are correct, and that such merchandise is not to be relanded in nor returned to the United States, or any of its possessions, but is to be consumed as supplies or stores on the exporting vessels named herein.

Exporter or Agent.

Declared to before me this _____ day of _____, 19____.

Notary Public or Acting Deputy Collector.

ART. 1066. *Meats cured with imported salt.*—(a) All provisions of these regulations relating to the allowance of drawback on articles manufactured with the use of imported materials, including the application for a rate and the filing of a sworn statement, will apply to the refund of duty on salt used in curing meat, except that the duty to be refunded is

not subject to the retention of 1 per cent and that no payment will be made in an amount less than \$100. Claims amounting to less than \$100 shall be permitted to accumulate until the sum due reaches that amount.

(b) The forms provided will be modified to read "refund" in place of "drawback", "cured with" in place of "manufactured from", "meats" in place of "merchandise", and "salt" in place of "materials."

ART. 1067. *Liquidation of drawback entries.*—(a) No drawback on materials used in the manufacture of exported articles shall be paid until the import entries covering such materials shall have been liquidated and such liquidation shall have been made final by operation of law or by acceptance in writing by the importer and the liquidated duties have been paid.

(b) The drawback claim having been completed by the filing of the entry, bills of lading, and other documents required by these regulations, the landing certificate having been produced where required, and the exporting vessel or conveyance having been cleared as shown by record of clearance in the case of direct exportation or by certificate in the case of exportation at another port, the collector shall ascertain the drawback due by reference to the records of importation and the drawback rate under which the drawback claimed is allowable.

(c) Import entries, certificates of importation, and extracts from such certificates shall constitute the records from which the amount of duty paid on the materials used shall be determined; and to guard against errors of identification and overallowance, all materials identified in manufacturers' certificates and in export entries which have been liquidated, and all materials covered by certificates of importation and extracts from such certificates issued, shall be charged against the records of importation to which they respectively refer.

ART. 1068. *Two or more products.*—(a) Tariff Act of 1930, section 313 (a):

Where two or more products result from the manipulation of imported merchandise, the drawback shall be distributed to the several products in accordance with their relative values at the time of separation.

(b) In such cases the values used shall be market values unless the special regulations under which drawback is claimed provide otherwise.

ART. 1069. *Payment of drawback.*—The amount of liquidated duties subject to drawback having been ascertained, 99 per cent thereof, or for the full amount in the case of meats cured with imported salt, shall be paid by a "check and debenture certificate" made payable to the order of the party making the entry or to the party to whom the maker on the face of the entry directs such payment to be made.

ART. 1070. *To whom payable.*—(a) The party named as shipper or consignor in the bill of lading under which domestic merchandise is exported shall be held to be the exporter of such merchandise and shall be entitled to the drawback: *Provided, however,* That whenever the manufacturer or producer of articles entitled to drawback on exportation shall, on the sale or consignment of such articles, have reserved to himself the right to claim drawback, such manufacturer or producer may make entry for such drawback, which shall be paid to him upon the production of satisfactory evidence that such reservation was made with the knowledge and consent of the exporter.

(b) The drawback may also be paid to the agent of the manufacturer, producer, or exporter, as the case may be, or to the person to whom such manufacturer, producer, exporter, or agent shall, in writing, direct such drawback to be paid.

ART. 1071. *Source of payment—Puerto Rico.*—Tariff Act of 1930, section 313 (j):

Any drawback of duties that may be authorized under the provisions of this Act shall be paid from the customs receipts of Puerto Rico, if the duties were originally paid into the Treasury of Puerto Rico.

FLAVORING EXTRACTS, MEDICINAL OR TOILET PREPARATIONS (INCLUDING PERFUMERY), MANUFACTURED FROM DOMESTIC TAX-PAID ALCOHOL

ART. 1072. *Drawback authorized.*—(a) Tariff Act of 1930, section 313 (d), as amended by section 402 of the Liquor Tax Administration Act of June 26, 1936:

(313 (d)) Upon the exportation of flavoring extracts, medicinal or toilet preparations (including perfumery) manufactured or produced in the United States in part from domestic alcohol on which an internal-revenue tax has been paid, there shall be allowed a drawback equal in amount to the tax found to have been paid on the alcohol so used.

(402) Upon the exportation of bottled distilled spirits and wines manufactured or produced in the United States on which an internal-revenue tax has been paid, there shall be allowed, under regulations to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, a drawback equal in amount to the tax found to have been paid on such bottled distilled spirits and wines: *Provided,* That such distilled spirits and wines have been bottled especially for export, under regulations prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury.

(b) United States Code, title 26, section 1481c:

All provisions of law for the allowance of drawback of internal-revenue tax on articles exported from the United States are, so far as applicable, extended to like articles upon which an internal-revenue tax has been paid when shipped from the United States to the island of Puerto Rico. (Mar. 4, 1915, c. 164, 38 Stat. 1189; May 17, 1932, c. 190, 47 Stat. 158.)

(c) The Canal Zone is considered foreign territory for the purpose of the drawback law.

(d) There is no authority of law for the payment of drawback on such articles when shipped to Alaska, Hawaii, the Virgin Islands, American Samoa, or the island of Guam.

ART. 1073. *Procedure.*—(a) In the payment of this drawback the regulations relating to the allowance of drawback on articles manufactured from imported materials will be followed, so far as applicable.

(b) The notice of intent will be made on customs Form 7511, and when it covers duty-paid imported materials, in addition to the tax-paid alcohol, two sets of final drawback entries will be required, one set for customs drawback and the other for internal-revenue drawback.

(c) The following forms will be used in lieu of the corresponding forms used in the case of articles manufactured from imported materials:

Drawback entry, customs Form 7579.

Drawback entry and certificate of manufacture, customs Form 7583.

Certificate of manufacture and delivery, customs Form 7585.

Certificate of delivery of tax-paid alcohol, customs Form 7545.

ART. 1074. *Manufacturing record.*—The description of the alcohol required to be stated in the entry may be obtained from the package containing the tax-paid alcohol, and there shall be kept by the manufacturer of the flavoring extracts, medicinal or toilet preparations on which drawback is claimed, a record of all such preparations manufactured, the quantity of wastage, if any, and a full description of the alcohol. This record shall be open at all times to the inspection of officers of the customs.

ART. 1075. *Certificate of Commissioner of Internal Revenue (Alcohol Tax Unit) of alcohol withdrawn tax-paid, and extracts from such certificates.*—(a) Upon application in writing the Commissioner of Internal Revenue (Alcohol Tax Unit) shall issue a certificate on internal-revenue Form 646, showing that the alcohol described in the application was withdrawn from warehouse tax-paid, and forward it to the collector of customs. Each certificate shall be given a serial number.

(b) Where drawback is claimed on flavoring extracts, medicinal or toilet preparations manufactured with the use of rectified or redistilled alcohol, the certificate of the Commissioner of Internal Revenue (Alcohol Tax Unit) internal-revenue Form 646 shall show, in addition to the data called for therein, the name of the rectifier, wine gallons of rectified

alcohol produced, amount of tax paid, date of withdrawal, the proof thereof, number of proof gallons produced, and the serial numbers of the rectifier's stamps covering the alcohol.

(c) Charges shall be made on the back of the certificate by the collector of customs as the alcohol covered thereby is identified in drawback entries covering exportations of flavoring extracts and medicinal or toilet preparations, and should any portion of the alcohol described in such certificate be required for liquidation of drawback entries filed at another port, the collector shall, on written application of the party who requested its issuance, transmit an extract from the certificate for use at such port. The extract shall be made on customs Form 4541, bear the Bureau of Internal Revenue serial number, and be charged on the back of the original certificate.

ART. 1076. *Collector's statement of drawback due.*—(a) When the drawback claim has been completed by the filing of the entry, bills of lading, etc., as required by the regulations and the landing certificate having been produced where necessary, and the exporting vessel or conveyance having been cleared as shown by the records of clearance in the case of direct exportation or by certificate where the merchandise was exported at another port, the collector shall proceed to ascertain the amount of drawback due by reference to the certificate of manufacture and the established rate.

(b) The collector shall then prepare a certificate on customs Form 4539, and forward the certificate, together with a written request signed by the claimant, for payment of the amount found to be due (addressed to the Comptroller General of the United States) to the Commissioner of Internal Revenue (Alcohol Tax Unit), who will forward it, scheduled on internal-revenue Form 1550, to the Comptroller General of the United States for payment.

(c) In addition to the information called for in the certificate (customs Form 4539), there shall be stated the Bureau of Internal Revenue certificate number applicable to the alcohol used.

(d) No deduction of 1 percent is to be made from the amount of tax due for drawback.

(e) The regulation requiring a certificate from the collector of customs in the Philippine Islands showing the payment of duty on merchandise shipped to the said islands with benefit of drawback, or that such merchandise is provided for in the free list of the Philippine tariff, is not applicable to medicinal and toilet preparations and flavoring extracts manufactured in the United States with the use of domestic tax-paid alcohol.

MERCHANDISE EXPORTED FROM CONTINUOUS CUSTOMS CUSTODY

ART. 1077. *Drawback authorized.*—(a) Tariff Act of 1930, section 557:

* * * Merchandise upon which the duties have been paid and which shall have remained continuously in bonded warehouse or otherwise in the custody and under the control of customs officers, may be entered or withdrawn at any time within three years (or ten months in the case of grain) after the date of importation for exportation or for transportation and exportation to a foreign country, or for shipment or for transportation and shipment to the Virgin Islands, American Samoa, or the island of Guam, under such regulations as the Secretary of the Treasury shall prescribe, and upon such entry or withdrawal, and exportation of shipment, 99 per centum of the duties thereon shall be refunded. * * *

(b) United States Code, title 19, section 152-b:

Merchandise in bonded warehouse or otherwise in the custody and control of the officers of the customs upon which duties have been paid shall be entitled, on shipment to the Philippine Islands within 3 years from the date of the original arrival, to a return of the duties less 1 per centum, * * * under such rules and regulations as may be prescribed by the Secretary of the Treasury. (Mar. 8, 1902, c. 140, sec. 7, 32 Stat. 55.)

(c) The Canal Zone is considered foreign territory for the purpose of the drawback law.

(d) Imported articles which have remained continuously under customs custody and control are not entitled to drawback when shipped to Alaska, Puerto Rico, or Hawaii.

ART. 1078. *Packages.*—Tariff Act of 1930, section 562:

Unless by special authority of the Secretary of the Treasury, no merchandise shall be withdrawn from bonded warehouse in less quantity than an entire bale, cask, box, or other package; or, if in bulk, in the entire quantity imported or in a quantity not less than one ton weight. All merchandise so withdrawn shall be withdrawn in the original packages in which imported unless, upon the application of the importer, it appears to the collector that it is necessary to the safety or preservation of the merchandise to repack or transfer the same. * * *

ART. 1079. *Continuous custody.*—(a) Tariff Act of 1930, section 558:

No remission, abatement, refund, or drawback of estimated or liquidated duty shall be allowed on the exportation of any merchandise after its release from the custody or control of the Government except in case of the exportation of articles manufactured or produced in whole or in part from imported materials, or not conforming to sample or specifications, on which a drawback of duties is expressly provided for by law.

(b) Such custody must be continuous and uninterrupted from the time of importation to the time of exportation.

(c) Merchandise which has been released to an importer under the bond prescribed by article 314 of these regulations, and returned to the appraiser's stores upon requisition of the collector, and merchandise released under 6 months' bond, as provided for in section 308 of the Tariff Act of 1930, has not been in the continuous custody of customs officers.

(d) Merchandise which remains upon the wharf by permission of the collector is in customs custody. This custody ceases when the permit has been accepted by the customs officer in charge, and there is nothing further to be done by him in the way of measuring, weighing, gauging, etc.

(e) In the case of merchandise entered for warehouse, customs, custody ceases when the storekeeper with whom a delivery permit has been lodged has released the merchandise to or upon the order of the proprietor of the warehouse, as provided in articles 331 and 933 (a) and (b).

(f) Except as provided by paragraph (d) of this article, merchandise examined elsewhere than at the public stores in accordance with the provisions of article 770 is released from customs custody when final examination for purposes of appraisement has been completed.

ART. 1080. *Entry.*—(a) At least 6 hours before the lading of any merchandise on which drawback is claimed, there shall be filed by the importer, or by whomever said importer shall designate in writing, with the collector an entry in triplicate on customs Form 7541, one copy of which shall be forwarded to the comptroller of customs.

(b) Where the merchandise is to be transported before exportation the entry shall be filed in quadruplicate and name the transporting vessel or conveyance, the route and port of exit. One certified copy of this entry shall be forwarded to the collector at the port of exit. In such cases the merchandise must be transported by a bonded carrier under the regulations for transportation in bond, and manifests shall be prepared and filed in the manner provided in article 900 of these regulations.

(c) The storekeeper or other officer having the merchandise in charge, when so directed, shall cord, seal, or brand the same before delivery for transportation.

(d) The regulations as to supervision of lading and certification of exportation hereinbefore provided in the case of the exportation of manufactured articles will be followed, so far as applicable, the drawback entry taking the place of the notice of intent to export.

ART. 1081. *Completion of entry.*—As evidence of exportation there shall be filed an export bill of lading, and a landing certificate where required, in the manner and within the time provided in the case of the exportation of manufactured articles.

ART. 1082. *Ascertainment of drawback.*—(a) The drawback entry having been completed and the bill of lading filed, together with the landing certificate where required, the reports of inspection and lading having been made, and

the clearance of the exporting vessel or conveyance having been shown by record of clearance in the case of direct exportation, or by certificate in the case of transportation and exportation, the collector with whom such entry and proofs are lodged shall verify the facts of importation by reference to the records in his office, and ascertain the amount of duty paid on the merchandise exported. The drawback found due shall be paid in accordance with the regulations covering manufactured articles.

(b) No drawback shall be paid until the import entry covering the merchandise shall have been liquidated, such liquidation has been made final by operation of law or by acceptance in writing by the importer, and the liquidated duties have been paid.

MERCHANDISE EXPORTED AFTER RETURN TO CUSTOMS CUSTODY

ART. 1083. *Drawback authorized.*—Tariff Act of 1930, section 313 (c):

Upon the exportation of merchandise not conforming to sample or specifications upon which the duties have been paid and which have been entered or withdrawn for consumption and, within thirty days after release from customs custody, returned to customs custody for exportation, the full amount of the duties paid upon such merchandise shall be refunded as drawback, less 1 per centum of such duties.

ART. 1084. *Application.*—(a) When an importer desires to export with benefit of drawback imported merchandise which does not conform to sample or specifications, he shall file with the collector of customs at the port where the merchandise was entered an application, in duplicate, on customs Form 7537, giving the quantities and description of the merchandise to be exported and identifying it with the import entry.

(b) The application shall also set forth the place at which the merchandise is to be deposited in customs custody. If such place is not, in the opinion of the collector, suitable for the examination of the merchandise and, where necessary, repacking, he may require the merchandise to be delivered, at the expense of the applicant, to a suitable place.

ART. 1085. *Samples and specifications.*—(a) The application shall be accompanied by a copy of the order for the merchandise and copies of the correspondence, if any, preliminary thereto, and the samples or specifications on which the merchandise was ordered; and shall contain a statement by the importer, under oath, setting forth that the samples or specifications submitted are those on which the merchandise was ordered and showing in detail in what manner the imported merchandise does not conform to sample or specifications.

(b) If no written order was placed and no samples or specifications are available, a sworn statement of the importer setting forth his oral specifications may be accepted in lieu thereof, provided that in doubtful cases the collector may, before liquidation of the entry, require such oral specifications to be corroborated by the shipper.

(c) Cases involving doubt or dispute between the importer and the shipper should be forwarded to the Bureau for instructions.

ART. 1086. *Return of merchandise.*—(a) Upon receipt of the application the collector shall approve the place of deposit of the merchandise selected by the applicant, or designate another place if the one selected is not deemed suitable, making appropriate notation to that effect on both copies of the application, and return the duplicate to the applicant to be presented with the merchandise to the customs officer at the place of deposit, who shall note thereon the date on which the merchandise is received or customs custody assumed and return it to the collector. Customs officers shall not receive or assume custody of the merchandise until the duplicate of the application approved by the collector is presented at the place of deposit of the merchandise. A receipt showing the date of return of the merchandise shall be furnished to the applicant if he requests it. If the report of the receiving officer shows that the merchandise was

not returned within the time required by law, the application should be rejected.

(b) In the case of merchandise to be returned to the foreign shipper through the mails from a post office located at a point where no customs officer is stationed, the merchandise, prepared for mailing, shall be deposited with the postmaster for delivery to the collector of customs at the port where the article was entered. The parcel, properly wrapped, stamped, and addressed for mailing abroad shall be inclosed in a package or wrapper addressed to the collector of customs at the port where such merchandise was originally entered. Waiver of the right to withdraw the merchandise from the mails, signed by the exporter, shall be stamped or written on both the parcel and package or wrapper, and the appraiser in making his return on the application (customs Form 7537) shall report accordingly. The outside package or wrapper shall bear an appropriate notation to the effect that the contents are intended for examination and exportation under section 313 (c) of the tariff act. If the parcel is to be insured or registered to cover transportation from port of original entry to foreign destination, the exporter shall advance to the collector of customs at such port the necessary funds to cover the charges for insurance or registry.

(c) The application fully executed, in duplicate, on customs Form 7537, shall either accompany, or be mailed simultaneously with, the parcel, except that if such form is not available to the exporter, or if available and information necessary for complete execution of the form is not obtainable at the time of mailing, the merchandise may be returned without the application, to the postmaster for prompt delivery to the collector of customs. In cases where the application covering the returned merchandise is not received by the collector, he shall, immediately upon receipt of such parcel, furnish the exporter with copies of customs Form 7537 for prompt execution and return. Dates of delivery of the parcel from the post office and return thereto are considered the dates of release from and return to customs custody, respectively, within the meaning of section 313 (c) of the tariff act. Drawback will be denied where articles are not returned to customs custody within 30 days after release therefrom.

(d) The exporter shall submit for the information of the collector of customs a parcel post or registered mail receipt or other evidence from the postmaster at the depositing office showing date of return of the merchandise to the postmaster, together with evidence of date of delivery of the incoming package from the post office to the addressee (exporter). After the required examination has been made of the merchandise and the collector has approved the application, he will cause the parcel to be mailed for exportation, notify the applicant of such approval and mailing, and forward to him blank copies of drawback entry (customs Form 7539), with the request for prompt execution and return. If the application is disapproved the collector shall notify the applicant accordingly and request advice from him as to the disposition to be made of the parcel.

ART. 1087. *Examination by appraiser.*—If it appears from the report of the receiving officer that the merchandise was returned to customs custody within the time required by law, the original of the application, together with its supporting documents, the samples and specifications, and the import invoice covering the merchandise, shall be submitted to the appraiser. The appraiser shall cause the merchandise to be examined, and if he finds the importer's claim well founded, shall supervise the repacking of the merchandise when repacking is necessary. After the merchandise has been examined and, when necessary, repacked, the appraiser shall return the application and accompanying documents to the collector with his report as to whether or not the merchandise has been identified with the import invoice, whether or not it conforms to sample or specifications and whether or not the quantity thereof agrees with that stated in the application.

ART. 1088. *Approval of application—Entry.*—If the appraising officer sustains the importer's claim and the collector concurs, the collector shall approve the application and so notify the applicant, the date of such notification being stamped on the application. The applicant shall then file a drawback entry on customs Form 7539 and the export procedure and liquidation of the entry shall be the same, so far as applicable, as that governing the exportation with benefit of drawback of merchandise in continuous customs custody. (See arts. 1080 to 1082.)

ART. 1089. *Acceptance of goods at importer's risk and expense—Time limit for exportation.*—Merchandise returned to customs custody under section 313 (c) of the Tariff Act of 1930 shall be accepted only at the risk and expense of the party in interest, and if not exported within 60 days after the date of notification of approval of the application to export shall be treated as unclaimed.

ART. 1090. *Waiver of proof—Duty less than \$25.*—With the exception of the application of the importer, the above provisions of these regulations relative to proof of nonconformity to sample or specifications may be waived wholly or in part, provided the duty on the merchandise to be exported is less than \$25 and the collector is otherwise satisfied that the claim is well founded.

GENERAL REGULATIONS RELATING TO ALL DRAWBACK CLAIMS

ART. 1091. *Filing of documents and liquidation of claims.*—(a) Where notices of intent are filed at ports of entry, the original, as soon as the inspector's report is made, will be forwarded to the collector of customs at the headquarters port, who will number the document. Where the entry is to be filed at a port in another customs district as indicated by the notice of intent, the original of the notice of intent will be forwarded to the port indicated by the exporter and the duplicate copy will be retained at the port of exit. When the entry and other papers required by the regulations to be filed by the claimant for drawback are received at the port of entry they will be forwarded to the headquarters port for liquidation and the issuance of check-debenture certificates.

(b) All certificates of importation will be issued by and to headquarters ports only; and if necessary the entry will be obtained from the port of entry. At the ports of entry a proper record will be made of notices of intent on customs Form 4491. A record of entries and liquidations will be kept at the headquarters port covering the transactions of the entire district on customs Forms 4489-A, 4489-B, or 4489-C. Each port of entry will maintain a separate series of numbers for notices of intent with the assigned symbol letter.

(c) When notices of intent are filed in accordance with article 1045 an additional copy will be required for transmission, after certification, to the collector at the port of exit.

ART. 1092. *Drawback allowable—Not allowable.*—(a) The duties subject to drawback include special dumping duties and the 10 percent additional duty assessed under section 304 of the Tariff Act of 1930 on merchandise not marked to indicate the country of origin.

(b) No drawback of additional duty imposed for undervaluation, or of discriminating duty, or of additional duty paid on any wool or hair used in violation of the bond provided for in paragraph 1101, Tariff Act of 1930, or of duty on merchandise remaining unclaimed in general order for more than 1 year and exported in the same condition as imported, shall be allowed.

ART. 1093. *Shippers' export declarations.*—The notation "Exported with benefit of drawback" may be stamped or written on shippers' export declarations covering merchandise on which drawback is claimed. While this will probably aid shippers in securing drawback inspection it is not obligatory that declarations shall be so stamped, and the liquidation of drawback entries will not be suspended on account of the absence of such notation.

ART. 1094. *Amendment of notices of intent and entries.*—(a) Except for the purpose of correcting a manifest clerical error or for changing the name of the exporting vessel, no change shall be made by the exporter in the notices of intent to export after filing, but correct notices of intent for the same merchandise may be accepted when filed in time to supplant those previously filed and needing correction.

(b) Final drawback entries may be corrected after filing with the collector, only after permission has been granted by the collector to have the comptroller's copy of the entry withdrawn and the corrections or amendments sworn to by the appropriate parties, or by the timely filing of supplemental entry in duplicate.

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ART. 1096. *Monthly reports.*—Within 10 days after the close of every month there shall be compiled and forwarded to the Division of Statistics and Research, Bureau of Customs, on customs Form 3151, a report for each customs district showing the following information: Total drawback allowed under section 557 and under each of the following subsections of section 313, Tariff Act of 1930 (a and b), (c), (d), and (g); remissions approved under subsection (e) and refunds allowed under subsection (f) of section 313.

ART. 1097. *Forms.*—The customs forms referred to in this chapter may be obtained from collectors of customs upon payment of the charge therefor, if any; or they may be printed by importers, manufacturers, or exporters, provided the color, size, wording, and arrangement are the same as the Government forms. If larger forms are necessary in the case of certificates of manufacture or drawback entries, the same may be printed, provided they are in multiples of the Government size.

ART. 1098. *Signing of documents—Powers of attorney.*—Powers of attorney, in accordance with article 301, will be required from persons signing documents required by this chapter in all cases where such person is not a member of the firm or is not the importer, manufacturer, or exporter, as the case may be. A power of attorney will also be required where the person signing a document for a corporation is not the president, vice president, treasurer, or secretary of the corporation.

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(b) For course of procedure relating to the withdrawal, without payment of internal-revenue tax, of tobacco products for use as supplies on certain vessels, see Internal-Revenue Regulations No. 76.

CHAPTER XXI

ENFORCEMENT OF THE CUSTOMS LAWS, FINES, PENALTIES, AND FORFEITURES

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GENERAL PROVISIONS

ART. 1100. *Smuggling and fraud on revenue—Merchandise imported contrary to law—Concealing, dealing in, or transporting.*—(a) Tariff Act of 1930, section 593:

(a) If any person knowingly and willfully, with intent to defraud the revenue of the United States, smuggles, or clandestinely introduces into the United States any merchandise which should have been invoiced, or makes out or passes, or attempts to pass, through the customhouse any false, forged, or fraudulent invoice, or other document or paper, every such person, his, her, or their aiders and abettors, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in any sum not exceeding \$5,000, or imprisoned for any term of time not exceeding 2 years, or both, at the discretion of the court.

(b) If any person fraudulently or knowingly imports or brings into the United States, or assists in so doing, any merchandise contrary to law, or receives, conceals, buys, sells, or in any manner facilitates the transportation, concealment, or sale of such merchandise after importation, knowing the same to have been imported or brought into the United States contrary to law, such merchandise shall be forfeited and the offender shall be fined in any sum not exceeding \$5,000 nor less than \$50, or be imprisoned for any time not exceeding 2 years, or both.

(c) Whenever, on trial for a violation of this section, the defendant is shown to have or to have had possession of such goods, such possession shall be deemed evidence sufficient to authorize conviction, unless the defendant shall explain the possession to the satisfaction of the jury.

(b) In order to obtain a conviction of the person or forfeiture of the merchandise there must have been a violation of some specific provision of the customs revenue laws. Forfeiture will not be imposed by implication. There must be a statutory authorization therefor.

(c) It is not necessary that the Government shall have been deprived of duty to warrant a conviction or forfeiture under this section, but only that the merchandise shall have been fraudulently and knowingly introduced "contrary to law." "Contrary to law" is not confined to goods imported in violation of the customs revenue laws, but includes any merchandise imported in violation of any law.

(d) "Merchandise" as used in this section and this article includes goods, wares, and chattels the importation of which is prohibited or restricted.

ART. 1101. *Unlawful importing, landing, concealing, transporting, or aiding by obtaining information, financing, or otherwise—Vessels, vehicles, or persons—Penalty.*—United States Code, title 19, section 483:

(a) All vessels, with the tackle, apparel, and furniture thereof, and all vehicles, animals, aircraft, and things with the tackle, harness, and equipment thereof, used in, or employed to aid in, or to facilitate by obtaining information or otherwise, the unloading, bringing in, importation, landing, removal, concealment, harboring, or subsequent transportation of any merchandise upon the same or otherwise unlawfully introduced, or attempted to be introduced, into the United States, shall be seized and forfeited.

(b) Any member of the crew of any such vessel and any person who assists, finances, directs, or is otherwise concerned in the unloading, bringing in, importation, landing, removal, concealment, harboring, or subsequent transportation of any such merchandise exceeding \$100 in value, or into whose control or possession the same shall come without lawful excuse, shall, in addition to any other penalty be liable to a penalty equal to the value of such goods, to be recovered in any court of competent jurisdiction, or to imprisonment for not more than 5 years, or both. (As amended Aug. 5, 1935, c. 438, title II, sec. 208, 49 Stat. 526.)

ART. 1102. *Customs - enforcement areas - Prevention of smuggling - Hovering vessels - etc. - Definitions.*—United States Code, title 19, sections 1701-1709:

SEC. 1701. (a) Whenever the President finds and declares that at any place or within any area on the high seas adjacent to but outside customs waters any vessel or vessels hover or are being kept off the coast of the United States and that, by virtue of the presence of any such vessel or vessels at such place or within such area, the unlawful introduction or removal into or from the United States of any merchandise or person is being or may be occasioned, promoted, or threatened, the place or area so found and declared shall constitute a customs-enforcement area for the purposes of this chapter. Only such waters on the high seas shall be within a customs-enforcement area as the President finds and declares are in such proximity to such vessel or vessels that such unlawful introduction or removal of merchandise or persons may be carried on by or to or from such vessel or vessels. No customs-enforcement area shall include any waters more than

one hundred nautical miles from the place or immediate area where the President declares such vessel or vessels are hovering or are being kept and, notwithstanding the foregoing provision, shall not include any waters more than 50 nautical miles outward from the outer limit of customs waters. Whenever the President finds that, within any customs-enforcement area, the circumstances no longer exist which gave rise to the declaration of such area as a customs-enforcement area, he shall so declare, and thereafter, and until a further finding and declaration is made under this subsection with respect to waters within such area, no waters within such area shall constitute a part of such customs-enforcement area. The provisions of law applying to the high seas adjacent to customs waters of the United States shall be enforced in a customs-enforcement area upon any vessel, merchandise, or person found therein.

(b) At any place within a customs-enforcement area the several officers of the customs may go on board of any vessel and examine the vessel and any merchandise or person on board, and bring the same into port, and, subject to regulations of the Secretary of the Treasury, it shall be their duty to pursue and seize or arrest and otherwise enforce upon such vessel, merchandise, or person, the provisions of law which are made effective thereto in pursuance of subsection (a) in the same manner as such officers are or may be authorized or required to do in like case at any place in the United States by virtue of any law respecting the revenue: *Provided*, That nothing contained in this section or in any other provision of law respecting the revenue shall be construed to authorize or to require any officer of the United States to enforce any law thereof upon the high seas upon a foreign vessel in contravention of any treaty with a foreign government enabling or permitting the authorities of the United States to board, examine, search, seize, or otherwise to enforce upon such vessel upon the high seas the laws of the United States except as such authorities are or may otherwise be enabled or permitted under special arrangement with such foreign government: *Provided further*, That none of the provisions of this chapter shall be construed to relieve the Secretary of Commerce of any authority, responsibility, or jurisdiction now vested in or imposed on that officer. (Aug. 5, 1935, c. 438, title I, sec. 1, 49 Stat. 518.)

NOTE.—Customs-enforcement areas established under authority of this section will be published in the Treasury Decisions.

Sec. 1702. (a) Any person owning in whole or in part any vessel of the United States who employs, or participates in, or allows the employment of, such vessel for the purpose of smuggling, or attempting to smuggle, or assisting in smuggling, any merchandise into the territory of any foreign government in violation of the laws there in force, if under the laws of such foreign government any penalty or forfeiture is provided for violation of the laws of the United States respecting the customs revenue, and any citizen of, or person domiciled in, or any corporation incorporated in, the United States, controlling or substantially participating in the control of any such vessel, directly or indirectly, whether through ownership of corporate shares or otherwise, and allowing the employment of said vessel for any such purpose, and any person found, or discovered to have been, on board of any such vessel so employed and participating or assisting in any such purpose, shall be liable to a fine of not more than \$5,000 or to imprisonment for not more than 2 years, or to both such fine and imprisonment.

(b) It shall constitute an offense under this section to hire out or charter a vessel if the lessor or charterer has knowledge that, or if such vessel is leased or chartered under circumstances which would give rise to a reasonable belief that, the lessee or person chartering the vessel intends to employ such vessel for any of the purposes described in subsection (a) and if such vessel is, during the time such lease or charter is in effect, employed for any such purpose. (Aug. 5, 1935, c. 438, title I, sec. 2, 49 Stat. 518.)

Sec. 1703. (a) Whenever any vessel which shall have been built, purchased, fitted out in whole or in part, or held, in the United States or elsewhere, for the purpose of being employed to defraud the revenue or to smuggle any merchandise into the United States, or to smuggle any merchandise into the territory of any foreign government in violation of the laws there in force, if under the laws of such foreign government any penalty or forfeiture is provided for violation of the laws of the United States respecting the customs revenue, or whenever any vessel which shall be found, or discovered to have been, employed, or attempted to be employed, within the United States for any such purpose, or in anywise in assistance thereof, or whenever any vessel of the United States which shall be found, or discovered to have been, employed, or attempted to be employed at any place, for any such purpose, or in anywise in assistance thereof, if not subsequently forfeited to the United States or to a foreign government, is found at any place at which any such vessel may be examined by an officer of the customs in the enforcement of any law respecting the revenue, the said vessel and its cargo shall be seized and forfeited.

(b) Every vessel which is documented, owned, or controlled in the United States, and every vessel of foreign registry which is, directly or indirectly, substantially owned or controlled by any citizen of, or corporation incorporated, owned, or controlled in, the United States, shall, for the purposes of this section, be deemed a vessel of the United States.

(c) For the purposes of this section, the fact that a vessel has become subject to pursuit as provided in section 1581 of this title, or is a hovering vessel, or that a vessel falls, at any place within the customs waters of the United States or within a customs-enforcement area, to display lights as required by law, shall be prima facie evidence that such vessel is being, or has been, or is attempted to be employed to defraud the revenue of the United States. (Aug. 5, 1935, c. 438, title I, sec. 3, 49 Stat. 518.)

Sec. 1704. Subject to appeal to the Secretary of Commerce and under such regulations as he may prescribe, whenever the collector of customs of the district in which any vessel is, or is sought to be, registered, enrolled, licensed, or numbered, is shown upon evidence which he deems sufficient that such vessel is being, or is intended to be, employed to smuggle, transport, or otherwise assist in the unlawful introduction or importation into the United States of any merchandise or person, or to smuggle any merchandise into the territory of any foreign government in violation of the laws there in force, if under the laws of such foreign government any penalty or forfeiture is provided for violation of the laws of the United States respecting the customs revenue, or whenever, from the design or fittings of any vessel or the nature of any repairs made thereon, it is apparent to such collector that such vessel has been built or adapted for the purpose of smuggling merchandise, the said collector shall revoke the registry, enrollment, license, or number of said vessel or refuse the same if application be made therefor, as the case may be. Such collector and all persons acting by or under his direction shall be indemnified from any penalties or actions for damages for carrying out the provisions of this section. (Aug. 5, 1935, c. 438, title I, sec. 4, 49 Stat. 519.)

NOTE.—Regulations issued under section 1704, supra, by the Secretary of Commerce are contained in Commerce Department Circular No. 298, dated December 16, 1935, the pertinent part of which reads as follows:

While the law prescribes that the collector of customs may determine the evidence which he deems sufficient that such vessel is being used or is intended to be used illegally, it is the opinion of this Department that in order to secure uniformity and prevent injustice, the collector of customs, before revoking any existing document of a vessel, should present the charges filed with him to the owner of the vessel that he may have an opportunity to reply under oath thereto; except, that in cases before the collector of customs which are supported by evidence that is practically conclusive, and where immediate action is desirable, the collector would be justified in revoking, or in refusing to issue the documents of the vessel subject to an appeal by the owner to the Secretary of Commerce.

Any appeal to the Secretary of Commerce made pursuant to the above quoted section of law shall be in writing and must be sworn to before a notary public or other officer authorized by law to administer oaths generally, and filed in triplicate with the collector, who will retain one copy in his office. The owner should be permitted to submit with his appeal corroborative evidence in the form of affidavits from persons having actual knowledge in the premises, also, if he so desires, a description in detail and blueprints of the vessel. Such evidence, with two copies of the owner's appeal, should be promptly forwarded to this Department, together with the collector's report, which should present in detail the facts and evidence supporting his action, and also any additional comments he desires to make regarding any facts not before the collector at the time of his original action.

Sec. 1705. Any vessel or vehicle forfeited to the United States, whether summarily or by a decree of any court, for violation of any law respecting the revenue, may, in the discretion of the Secretary of the Treasury, if he deems it necessary to protect the revenue of the United States, be destroyed in lieu of the sale thereof under existing law. (Aug. 5, 1935, c. 438, title I, sec. 5, 49 Stat. 519.)

Sec. 1706. Except into the districts adjoining to the Dominion of Canada, or into the districts adjacent to Mexico, no merchandise of foreign growth or manufacture subject to the payment of duties shall be brought into the United States from any foreign port or place, or from any hovering vessel, in any vessel of less than 30 net tons burden without special license granted by the Secretary of the Treasury under such conditions as he may prescribe, nor in any other manner than by sea, except by aircraft duly licensed in accordance with law, or landed or unladen at any other port than is directed by law, under the penalty of seizure and forfeiture of all such unlicensed vessels or aircraft and of the merchandise imported therein, landed or unladen in any manner. Marks, labels, brands, or stamps, indicative of foreign origin, upon or accompanying merchandise or containers of merchandise found upon any such vessel or aircraft, shall be prima facie evidence of the foreign origin of such merchandise. (Aug. 5, 1935, c. 438, title I, sec. 6, 49 Stat. 519.)

NOTE.—Regulations (T. D. 48813) issued under section 1706, supra, by the Secretary of the Treasury provide as follows:

The application for a license under the above quoted section of law shall be addressed to the Secretary of the Treasury and delivered to the collector of customs of the district in which are located the ports where foreign merchandise is to be imported.

The application shall be executed under oath or affirmation and shall contain the following information:

- (1) Name of vessel, rig, motive power, and home port.
- (2) Name and address of owner.
- (3) Name and address of master.
- (4) Net tonnage of vessel.
- (5) Kind of merchandise to be imported.
- (6) Country or countries of exportation.
- (7) Ports of the United States where merchandise will be imported.
- (8) Whether the vessels will be used to transport and import merchandise from a hovering vessel.
- (9) Kind of document under which vessel is operating.

The collector will make inquiry into the character and reputation of the owner or master, or both, as the case may be, and for this purpose shall refer the application to the Customs Agency Service for verification, investigation, and report. The investigation should include, among other things, an inquiry as to whether the applicant or the vessel has previously been engaged in the violation of the customs or navigation laws.

The collector will transmit the application to the Bureau with his report and recommendation, which should include any special conditions believed necessary or desirable to be incorporated in the license. The Secretary of the Treasury will issue a license only if he is satisfied that the revenue will not be jeopardized thereby. The license will be issued in the name of the applicant and not in the name of the vessel. The original and one copy of the license, if granted, will be transmitted to the collector; the original to be delivered by him to the licensee, and the copy to be retained in the records of his office.

The master or owner shall keep the license on board the vessel at all times and exhibit it upon demand of any duly authorized officer of the United States. Said license is personal to the licensee and is not transferable.

The collector will report to the Bureau any violation of the terms of the license or any other conduct on the part of the licensee which may be deemed to warrant consideration looking to the revocation of the license.

The license is revocable at the discretion of the Secretary of the Treasury for any violation of its terms or for any cause which he considers inimical to the revenue or otherwise against the interests of the United States.

Sec. 1707. In addition to any other requirement of law, every vessel, not exceeding 500 net tons, from a foreign port or place, or which has visited a hovering vessel, shall carry a certificate for the importation into the United States of any spirits, wines, or other alcoholic liquors on board thereof (sea stores excepted), destined to the United States, said certificate to be issued by a consular officer of the United States or other authorized person pursuant to such regulations as the Secretary of State and the Secretary of the Treasury may jointly prescribe. Any spirits, wines, or other alcoholic liquors (sea stores excepted) found, or discovered to have been, upon any such vessel at any place in the United States, or within the customs waters, without said certificate on board, which are not shown to have a bona fide destination without the United States, shall be seized and forfeited and, in the case of any such merchandise so destined to a foreign port or place, a bond shall be required in double the amount of the duties to which such merchandise would be subject if imported into the United States, conditioned upon the delivery of said merchandise at such foreign port or place as may be certified by a consular officer of the United States or otherwise as provided in said regulations: *Provided*, That if the collector shall be satisfied that the certificate required for the importation of any spirits, wines, or other alcoholic liquors was issued and was lost or mislaid without fraud, or was defaced by accident, or is incorrect by reason of clerical error or other mistake, said penalties shall not be incurred, nor shall such bond be required. This section shall take effect on the sixtieth day following August 5, 1935. (Aug. 5, 1935, c. 438, title I, sec. 7, 49 Stat., 520.)

NOTE.—See arts. 122, 143, and 151.

Sec. 1708. (a) If the master of any vessel of the United States, not exceeding 500 net tons, allows such vessel to be laden at any foreign port or other place without the United States with any merchandise destined to the United States and consisting of any spirits, wines, or other alcoholic liquors (sea stores excepted), which facts may be evidenced by the testimony or depositions of foreign administrative officials or certified copies of their records or by other sufficient evidence, without certificates issued for the importation of such merchandise into the United States as required by section 1707 of this chapter, the master of such vessel shall, in addition to any other penalties provided by law, be liable to a penalty equal to the value of the said merchandise but not less than \$1,000 and such vessel and such merchandise shall be seized and forfeited.

(b) Whoever, being a citizen of the United States or a master or a member of the crew of a vessel of the United States, if such vessel does not exceed 500 net tons, shall, with intent to defraud the revenue of the United States, procure, or aid or assist in procuring, any merchandise destined to the United States and consisting of any spirits, wines, or other alcoholic liquors, without certificate issued for the importation thereof into the United States as required by section 1707 of this title, to be laden upon

such vessel at any foreign port or other place within the United States, which facts may be evidenced by the testimony or depositions of foreign administrative officials or certified copies of their records or by other sufficient evidence, shall, in addition to any other penalties provided by law, be liable to a fine of not more than \$1,000 or to imprisonment for not more than 2 years, or to both such fine and imprisonment. (Aug. 5, 1935, c. 438, title I, sec. 8, 49 Stat. 520.)

Sec. 1709. When used in this chapter: (a) The term "United States", when used in a geographical sense, includes all Territories and possessions of the United States, except the Philippine Islands, the Virgin Islands, the Canal Zone, American Samoa, and the island of Guam.

(b) The term "officer of the customs" means any officer of the Customs Service or any commissioned, warrant, or petty officer of the Coast Guard, or agent or other person authorized by law or by the Secretary of the Treasury, or appointed in writing by a collector, to perform the duties of an officer of the Customs Service.

(c) The term "customs waters" means, in the case of a foreign vessel subject to a treaty or other arrangement between a foreign government and the United States enabling, or permitting the authorities of the United States to board, examine, search, seize, or otherwise enforce upon such vessel upon the high seas the laws of the United States, the waters within such distance of the coast of the United States as the said authorities are or may be so enabled or permitted by such treaty or arrangement, and in the case of every other vessel, the waters within 4 leagues of the coast of the United States.

(d) The term "hovering vessel" means any vessel which is found or kept off the coast of the United States within or without the customs waters, if, from the history, conduct, character, or location of the vessel, it is reasonable to believe that such vessel is being used or may be used to introduce or promote or facilitate the introduction or attempted introduction of merchandise into the United States in violation of the laws respecting the revenue. (Act Aug. 5, 1935, c. 438, title IV, sec. 401, 49 Stat. 529.)

ART. 1103. *Baggage of passengers from foreign countries—Articles not declared.*—(a) Tariff Act of 1930, section 497:

Any article not included in the declaration and entry as made, and, before examination of the baggage was begun, not mentioned in writing by such person, if written declaration and entry was required, or orally if written declaration and entry was not required, shall be subject to forfeiture and such person shall be liable to a penalty equal to the value of such article.

(b) If the undeclared articles are mentioned to the customs officers before the examination of the baggage has begun, or if such officers are satisfied the failure to declare was without fraudulent intent, such articles may be appraised and duty assessed and collected on the passenger's declaration; but under no circumstances will an amendment of the declaration be permitted so as to include articles previously found by the inspectors. (See art. 422 (i).)

(c) When, in the opinion of the collector, no penalty should be imposed, or the circumstances warrant the imposition of an amount less than the full penalty, he may recommend the remission of such penalty, or a mitigation thereof to the amount determined upon by the collector in accordance with the procedure set forth in articles 1144 and 1145.

ART. 1104. *Entry by false invoice, declaration, affidavit, paper, or statement.*—(a) *Personal penalties.*—Tariff Act of 1930, section 591, as amended by section 304 of the anti-smuggling act of August 5, 1935:

If any consignor, seller, owner, importer, consignee, agent, or other person or persons enters or introduces, or attempts to enter or introduce, into the commerce of the United States any imported merchandise by means of any fraudulent or false invoice, declaration, affidavit, letter, paper, or by means of any false statement, written or verbal, or by means of any false or fraudulent practice or appliance whatsoever, or makes any false statement in any declaration under the provisions of section 485 of this act (relating to declaration on entry) without reasonable cause to believe the truth of such statement, or aids or procures the making of any such false statement as to any matter material thereto without reasonable cause to believe the truth of such statement, whether or not the United States shall or may be deprived of the lawful duties, or any portion thereof, accruing upon the merchandise, or any portion thereof, embraced or referred to in such invoice, declaration, affidavit, letter, paper, or statement; or is guilty of any willful act or omission by means whereof the United States shall or may be deprived of the lawful duties, or any portion thereof, accruing upon the merchandise, or any portion thereof, embraced or referred to in such invoice, declaration, affidavit, letter, paper, or statement, or affected by such act or omission, such person or persons shall upon conviction be fined for each offense a sum not exceeding \$5,000, or be imprisoned for a time not exceeding two years, or both, in the discretion of the court: *Provided*, That nothing in this section shall be construed to relieve

imported merchandise from forfeiture by reason of such false statement or for any cause elsewhere provided by law.

(b) *Same. Penalty against goods.*—Tariff Act of 1930, section 592, as amended by section 304 of the anti-smuggling act of August 5, 1935:

If any consignor, seller, owner, importer, consignee, agent, or other person or persons enters or introduces, or attempts to enter or introduce, into the commerce of the United States any imported merchandise by means of any fraudulent or false invoice, declaration, affidavit, letter, paper, or by means of any false statement, written or verbal, or by means of any false or fraudulent practice or appliance whatsoever, or makes any false statement in any declaration under the provisions of section 485 of this act (relating to declaration on entry) without reasonable cause to believe the truth of such statement, or aids or procures the making of any such false statement as to any matter material thereto without reasonable cause to believe the truth of such statement, whether or not the United States shall or may be deprived of the lawful duties, or any portion thereof, accruing upon the merchandise, or any portion thereof, embraced or referred to in such invoice, declaration, affidavit, letter, paper, or statement; or is guilty of any willful act or omission by means whereof the United States is or may be deprived of the lawful duties or any portion thereof accruing upon the merchandise or any portion thereof, embraced or referred to in such invoice, declaration, affidavit, letter, paper, or statement, or affected by such act or omission, such merchandise, or the value thereof, to be recovered from such person or persons, shall be subject to forfeiture, which forfeiture shall only apply to the whole of the merchandise or the value thereof in the case or package containing the particular article or articles of merchandise to which such fraud or false paper or statement relates. The arrival within the territorial limits of the United States of any merchandise consigned for sale and remaining the property of the shipper or consignor, and the acceptance of a false or fraudulent invoice thereof by the consignee or the agent of the consignor, or the existence of any other facts constituting an attempted fraud, shall be deemed, for the purposes of this section, to be an attempt to enter such merchandise notwithstanding no actual entry has been made or offered.

(c) As merchandise within this section is subject to duty after entry is made, liquidation should follow in order that the importer may pay his duty and take whatever action is necessary so far as the jurisdiction of the Customs Court is concerned.

(d) The value to be recovered under section 592 (above) is the domestic value as defined by article 1130 of these regulations.

ART. 1105. *Goods, not specified in the invoice—Fraudulent intent—Forfeiture.*—(a) Tariff Act of 1930, section 499:

* * * If any package is found by the appraiser to contain any article not specified in the invoice and he reports to the collector that in his opinion such article was omitted from the invoice with fraudulent intent on the part of the seller, shipper, owner, or agent, the contents of the entire package in which such article is found shall be liable to seizure, but if the appraiser reports that no such fraudulent intent is apparent then the value of said article shall be added to the entry and the duties thereon paid accordingly. * * *

(b) The proceedings for forfeiture should be instituted under section 592 of the tariff act.

ART. 1106. *Undervaluation exceeding 100 per cent.*—(a) Tariff Act of 1930, section 489:

* * * If the appraised value of any merchandise exceeds the value declared in the entry by more than 100 per centum, such entry shall be presumptively fraudulent, and the collector shall seize the whole case or package containing such merchandise and proceed as in case of forfeiture for violation of the customs laws; and in any legal proceeding other than a criminal prosecution that may result from such seizure, the undervaluation as shown by the appraisal shall be presumptive evidence of fraud, and the burden of proof shall be on the claimant to rebut the same, and forfeiture shall be adjudged unless he rebuts such presumption of fraud by sufficient evidence.

All additional duties, penalties, or forfeitures applicable to merchandise entered in connection with a certified invoice shall be alike applicable to merchandise entered in connection with a seller's or shipper's invoice or statement in the form of an invoice.

(b) This section applies only to imported merchandise which is subject to an ad valorem rate of duty or to a duty based upon or regulated in any manner by the value thereof.

(c) The phrase "appraised value" refers to the value found by the appraiser, or in the case of appeal for reappraisal, by the United States Customs Court.

(d) The proceedings for forfeiture should be instituted under section 592 of the tariff act. The forfeiture will apply to the whole of the merchandise, or the domestic value thereof, in the case or package containing the particular article or articles which are undervalued. (See art. 1140.)

(e) The Government may institute proceedings for the forfeiture of such merchandise or the domestic value thereof as defined by article 1130, and in addition the importer is liable for the regular and additional duties which should be assessed in the liquidation of the entry and collected from the importer. (See art. 1140.)

ART. 1107. *Inspection of importer's books, records, etc.*—(a) Tariff Act of 1930, section 511:

If any person importing merchandise into the United States or dealing in imported merchandise fails, at the request of the Secretary of the Treasury, or an appraiser, or person acting as appraiser, or a collector, or the United States Customs Court, or a judge of such court, as the case may be, to permit a duly accredited officer of the United States to inspect his books, papers, records, accounts, documents, or correspondence, pertaining to the value or classification of such merchandise, then while such failure continues the Secretary of the Treasury, under regulations prescribed by him, (1) shall prohibit the importation of merchandise into the United States by or for the account of such person, and (2) shall instruct the collectors to withhold delivery of merchandise imported by or for the account of such person. If such failure continues for a period of one year from the date of such instructions the collector shall cause the merchandise, unless previously exported, to be sold at public auction as in the case of forfeited merchandise.

(b) Before demanding an inspection of importer's books, correspondence, or records, investigating officers must present a written request for such inspection signed by the Secretary of the Treasury, appraiser, person acting as appraiser, collector, or judge of the United States Customs Court. A refusal to permit such inspection should be reported by the investigating officer to the officer who issued the said request, who in turn will report the failure to the collector for submission of all facts in the case to the Secretary of the Treasury for instructions; except that where the request is made under the authority of the United States Customs Court the report will be made to that court.

ART. 1108. *Examination of importer and others—Penalties for refusal to give testimony.*—(a) Tariff Act of 1930, section 509:

Collectors, appraisers, and judges and divisions of the United States Customs Court may cite to appear before them or any of them and to examine upon oath, which said officers or any of them are hereby authorized to administer, any owner, importer, consignee, agent, or other person upon any matter or thing which they, or any of them, may deem material respecting any imported merchandise then under consideration or previously imported within one year, in ascertaining the classification or the value thereof, or the rate or amount of duty; and they, or any of them, may require the production of any letters, accounts, contracts, invoices, or other documents relating to said merchandise, and may require such testimony to be reduced to writing, and when so taken it shall be filed and preserved, under such rules as the United States Customs Court may prescribe, and such evidence may be given consideration in subsequent proceedings relating to such merchandise.

(b) The citation shall be in writing, signed by the proper officer, state the merchandise or entries concerning which the examination will be held, and indicate the documents required to be presented. It shall be addressed to the person desired to be examined, and shall set a specific time when and place where his personal appearance is required.

(c) Such citation shall be served in person or by registered mail. When service is personal, a return must be made on the duplicate copy by the serving officer, otherwise, the registry receipt and the return card from the post office must be attached to such duplicate.

(d) Tariff Act of 1930, section 510:

If any person so cited to appear shall neglect or refuse to attend, or shall decline to answer, or shall refuse to answer in writing any interrogatories, and subscribe his name to his deposition, or to produce such papers when so required by a judge of the United States Customs Court, or a division of such court, or an appraiser, or a collector, he shall be liable to a penalty of not less than \$20 nor more than \$500; and if such person be the owner, importer, or consignee, the appraisement last made of such merchandise,

whether made by an appraiser, a judge of the United States Customs Court, or a division of such court, shall be final and conclusive against such person; and any person who shall willfully and corruptly swear falsely on an examination before any judge of the United States Customs Court, or division of such court, or appraiser or collector, shall be deemed guilty of perjury; and if he is the owner, importer, or consignee, the merchandise shall be forfeited or the value thereof may be recovered from him.

(e) When the conditions of the citation issued by the collector or the appraiser are not complied with, the collector shall refer the matter to the United States attorney for appropriate action.

ART. 1109. *Narcotic drugs—Alcoholic liquors on vessels not exceeding 500 net tons—Forfeiture—Penalties.*—(a) United States Code, title 21, section 171:

The term "narcotic drug" means opium, coca leaves, cocaine, or any salt, derivative, or preparation of opium, coca leaves, or cocaine.

(b) Tariff Act of 1930, section 584, as amended by section 204 of the anti-smuggling act of August 5, 1935:

If any of such merchandise so found consists of heroin, morphine, or cocaine, the master of such vessel or person in charge of such vehicle or the owner of such vessel or vehicle shall be liable to a penalty of \$50 for each ounce thereof so found. If any of such merchandise so found consists of smoking opium or opium prepared for smoking, the master of such vessel or person in charge of such vehicle or the owner of such vessel or vehicle shall be liable to a penalty of \$25 for each ounce thereof so found. If any of such merchandise so found consists of crude opium, the master of such vessel or person in charge of such vehicle or the owner of such vessel or vehicle shall be liable to a penalty of \$10 for each ounce thereof so found. Such penalties shall, notwithstanding the proviso in section 594 of this act (relating to the immunity of vessels or vehicles used as common carriers), constitute a lien upon such vessel which may be enforced by a libel in rem; except that the master or owner of a vessel used by any person as a common carrier in the transaction of business as such common carrier shall not be liable to such penalties and the vessel shall not be held subject to the lien, if it appears to the satisfaction of the court that neither the master nor any of the officers (including licensed and unlicensed officers and petty officers) nor the owner of the vessel knew, and could not, by the exercise of the highest degree of care and diligence, have known, that such narcotic drugs were on board. Clearance of any such vessel may be withheld until such penalties are paid or until a bond, satisfactory to the collector, is given for the payment thereof. The provisions of this paragraph shall not prevent the forfeiture of any such vessel or vehicle under any other provision of law.

(c) A written notice of the imposition of the penalty and the provisions of the law shall be sent to the master of the vessel or the person in charge of the vehicle or the owner of either, demand being made for the payment of the amount of the penalty. If the penalty is not paid promptly (or bond given in the case of a vessel) the case will be referred to the United States attorney.

(d) Petition for remission or mitigation may be filed under section 618 of the Tariff Act of 1930 and shall be forwarded promptly to the Bureau of Customs in the usual manner. Upon receipt of the decision, the collector shall make demand for the payment of the penalty imposed, and in the case of a vessel, if bond has been given, notice of such imposition shall be sent to the principal and each surety on the bond. If said amount is not paid within 30 days from the date of such notice or demand or if the offender desires to litigate the matter through the court, the collector shall refer the case to the United States attorney for the collection of the full statutory penalty.

(e) The relief afforded by the exercise "of the highest degree of care and diligence" is granted by the court in which the case is heard and is not determined by the collector.

(f) Collectors may permit narcotic drugs in reasonable quantity and properly listed as medical stores of vessels to remain on such vessels if satisfied that such drugs are adequately safeguarded and used only for medical purposes. Smoking opium or opium prepared for smoking shall be seized, however, whenever and wherever found.

(g) No smoking opium or opium prepared for smoking shall be admitted into the United States or any territory under its control for transportation to another country, or for transshipment from one vessel to another within the waters of the United States for immediate exportation or for any other purpose; and, except with the approval of the Commissioner of Narcotics, no other narcotic drug may be so admitted or transshipped.

(h) All smoking opium or opium prepared for smoking, whether manufactured or not, found on a vessel arriving at a port of the United States, or which may have been smuggled into the United States, or into any territory under its control or jurisdiction, will be seized and forfeited without forfeiture proceedings of any character. Such opium, as well as narcotic drugs forfeited in the manner provided by section 607 of the Tariff Act of 1930, or not claimed under section 608 of said act, will be reported to the Commissioner of Narcotics and retained in the custody of the collector pending instructions.

(i) A special report, Narcotic Service Form 138, of all seizures of smoking opium and other narcotic drugs shall be made in quintuple immediately after the character and quantity of the merchandise seized have been definitely ascertained, the original and two copies to be transmitted to the Commissioner of Customs, Washington, D. C., and one copy to be retained on file by the reporting officer.

(j) In addition to this special report an annual report shall be made to the Commissioner of Narcotics within one month after the end of each calendar year to which the report relates. Where special reports have been made, merely a restatement of seizure numbers of individual seizures previously reported is sufficient with an indication opposite the respective seizures which are available for final disposition.

(k) The importation and exportation of narcotic drugs in the regular mails or by parcel post is prohibited.

(l) United States Code, title 21, section 174:

If any person fraudulently or knowingly imports or brings any narcotic drug into the United States or any territory under its control or jurisdiction, contrary to law, or assists in so doing, or receives, conceals, buys, sells, or in any manner facilitates the transportation, concealment, or sale of such narcotic drug after being imported or brought in, knowing the same to have been imported contrary to law, such person shall upon conviction be fined not more than \$5,000 and imprisoned for not more than 10 years. Whenever on trial for a violation of this section the defendant is shown to have or to have had possession of the narcotic drug, such possession shall be deemed sufficient evidence to authorize conviction unless the defendant explains the possession to the satisfaction of the jury.

(m) United States Code, title 21, section 182:

It shall be unlawful for any person subject to the jurisdiction of the United States Government to export or cause to be exported from the United States, or from territory under its control or jurisdiction, or from countries in which the United States exercises extraterritorial jurisdiction, any narcotic drug to any other country. Narcotic drugs (except smoking opium * * *) may be exported to a country only which has * * * become a party to the convention * * * commonly known as the International Opium Convention of 1912 * * *.

(n) Narcotic drugs (except smoking opium and opium prepared for smoking, the exportation of which is absolutely prohibited) may be exported only upon permit issued by the Commissioner of Narcotics.

(o) Any person who exports or causes to be exported any narcotic drug in violation of the foregoing provisions will be subject to a fine not exceeding \$5,000 nor less than \$50, or to imprisonment not exceeding 2 years, or both.

(p) One-half of any fine recovered from any person or persons under the narcotic drugs import and export act of 1922, may be paid to the person or persons giving information leading to such recovery, and one-half of any bail forfeited and collected in any proceeding under said act may be paid to the person or persons giving the information which led to such proceedings, if so directed by the court exercising jurisdiction in the case. No payment, however, for giving information shall be made to any officer or employee of the United States.

(q) Shipments by customs officers of seized narcotic drugs to the Commissioner of Narcotics or elsewhere shall be forwarded by express.

(r) All narcotic drugs seized under the narcotic drugs import and export act by any Federal officer, other than a customs officer, shall be immediately delivered into the custody of the collector of customs in whose district the seizure was made, with a full report of the circumstances of the seizure, provided that where the seizure is made by a narcotic inspector or agent in connection with an investigation which such inspector or agent considers may result in criminal prosecution under any Federal narcotic law, the drugs so seized shall not be delivered into the custody of the collector of customs, but custody of such drugs shall be retained by the appropriate narcotic officer until it is determined that same will not, or will no longer, be required as evidence, whereupon disposition thereof shall be made as provided by law.

(s) Except as otherwise provided above, arrests and seizures under the narcotic law will be handled in the same manner as other customs arrests and seizures.

(t) (1) *Alcoholic liquors on vessels not exceeding 500 net tons.*—Tariff Act of 1930, section 584 as amended by section 204 (b) of the anti-smuggling act of August 5, 1935:

If any of such merchandise (sea stores excepted), the importation of which into the United States is prohibited, or which consists of any spirits, wines, or other alcoholic liquors for the importation of which into the United States a certificate is required under section 7 of the Anti-Smuggling Act and the required certificate be not shown, be so found upon any vessel not exceeding 500 net tons, the vessel shall, in addition to any other penalties herein or by law provided, be seized and forfeited, and, if any manifested merchandise (sea stores excepted) consisting of any such spirits, wines, or other alcoholic liquors be found upon any such vessel and the required certificate be not shown, the master of the vessel shall be liable to the penalty herein provided in the case of merchandise not duly manifested: *Provided*, That if the collector shall be satisfied that the certificate required for the importation of any spirits, wines, or other alcoholic liquors was issued and was lost or mislaid without intentional fraud, or was defaced by accident, or is incorrect by reason of clerical error or other mistake, said penalties shall not be incurred.

(2) Cases arising under the provisions of this paragraph will be handled in the same manner as other customs arrests and seizures.

ART. 1110. *Intoxicating liquors.*—(a) Twenty-first article of amendment to the Constitution:

SECTION 1. The eighteenth article of amendment to the Constitution of the United States is hereby repealed.

SEC. 2. The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

(b) United States Code, title 27, sections 223-224:

SEC. 223. (a) Whoever shall import, bring, or transport any intoxicating liquor into any State in which all sales (except for scientific, sacramental, medicinal, or mechanical purposes) of intoxicating liquor containing more than 4 per centum of alcohol by volume are prohibited, otherwise than in the course of continuous interstate transportation through such State or attempt so to do, or assist in so doing, shall: (1) If such liquor is not accompanied by such permit or permits, license or licenses therefor as are now or hereafter required by the laws of such State; or (2) if all importation, bringing, or transportation of intoxicating liquor into such State is prohibited by the laws thereof; be guilty of a misdemeanor and shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both.

(b) In order to determine whether anyone importing, bringing, or transporting intoxicating liquor into any State, or anyone attempting so to do, or assisting in so doing, is acting in violation of the provisions of this chapter, the definition of intoxicating liquor contained in the laws of such State shall be applied, but only to the extent that sales of such intoxicating liquor (except for scientific, sacramental, medicinal, and mechanical purposes) are prohibited in such State. (June 25, 1936, c. 815, sec. 3, 49 Stat.)

SEC. 224. All intoxicating liquor involved in any violation of this chapter, the containers of such intoxicating liquor, and every vehicle or vessel used in the transportation thereof, shall be seized and forfeited. Such seizure and forfeiture, and the disposition of such property subsequent to seizure and forfeiture, or the disposition of the proceeds from the sale of such property, shall be in accordance with existing laws or those hereafter in existence relating to seizures, forfeitures, and dispositions of prop-

erty or proceeds, for violation of the internal-revenue laws. (June 25, 1936, c. 815, sec. 4, 49 Stat.)

(c) United States Code, title 18, section 390:

Whoever shall knowingly ship or cause to be shipped from one State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, into any other State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, or from any foreign country into any State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, any package of or package containing any spirituous, vinous, malted, or other fermented liquor, or any compound containing any spirituous, vinous, malted, or other fermented liquor fit for use for beverage purposes, unless such package be so labeled on the outside cover as to plainly show the name of the consignee, the nature of its contents, and the quantity contained therein, shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both; and such liquor shall be forfeited to the United States, and may be seized and condemned by like proceedings as those provided by law for the seizure and forfeiture of property imported into the United States contrary to law. (As amended June 25, 1936, c. 815, sec. 8, 49 Stat.)

(d) United States Code, title 27, section 222:

(a) Wherever used in this chapter the word "State" shall mean and include every State, Territory, and possession of the United States, unless otherwise specifically provided.

(b) As used in this chapter the word "vessel" includes every description of water craft used, or capable of being used, as a means of transportation in water or in water and air; and the word "vehicle" includes animals and every description of carriage or other contrivance used, or capable of being used, as a means of transportation on land or through the air. (June 25, 1936, c. 815, sec. 2, 49 Stat.)

(e) If the duly constituted officials of a State shall have acquired jurisdiction over any intoxicating liquors, vessels or vehicles by seizure thereof under the provisions of the several State statutes, such property will not be seized by customs officers unless it is voluntarily turned over to them to be proceeded against under the Federal statutes.

ART. 1111. *Alcoholic liquors—Forfeited—Disposition of.*—

(a) United States Code, title 27, section 209:

(a) All distilled spirits, wine, and malt beverages forfeited, summarily or by order of court, under any law of the United States, shall be delivered to the Secretary of the Treasury to be disposed of as hereinafter provided.

(b) The Secretary of the Treasury shall dispose of all distilled spirits, wine, and malt beverages which have been delivered to him pursuant to subsection (a)—

(1) By delivery to such Government agencies as, in his opinion, have a need for such distilled spirits, wine, or malt beverages for medicinal, scientific, or mechanical purposes; or

(2) By gift to such eleemosynary institutions as, in his opinion, have a need for such distilled spirits, wine, or malt beverages for such distilled spirits, wine, or malt beverages for medicinal purposes; or

(3) By destruction.

(c) No distilled spirits, wine, or malt beverages which have been seized under any law of the United States may be disposed of in any manner whatsoever except after forfeiture and as provided in this section.

(d) The Secretary of the Treasury is authorized to make all rules and regulations necessary to carry out the provisions of this section. (Aug. 29, 1935, c. 814, sec. 9, 49 Stat. 987.)

(e) Nothing in this section shall affect the authority of the Secretary of the Treasury, under the customs or internal-revenue laws, to remit or mitigate the forfeiture, or alleged forfeiture, of such distilled spirits, wines, or malt beverages, or the authority of the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, to compromise any civil or criminal case in respect of such distilled spirits, wines, or malt beverages prior to commencement of suit thereon, or the authority of the Secretary of the Treasury to compromise any claim under the customs laws in respect of such distilled spirits, wines, or malt beverages. (June 26, 1936, c. 830, title V, sec. 507, 49 Stat.)

(b) *Procedure.*—1. No forfeited distilled spirits (including alcohol), wine, or malt beverages shall be sold. All prior regulations relating to the sale of forfeited distilled spirits (including alcohol), wine, and malt beverages, and predicated upon other existing law are hereby superseded.

2. No distilled spirits (including alcohol), wine, or malt beverages, seized under any law of the United States, shall be destroyed or otherwise disposed of except after forfeiture and as provided in these regulations.

3. Upon consummation of summary or administrative forfeiture, or upon receipt of advice of the entry of a court

order decreeing forfeiture and directing delivery to the Secretary of the Treasury, of distilled spirits (including alcohol), wine, or malt beverages the chief officer of the seizing agency will prepare internal-revenue Form 1563 in quintuplet, submitting three copies to the Director of Procurement, sending one copy to the head of his agency, and retaining the remaining copy in his file: *Provided*, That distilled spirits (including alcohol), wine, or malt beverages not fit for human consumption or for scientific or mechanical purposes, and alcohol of less proof than 160°, need not be reported to the Director of Procurement but shall be destroyed.

4. Alcohol of less proof than 160° shall also be destroyed after forfeiture. Wine, malt beverages, and distilled spirits (other than alcohol), shall not be destroyed, except as provided in paragraph 5 or unless analysis by Government chemists shows that they are unfit for human consumption.

5. Where the amount of distilled spirits (including alcohol), wine, or malt beverages involved in any seizure is less than five wine gallons, internal-revenue Form 1563 need not be prepared or submitted to the Director of Procurement, and such distilled spirits (including alcohol), wine, or malt beverages will be destroyed immediately after forfeiture: *Provided*, That distilled spirits (other than alcohol) of any one kind and brand in excess of 1 gallon, shall not be destroyed under this paragraph.

6. Representative samples of all alcohol, and of other distilled spirits, wine, and malt beverages not destroyed under the authority contained in paragraphs (4) and (5) hereof shall be taken from the containers in which seized, and shall be analyzed by the nearest Government chemist. A copy of the chemist's report will be attached to the original of internal-revenue Form 1563 transmitted to the Director of Procurement, and a copy of the report retained in the files of the seizing agency.

7. Forfeited alcohol may be awarded by the Director of Procurement to Government agencies (1) for medicinal or scientific purposes, and (2) for mechanical purposes for use by such agencies in instances where, in the judgment of the seizing agency and upon approval of the head thereof, any part or all of a seizure can economically be denatured and transferred. Portable alcohol awarded for transfer to any agency for mechanical purposes shall be denatured in the manner required by the seizing agency, under the supervision of an officer of the seizing agency, prior to release or transfer thereof. The agency designated to receive such alcohol shall purchase all denaturing materials and pay for labor costs incident to such denaturation.

8. When distilled spirits (including alcohol), wine, or malt beverages which have been reported on internal-revenue Form 1563 are not assigned to a Government agency for official use, or disposed of by gift to an eleemosynary institution, field officers submitting the forms will be so advised by the Director of Procurement, and the spirits (including alcohol), wine, or malt beverages shall be destroyed.

9. Field officers will maintain a record of all forfeited spirits (including alcohol), wine, or malt beverages reported to the Director of Procurement. Where authority is not received within a reasonable time to transfer the articles to a Government agency or an eleemosynary institution, a follow-up letter should be sent to the Director of Procurement requesting definite information concerning their ultimate disposition. Prompt disposition should be made to prevent unnecessary storage charges.

10. District supervisors will report on internal-revenue Form 1565, prepared in duplicate, the disposition of all spirits (including alcohol), wine, or malt beverages directed by the Director of Procurement, the original thereof to be sent to the deputy commissioner and the copy retained in the district supervisor's files. Collectors of customs shall report such disposition in the manner required by regulations for reporting the transfer of seized property to other agencies for official use.

NOTE.—See T. D. 48105 and art. 1235 re disposition of abandoned liquors.)

ART. 1112. Unlawful relanding of merchandise exported.—
Tariff Act of 1930, section 589:

If any merchandise entered or withdrawn for exportation without payment of the duties thereon, or with intent to obtain a drawback of the duties paid, or of any other allowances given by law on the exportation thereof, is relanded at any place in the United States without entry therefor having been made, the same shall be considered and treated as having been imported into the United States contrary to law, and all persons concerned therein and such merchandise shall be liable to the same penalties as are prescribed by section 593 of this Act. (See art. 1100.)

ART. 1113. False drawback claim—Forfeiture—Penalty.—
Tariff Act of 1930, section 590:

If any person shall knowingly and willfully file any false or fraudulent entry or claim for the payment of drawback, allowance, or refund of duties upon the exportation of merchandise, or shall knowingly or willfully make or file any false affidavit, abstract, record, certificate, or other document, with a view to securing the payment to himself or others of any drawback, allowance, or refund of duties, on the exportation of merchandise, greater than that legally due thereon, such person shall be guilty of a felony, and upon conviction thereof shall be punished by a fine of not more than \$5,000, or by imprisonment for not more than 2 years, or both, and the merchandise or the value thereof to which such false entry or claim, affidavit, abstract, record, certificate, or other document relates shall be subject to forfeiture.

ART. 1114. Merchandise in bonded warehouse—Fraudulent concealment, removal, repacking, or marking.—
Tariff Act of 1930, section 597:

If any merchandise is fraudulently concealed in, removed from, or repacked in any bonded warehouse, or if any marks or numbers placed upon packages deposited in such a warehouse be fraudulently altered, defaced, or obliterated, such merchandise and packages shall be subject to forfeiture, and all persons convicted of the fraudulent concealment, repacking, or removal of such merchandise, or of altering, defacing, or obliterating such marks and numbers thereon, and all persons aiding and abetting therein shall be liable to the same penalties as are imposed by section 593 of this Act. (See art. 1100.)

ART. 1115. Offenses relating to seals; affixing by unauthorized persons; false seals; removal; injury to; defacing, etc.; unlawful removal of goods from customs custody.—(a)
Tariff Act of 1930, section 598:

If any unauthorized person affixes or attaches or in any way willfully assists or encourages the affixing or attaching of a customs seal or other fastening to any vessel or vehicle, or of any seal, fastening, or mark purporting to be a customs seal, fastening, or mark; or if any unauthorized person willfully or maliciously removes, breaks, injures, or defaces any customs seal or other fastening placed upon any vessel, vehicle, warehouse, or package containing merchandise or baggage in bond or in customs custody, or willfully aids, abets, or encourages any other person to remove, break, injure, or deface such seal, fastening, or mark; or if any person maliciously enters any bonded warehouse or any vessel or vehicle laden with or containing bonded merchandise with intent unlawfully to remove or cause to be removed therefrom any merchandise or baggage therein, or unlawfully removes or causes to be removed any merchandise or baggage in such vessel, vehicle, or bonded warehouse or otherwise in customs custody or control, or aids or assists therein; or if any person receives or transports any merchandise or baggage unlawfully removed from any such vessel, vehicle, or warehouse, knowing the same to have been unlawfully removed, he shall be guilty of a felony and liable to the same penalties as are imposed by section 593 of this Act. (See art. 1100.)

(b) In every instance report shall be made at once by the officer discovering the violation to his immediate superior, an investigation made, and the facts reported to the collector. If the identity of the violator is learned the case shall be reported to the United States attorney.

PROCEDURE

ART. 1116. Reports of violation of law to collectors.—(a)
Tariff Act of 1930, section 602:

It shall be the duty of any officer, agent, or other person authorized by law to make seizures of merchandise or baggage subject to seizure for violation of the customs laws, to report every such seizure immediately to the collector for the district in which such violation occurred, and to turn over and deliver to such collector any vessel, vehicle, merchandise, or baggage seized by him, and to report immediately to such collector every violation of the customs laws.

(b) Such report shall be on customs Form 5955, and in addition to the facts required to be shown as indicated

thereon, the reporting officer shall state the names and addresses of the witnesses and what action has been taken by the United States commissioner in the criminal case. Such reports will have shown thereon the individual port seizure numbers which will run consecutively at each port in 5-year series. When seizure reports are received at headquarters ports from other ports, a district series of case numbers in 5-year series for the entire district will be stamped on the seizure reports above the port seizure numbers. The district serial numbers will be the case numbers on customs Form 5211.

(c) All copies of the report required by instructions on Customs Form 5955, except the file copy, will be forwarded to the headquarters port, from which they will be transmitted to the offices indicated on said form.

(d) A separate report shall be made of each seizure no matter how small the individual seizure may be. All seizures shall be reported to the Bureau during the month in which they are made. In important cases, a copy of the report shall be forwarded immediately to the Bureau.

(e) In those cases, either civil or criminal, involving court action, an individual report by letter on each case shall be forwarded to the Bureau stating the date on which the matter is referred to the United States attorney, each case to be identified by seizure number as appearing on Customs Form 5955. This individual report should set forth clearly all additional facts in the case obtained since forwarding Customs Form 5955 in order properly to complete the Bureau's records. It should consist of a copy of the case report forwarded to the United States attorney.

(f) *Disposition of cases.*—The collector shall report by letter to the Bureau, the names of all persons tried in the district showing whether acquitted or convicted and if convicted the sentence or fine imposed in each case. He shall also report, in respect of civil cases referred to the United States attorney for legal proceedings, including those in which claim and bond are filed under section 608 of the Tariff Act of 1930 and article 1132, decisions of the Department of Justice not to institute such proceedings or decisions to abandon their prosecution. These reports shall be forwarded as soon as possible after receipt of advice of the decisions of the court or of the Department of Justice, as the case may be.

(g) Seizures made at ports of entry will be reported to the district headquarters and the property retained in customs custody pending instructions from the collector as to its disposition. Violation of customs and navigation laws occurring at such ports will be reported by the deputy collectors in charge to the district headquarters with a full statement of the facts in each case, the law violated, and the penalty incurred.

(h) All applications or petitions with respect to such seizures and violations shall be forwarded by the deputy collectors to the headquarters port. (See arts. 1141 and 1145.)

ART. 1117. *Arrests—Seizures—Who may make.*—(a) Tariff Act of 1930, section 581 as amended by section 203 of the antismuggling act of August 5, 1935:

(a) Any officer of the customs may at any time go on board of any vessel or vehicle at any place in the United States or within the customs waters or, as he may be authorized, within a customs-enforcement area established under the Anti-Smuggling Act, or at any other authorized place, without as well as within his district, and examine the manifest and other documents and papers and examine, inspect, and search the vessel or vehicle and every part thereof and any person, trunk, package, or cargo on board, and to this end may hail and stop such vessel or vehicle, and use all necessary force to compel compliance.

(b) Officers of the Department of Commerce and other persons authorized by such department may go on board of any vessel at any place in the United States or within the customs waters and hail, stop, and board such vessel in the enforcement of the navigation laws and arrest or, in case of escape or attempted escape, pursue and arrest any person engaged in the breach or violation of the navigation laws.

(f) It shall be the duty of the several officers of the customs to seize and secure any vessel, vehicle, or merchandise which shall become liable to seizure, and to arrest any person who

shall become liable to arrest, by virtue of any law respecting the revenue, as well without as within their respective districts, and to use all necessary force to seize or arrest the same.

(g) Any vessel, within or without the customs waters, from which any merchandise is being, or has been, unlawfully introduced into the United States by means of any boat belonging to, or owned, controlled, or managed in common with, said vessel, shall be deemed to be employed within the United States and, as such, subject to the provisions of this section.

(h) The provisions of this section shall not be construed to authorize or require any officer of the United States to enforce any law of the United States upon the high seas upon a foreign vessel in contravention of any treaty with a foreign government enabling or permitting the authorities of the United States to board, examine, search, seize, or otherwise to enforce upon said vessel upon the high seas the laws of the United States except as such authorities are or may otherwise be enabled or permitted under special arrangement with such foreign government.

(b) United States Code, title 14, section 101:

* * * District commanders of Coast Guard stations * * * shall have the powers and perform the duties of inspectors of customs. * * *

(c) United States Code, title 14, section 104:

The keepers of Coast Guard stations and houses of refuge shall have the powers of inspectors of customs, but shall receive no additional compensation for duties performed as such. * * *

(d) United States Code, title 33, section 755:

Masters of lighthouse tenders shall have police powers in matters pertaining to government property and smuggling.

(e) Seizing officers are protected by law when reasonable cause of seizure shall appear. Seizures may be made by private persons but upon their own responsibility in case the seizure is not adopted by the collector.

(f) Seizures for undervaluation pursuant to section 489 of the Tariff Act of 1930 will be made by the collector.

ART. 1118. *Hovering vessels—Vessels failing to display lights—Examination of—Seizure—Forfeiture.*—Tariff Act of 1930, section 587, as amended by section 206 of the antismuggling act of August 5, 1935:

(a) Any hovering vessel, or any vessel which falls (except for unavoidable cause), at any place within the customs waters or within a customs-enforcement area established under the Anti-Smuggling Act, to display lights as required by law, or which has become subject to pursuit as provided in section 581 of this act, or which, being a foreign vessel to which subsection (h) of said section 581 applies, is permitted by special arrangement with a foreign government to be so examined without the customs waters of the United States, may at any time be boarded and examined by any officer of the customs, and the provisions of said section 581 shall apply thereto, as well without as within his district, and in examining the same, any such officer may also examine the master upon oath respecting the cargo and voyage of the vessel, and may also bring the vessel into the most convenient port of the United States to examine the cargo, and if the master of said vessel refuses to comply with the lawful directions of such officer or does not truly answer such questions as are put to him respecting the vessel, its cargo, or voyage, he shall be liable to a penalty of not more than \$5,000 nor less than \$500. If, upon the examination of any such vessel or its cargo by any officer of the customs, any dutiable merchandise destined to the United States is found, or discovered to have been, on board thereof, the vessel and its cargo shall be seized and forfeited. It shall be presumed that any merchandise (sea stores excepted), the importation of which into the United States is prohibited, or which consists of any spirits, wines, or other alcoholic liquors, so found, or discovered to have been, on board thereof, is destined to the United States.

(b) If any vessel laden with cargo be found at any place in the United States or within the customs waters or within a customs-enforcement area established under the Anti-Smuggling Act, and such vessel afterwards is found light or in ballast or having discharged its cargo or any part thereof, and the master is unable to give a due account of the port or place at which the cargo, or any part thereof, consisting of any merchandise the importation of which into the United States is prohibited or any spirits, wines, or other alcoholic liquors, was lawfully discharged, the vessel shall be seized and forfeited.

(c) Nothing contained in this section shall be construed to render any vessel liable to forfeiture which is bona fide bound from one foreign port to another foreign port, and which is pursuing her course, wind and weather permitting.

ART. 1119. *Boarding of vessels or vehicles.*—(a) For the purpose of examining the manifest, or inspection and searching of the vessel or vehicle, any officer of the customs may go on board at any time of—

(1) Any vessel at any place in the United States; or
 (2) Any vessel within the customs waters of the United States;

(3) Any American vessel on the high seas where there is probable cause to believe that such vessel is violating or has violated the laws of the United States or is subject to seizure for violation of such laws; or

(4) Any vessel within a customs-enforcement area, but officers of the customs are not authorized to board for the purpose of examination, inspection, or search a foreign vessel upon the high seas in contravention of any treaty with a foreign government, or in the absence of special arrangement with such foreign government.

(b) Customs officers are also empowered to search vessels for letters which may be on board or have been conveyed contrary to law on board any vessel or on any post route, and seize the same and deliver them to the nearest post office or detain them subject to orders of the postal authorities. (See art. 121, c. III.)

(c) United States Code, title 19, section 482:

Any of the officers or persons authorized to board or search vessels may stop, search, and examine, as well without as within their respective districts, any vehicle, beast, or person, on which or whom he or they shall suspect there is merchandise which is subject to duty, or shall have been introduced into the United States in any manner contrary to law, whether by the person in possession or charge, or by, in, or upon such vehicle or beast, or otherwise and to search any trunk or envelope wherever found, in which he may have a reasonable cause to suspect there is merchandise which was imported contrary to law; and if any such officer or other person so authorized shall find any merchandise on or about any such vehicle, beast, or person, or in any such trunk or envelope, which he shall have reasonable cause to believe is subject to duty, or to have been unlawfully introduced into the United States, whether by the person in possession or charge, or by, in, or upon such vehicle, beast, or otherwise, he shall seize and secure the same for trial. (R. S. 3061.)

(d) In stopping vehicles and boarding vessels, the officer must be in uniform, or in the case of a customs agent he shall identify himself to the person in charge of the vessel or vehicle to be searched.

(e) United States Code, title 7, section 164a:

Any employee of the Department of Agriculture, authorized by the Secretary of Agriculture to enforce the provisions of sections 151 to 164 of this title and furnished with and wearing a suitable badge for identification, who has probable cause to believe that any person coming into the United States, or any vehicle, receptacle, boat, ship, or vessel, coming from any country or countries or moving interstate, possesses, carries, or contains any nursery stock, plants, plant products, or other articles the entry or movement of which in interstate or foreign commerce is prohibited or restricted by the provisions of sections 151 to 164 of this title, or by any quarantine or order of the Secretary of Agriculture issued or promulgated pursuant thereto, shall have power to stop and, without warrant, to inspect, search and examine such person, vehicle, receptacle, boat, ship, or vessel, and to seize, destroy, or otherwise dispose of, such nursery stock, plants, plant products, or other articles found to be moving or to have been moved in interstate commerce or to have been brought into the United States in violation of sections 151 to 164 of this title, or of such quarantine or order. (Aug. 20, 1912, c. 308, sec. 10; May 1, 1928, c. 462, 45 Stat. 468.)

ART. 1120. Vessels' and vehicles' manifests—Failure to produce—Presentation of false documents—Penalty.—(a) Tariff Act of 1930, section 584:

Any master of any vessel and any person in charge of any vehicle bound to the United States who does not produce the manifest to the officer demanding the same shall be liable to a penalty of \$500, and if any merchandise, including sea stores, is found on board of or after having been unladen from such vessel or vehicle which is not included or described in said manifest or does not agree therewith, the master of such vessel or the person in charge of such vehicle or the owner of such vessel or vehicle shall be liable to a penalty equal to the value of the merchandise so found or unladen, and any such merchandise belonging or consigned to the master or other officer or to any of the crew of such vessel, or to the owner or person in charge of such vehicle, shall be subject to forfeiture, and if any merchandise described in such manifest is not found on board the vessel or vehicle the master or other person in charge or the owner of such vessel or vehicle shall be subject to a penalty of \$500: *Provided*, That if the collector shall be satisfied that the manifest was lost or mislaid without intentional fraud, or was defaced by accident, or is incorrect by reason of clerical error or other mistake and

that no part of the merchandise not found on board was unshipped or discharged except as specified in the report of the master, said penalties shall not be incurred.

(b) Under this section of law, the penalty for failure to produce the manifest on proper demand therefor is \$500, and if any merchandise (including sea stores) is found on board, an additional penalty equal to the value of such merchandise accrues. (See ch. IV, Trade with Contiguous Territory. See art. 1109 for penalty in case any of such merchandise is smoking opium.)

(c) Tariff Act of 1930, section 581, as amended by section 203 of the anti-smuggling act of August 5, 1935:

(c) Any master of a vessel being examined as herein provided, who presents any forged, altered, or false document or paper to the examining officer, knowing the same to be forged, altered, or false and without revealing the fact shall, in addition to any forfeiture to which in consequence the vessel may be subject, be liable to a fine of not more than \$5,000 nor less than \$500.

ART. 1121. Seizure of vessels and vehicles—Penalty.—(a) If it shall appear to any officer authorized to board vessels and vehicles and make seizures that there has been a violation of the laws of the United States whereby a vessel or vehicle or the merchandise or any part thereof on board of or imported by such vessel or vehicle is liable to forfeiture, such officer shall make seizure of the same, and arrest, or, in case of escape or attempted escape, pursue and arrest any person engaged in such violation.

(b) Every vehicle and beast, or either, referred to in paragraph (c) of article 1119, in or upon which there is found merchandise which has been introduced into the United States contrary to law, together with teams or other motive power used in conveying, drawing, or propelling such vehicle or merchandise, and all other appurtenances including trunks, envelopes, covers, and all means of concealment, and all the equipage, trappings, and other appurtenances of such beast, team, or vehicle shall be subject to seizure and forfeiture.

(c) It is immaterial whether the owner or driver of a domestic vehicle used wholly within the United States in the transportation of smuggled merchandise had or had not knowledge of its illegal use. If, however, the property smuggled or illegally used has been stolen, the rightful owner may interpose such theft as a defense to forfeiture.

(d) It is not necessary that proceedings shall have been instituted against the master or owner personally before proceedings are instituted by libel against the vessel or vehicle.

(e) Tariff Act of 1930, section 594:

Whenever a vessel or vehicle, or the owner or master, conductor, driver, or other person in charge thereof, has become subject to a penalty for violation of the customs-revenue laws of the United States, such vessel or vehicle shall be held for the payment of such penalty and may be seized and proceeded against summarily by libel to recover the same: *Provided*, That no vessel or vehicle used by any person as a common carrier in the transaction of business as such common carrier shall be so held or subject to seizure or forfeiture under the customs laws, unless it shall appear that the owner or master of such vessel or the conductor, driver, or other person in charge of such vehicle was at the time of the alleged illegal act a consenting party or privy thereto.

(f) The immunity from seizure of vessels used as common carriers does not extend to fines imposed for the carriage of smoking opium. (See art. 1109.)

(g) Except in cases where specifically authorized by law, clearance of vessels within the common carrier exception of section 594 of the Tariff Act of 1930 can not be refused for the purpose of collecting a fine imposed upon the master, or owner, unless either of them was a party to the illegal act. The Government's remedy is limited to an action against the master or owner.

(h) If a penalty is incurred under section 459 of the tariff act by a person in charge of a vehicle arriving in the United States from a contiguous country, actual seizure of the vehicle should not be made, and no seizure report should be executed on customs Form 5955, provided the vehicle involved is not carrying merchandise at the time of entry. The vehicle, however, may be detained and held by the collector of

customs under section 594 of the tariff act until the penalty incurred by the person in charge has been settled.

ART. 1122. *Maritime Commission vessels—Exemption from penalties.*—(a) Where a vessel owned by the United States Maritime Commission and operated by a private concern under the managing and operating agreement of 1935 becomes liable for the payment of a penalty incurred for violation of the customs revenue laws, clearance of the vessel shall not be withheld nor shall any proceedings be taken against the vessel itself looking to the enforcement of such liability.

(b) This exemption does not apply to vessels placed by the United States Maritime Commission with private concerns under "bare-boat" charters, and shall not in any way be construed so as to relieve the masters of such vessels or other persons incurring such penalties from personal liability for the payment thereof.

(c) Collectors will, however, report promptly to the department all cases of violation of such laws involving Maritime Commission vessels in which in their opinion the master or other officer is implicated or is grossly negligent in endeavoring to prevent it, stating fully the facts.

ART. 1123. *Warrant to search dwelling house, store, or other building; passing through lands, etc.*—(a) Tariff Act of 1930, section 595 (a):

If any collector of customs or other officer or person authorized to make searches and seizures shall have cause to suspect the presence in any dwelling house, store, or other building or place of any merchandise upon which the duties have not been paid, or which has been otherwise brought into the United States contrary to law, he may make application, under oath, to any justice of the peace, to any municipal, county, State, or Federal judge, or to any United States commissioner, and shall thereupon be entitled to a warrant to enter such dwelling house in the daytime only, or such store or other place at night or by day, and to search for and seize such merchandise. * * * (Customs Forms 4599 and 4601.)

(b) Customs officers to whom warrants are issued to search for and seize merchandise are without authority to remove letters and other documents and records, unless the same be instruments of crime themselves and are seized as an incident to a lawful arrest.

(c) When acting under a warrant to search the rooms in a building occupied by persons described in the warrant, search of other rooms in such building should not be made unless they are also described in the warrant, together with the names of such persons occupying such rooms.

(d) The warrant must be served in person by the officer to whom it is issued and addressed.

(e) In serving search warrants the officer must deliver a copy of same to the person in charge or possession of the premises together with receipt for the property seized thereunder or, in the absence of any person, copy and receipt should be left in some conspicuous place on the premises searched. Notation should be made of the name of the person on whom the warrant was served or the place where it was left.

(f) The warrant must be executed within 10 days from its date and forthwith returned to the issuing officer (judge of municipal, county, State, or Federal court, United States commissioner, etc.) with a written inventory of the property taken verified by the affidavit of the officer to whom the warrant was addressed and the seized property shall be delivered into the custody of the collector. A copy of the warrant should also be kept in the files of the collector and an additional copy given to the issuing officer for his file.

(g) For buildings on the boundary line, see article 244.

(h) Tariff Act of 1930, section 595 (b):

Any person authorized by this Act to make searches and seizures, or any person assisting him or acting under his directions, may, if deemed necessary by him or them, enter into or upon or pass through the lands, inclosures, and buildings, other than the dwelling house, of any person whomsoever, in the discharge of his official duties.

(i) United States Code, title 18, sections 53a and 77a:

SEC. 53a. Any officer, agent, or employee of the United States engaged in the enforcement of any law of the United States who shall search any private dwelling used and occupied as such dwelling without a warrant directing such search, or who, while

engaged in such enforcement, shall without a search warrant maliciously and without reasonable cause search any other building or property, shall be guilty of a misdemeanor and upon conviction thereof shall be fined for a first offense not more than \$1,000, and for a subsequent offense not more than \$1,000, or imprisoned not more than 1 year, or both such fine and imprisonment: *Provided*, That nothing herein contained shall apply to any officer, agent, or employee of the United States serving a warrant of arrest, or arresting or attempting to arrest any person committing or attempting to commit an offense in the presence of such officer, agent, or employee, or who has committed, or who is suspected on reasonable grounds of having committed, a felony. (Aug. 27, 1935, c. 740, sec. 201, 49 Stat. 877.)

SEC. 77a. Whoever not being an officer, agent, or employee of the United States shall falsely represent himself to be such officer, agent, or employee, and in such assumed character shall arrest or detain any person or shall in any manner search the person, buildings, or other property of any person, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$1,000 or imprisoned for not more than 1 year, or by both such fine and imprisonment. (Aug. 27, 1935, c. 740, sec. 201, 49 Stat. 877.)

ART. 1124. *Officers to make character known—Securing assistance.*—(a) United States Code, title 19, section 507:

Every officer or other person authorized to make searches and seizures by this title, shall, at the time of executing any of the powers conferred upon him, make known, upon being questioned, his character as an officer or agent of the customs or Government, and shall have authority to demand of any person within the distance of 3 miles to assist him in making any arrests, search, or seizure authorized by this title, where such assistance may be necessary; and if such person shall, without reasonable excuse, neglect or refuse so to assist, upon proper demand, he shall be deemed guilty of a misdemeanor punishable by a fine of not more than \$200, nor less than \$5. (R. S., sec. 3071.)

ART. 1125. *Resisting or obstructing customs officer—Rescuing or destroying seized property.*—(a) United States Code, title 18, section 121:

Whoever shall forcibly assault, resist, oppose, prevent, impede, or interfere with any officer of the customs or of the internal revenue, or his deputy, or any person assisting him in the execution of his duties, or any person authorized to make searches and seizures, in the execution of his duty, or shall rescue, attempt to rescue, or cause to be rescued, any property which has been seized by any person so authorized; or whoever before, at, or after such seizure, in order to prevent the seizure or securing of any goods, wares, or merchandise by any person so authorized, shall stove, break, throw overboard, destroy, or remove the same, shall be fined not more than \$2,000 or imprisoned not more than 1 year, or both; and whoever shall use any deadly or dangerous weapon in resisting any person authorized to make searches or seizures, in the execution of his duty, with intent to commit a bodily injury upon him or to deter or prevent him from discharging his duty shall be imprisoned not more than 10 years. (R. S. sec. 5447; Mar. 4, 1909, c. 321, sec. 65, 35 Stat. 1100.)

(b) United States Code, title 18, section 128:

Whoever shall dispossess or rescue, or attempt to dispossess or rescue, any property taken or detained by any officer or other person under the authority of any revenue law of the United States, or shall aid or assist therein, shall be fined not more than \$300 and imprisoned not more than 1 year. (R. S. sec. 5446; Mar. 4, 1909, c. 321, sec. 71, 35 Stat. 1101.)

(c) United States Code, title 26, sections 1347a and 1347b:

SEC. 1347a. (a) Whoever, when violating any law of the United States, or of any Territory or possession of the United States, or of the District of Columbia, in regard to the manufacture, taxation, or transportation of or traffic in distilled spirits, wines, or fermented malt liquors, or when aiding in any such violation, has in his possession or in his control any device capable of causing emission of smoke, gas, or fumes, and which may be used for the purpose of hindering, delaying, or preventing pursuit or capture, any explosive, or any firearm (as defined in section 1132 of this title), except a machine gun, or a shotgun or rifle having a barrel of less than 18 inches in length, shall be fined not more than \$5,000 or be imprisoned for not more than 10 years, or both, and all persons engaged in any such violation or in aiding in any such violation shall be held to be in possession or control of such device, firearm, or explosive.

(b) Whoever, when violating any such law, has in his possession or in his control a machine gun, or any shotgun or rifle having a barrel of less than 18 inches in length, shall be punished by imprisonment for not more than 20 years; and all persons engaged in any such violation or in aiding in any such violation shall be held to be in possession and control of such machine gun, shotgun, or rifle.

(c) Every such firearm or device for emitting gas, smoke, or fumes and every such explosive, machine gun, shotgun, or rifle, in the possession or control of any person when violating any such law shall be seized and shall be forfeited and disposed of

in the manner provided by section 1132f of this title. (June 26, 1936, c. 830, title I, sec. 1, 49 Stat.)

Sec. 1347b. * * * As used in this title the term "machine gun" means any weapon which shoots, or is designed to shoot, automatically or semi-automatically, more than one shot, without manual reloading, by a single function of the trigger. (June 26, 1936, c. 830, title I, sec. 5, 49 Stat.)

(d) United States Code, title 18, sections 253 and 254:

Sec. 253. Whoever shall kill, as defined in sections 452 and 453 of this title, * * * any officer, employee, agent, or other person in the service of the customs * * * while engaged in the performance of his official duties, or on account of the performance of his official duties, shall be punished as provided under section 454 of this title. (May 18, 1934, c. 299, sec. 1, 48 Stat. 780, as amended Feb. 8, 1936, c. 40, 49 Stat.; June 26, 1936, c. 830, title I, sec. 3, 49 Stat.)

Sec. 254. Whoever shall forcibly resist, oppose, impede, intimidate, or interfere with any person designated in section 253 of this title while engaged in the performance of his official duties, or shall assault him on account of the performance of his official duties, shall be fined not more than \$5,000 or imprisoned not more than 3 years, or both; and whoever, in the commission of any of the acts described in this section, shall use a deadly or dangerous weapon shall be fined not more than \$10,000, or imprisoned not more than 10 years, or both.

(e) United States Code, title 18, section 122:

If the master of any vessel shall obstruct or hinder, or shall intentionally cause any obstruction or hindrance to any officer in lawfully going on board such vessel, for the purpose of carrying into effect any of the revenue or navigation laws of the United States, he shall for every such offense be liable to a penalty of not more than \$2,000 nor less than \$500. (As amended Aug. 5, 1935, c. 438, title III, sec. 307, 49 Stat. 880.)

(f) Tariff act of 1930, section 455:

The collector for the district in which any vessel or vehicle arrives from a foreign port or place may put on board of such vessel or vehicle while within such district, and if necessary while going from one district to another, one or more inspectors or other customs officers to examine the cargo and contents of such vessel or vehicle and superintend the unloading thereof and to perform such other duties as may be required by law or the customs regulations for the protection of the revenue. Such inspector or other customs officer may, if he shall deem the same necessary for the protection of the revenue, secure the hatches or other communications or outlets of such vessel or vehicle with customs seals or other proper fastenings while such vessel is not in the act of unloading and such fastenings shall not be removed without permission of the inspector or other customs officer. Such inspector or other customs officer may require any vessel or vehicle to discontinue or suspend unloading during the continuance of unfavorable weather or any conditions rendering the discharge of cargo dangerous or detrimental to the revenue. Any officer, owner, agent of the owner, or member of the crew of any such vessel who obstructs or hinders any such inspector or other customs officer in the performance of his duties, shall be liable to a penalty of not more than \$500.

(g) United States Code, title 46, section 324:

Every person who assaults, resists, obstructs, or hinders any officer in the execution of any Act or law relating to the enrollment, registry, or licensing of vessels, or of this chapter [ch. 12, title 46, U. S. C.] or of any of the powers or authorities vested in him by any such Act or law, shall, for every such offense, for which no other penalty is particularly provided, be liable to a penalty of \$500. (R. S., sec. 4376.)

(h) Tariff Act of 1930, section 581, as amended by section 203 of the anti-smuggling act of August 5, 1935:

Any vessel or vehicle which, at any authorized place, is required to come to a stop by any officer of the customs, or is required to come to a stop by signal made by any vessel employed in the service of the customs displaying the ensign and pennant prescribed for such vessel by the President, shall come to a stop, and upon failure to comply, a vessel so required to come to a stop shall become subject to pursuit and the master thereof shall be liable to a fine of not more than \$5,000 nor less than \$1,000. It shall be the duty of the several officers of the customs to pursue any vessel which may become subject to pursuit, and to board and examine the same, and to examine any person or merchandise on board, without as well as within their respective districts and at any place upon the high seas or, if permitted by the appropriate foreign authority, elsewhere where the vessel may be pursued as well as at any other authorized place.

(i) Use of firearms.—A firearm should not be drawn or used except in self-defense, or to prevent the commission of a felony.

(j) The use of shotguns, riot guns, and similar weapons is hereby prohibited.

(k) Officers should not be permitted to carry firearms while on duty until they have been thoroughly instructed in the proper care and use of such weapons. All firearms must be inspected periodically by the superior officer and kept in first-class condition for proper use.

Art. 1126. What constitutes a valid seizure.—(a) To constitute a valid seizure there must be an open visible possession claimed, and authority exercised, by the seizing officer. The parties must understand that they are dispossessed, and that they are no longer at liberty to exercise any control over the property. A superior physical force is not necessary to be employed if there is voluntary acquiescence in the seizure and dispossession.

(b) A seizure once made, if voluntarily abandoned by the seizing officer, loses its validity.

Art. 1127. Jurisdiction.—(a) Judicial proceedings for the forfeiture of seized merchandise must be instituted within the judicial district in which the seizure was made.

(b) Such proceedings in seizures made on the high seas, for forfeiture under any law of the United States, may be prosecuted in any judicial district in which the property so seized is brought and proceedings instituted.

(c) Criminal offenses.—The trial of offenses in criminal cases takes place in the judicial district in which the crime was committed, but when the offense is begun in one district and completed in another, it may be tried in either district.

(d) Offenses committed upon the high seas, or elsewhere out of the jurisdiction of any particular State or judicial district, are tried in the judicial district in which the offender is found, or into which he is first brought.

Art. 1128. Custody of seized property.—(a) Tariff Act of 1930, section 605:

All vessels, vehicles, merchandise, and baggage seized under the provisions of the customs laws, or laws relating to the navigation, registering, enrolling or licensing, or entry or clearance, of vessels, unless otherwise provided by law, shall be placed and remain in the custody of the collector for the district in which the seizure was made to await disposition according to law.

(b) Seizing officers are required to send at once to the public stores all goods seized by them for violation of law, taking receipts for such goods on customs Form 4655, and sending such receipts, with full report of the case, to the collector on customs Form 5955. Inspectors will make such report through the surveyor, if there be one at the port where the seizure is made.

(c) Seized merchandise to be used as evidence should be marked for identification with special customs Form 105 which is to be attached by the seizing officer after having been signed by him.

(d) Weapons and other articles taken from a prisoner will be accounted for on the seizure report and delivered to the collector. The customs employee can not personally retain the property under any circumstances.

(e) Care of seized property generally.—Use of seized automobiles and boats before forfeiture and award.—Automobiles and boats must not be used prior to forfeiture and condemnation and award by the Secretary of the Treasury. Expenses necessary to take or transfer the vessels or vehicles from the place of seizure to a place of storage only will, however, be reimbursed.

(f) The collector of customs in whose custody seized property is placed is responsible for its proper care and use. He must show that he exercised reasonable care and diligence in protecting same should any such property be destroyed or damaged while in his custody or under his control.

(g) United States Code, title 28, section 747:

All property taken or detained by any officer or other person under authority of any revenue law of the United States shall be irrepleviable and shall be deemed to be in the custody of the law, and subject only to the orders and decrees of the courts of the United States having jurisdiction thereof. (R. S., sec. 934.)

Art. 1129. Records of fines, penalties, and forfeitures.—

(a) A record must be kept at headquarters ports only on

customs Form 5211 of all seizures, fines, and penalties occurring in each district, and a connected history of each case must be preserved in the collector's office including all proceedings in connection therewith.

(b) Customs Form 5211 should include all customs penalties, even though there is no seizure of merchandise, and where parties have been apprehended, the names of the persons. Where bribe money is seized and placed in the custody of the collector, a seizure number should be awarded and the item should appear on this report after the investigation has been completed.

(c) *Preparation of report.*—(1) The branch of the Government making the seizure, or in case of joint seizures, the names of the two or more branches, should be shown in the appropriate column on customs Form 5211 in lieu of the name of the officer, listing first that branch of the service assuming the major responsibility in making the seizure.

(2) The appraised value in civil cases and the statutory monetary penalty in criminal cases should be shown in each instance. In cases of seizure of alcoholic beverages, the type seized shall be separately listed; e. g. distilled liquor, sparkling wines, still wines, or malt liquor, and the value as well as the quantity (in gallons, quarts, pints, or fraction thereof) of each type stated separately. The quantity and value of alcohol seized shall be separately reported.

(3) To distinguish between apprehensions and physical seizures of merchandise a capital "A" following the date in the second column shall be used to indicate apprehension and in the case of physical seizure of merchandise the value and the fine imposed (if any) shall be stated in the appropriate column preceded by the letters "V" and "F", respectively.

(4) If an arrest is made in connection with a seizure or apprehension, this fact, together with a statement of the number of persons arrested, shall be indicated in column three under the name of the offender.

(5) Seizures of lottery matter and other similar articles of small or trifling value need not be reported separately but may be grouped on one line of customs Form 5211, showing the first and last seizure number in a consecutive series.

(6) Informal mail entry fines assessed on customs Form 3421 may be reported in the aggregate on customs Form 5211. Formal mail entry fines are provided for in article 372.

(7) Liquidated damages on account of failure to produce missing documents should be listed on customs Form 5211 at the time the penalty is assessed, viz, at the end of the 6 months' period in the case of failure to produce consular invoices and at the end of corresponding periods of grace in the case of other missing documents. Every penalty of this sort should be given a separate case number on customs Form 5211. Other types of liquidated damages, e. g., against carriers for irregular delivery or shortages of bonded merchandise, against importers under redelivery and other bonds, etc., should also be given case numbers and separately listed on customs Form 5211 as soon as the violation is determined and the penalty assessed.

(8) In reporting "fines imposed" on customs Form 5211 the following rules shall be followed:

(a) Statutory fines which may be imposed only by the court shall be listed on customs Form 5211 only if and when actually imposed and shall not be listed until court action has taken place. This covers fines such as are listed in sections 304 (d), 305 (b), 484, 465, 590, 591, 593 (a), (b), 596, 600, 601, 616, 620, etc., of the tariff act.

(b) Fines or penalties imposed by the collector such as those under the provisions of sections 439, 440, 453, 454, 459, 584, 585, and 599 of the tariff act, and those sections of the Revised Statutes, Air Commerce Act, etc., which inflict like punishment, shall be listed as fines on customs Form 5211. The entire prescribed fine or penalty shall be reported when imposed and not the mitigated amount which may be subsequently collected.

(c) Personal penalties, equal to the value of the goods seized, shall be listed as fines on customs Form 5211 whenever such penalties are actually imposed under the provisions of sections 432, 453, 460, 497, 584, 586, and 587 of the tariff act and under other laws inflicting like punishment.

(d) Under mail fines, whether itemized or reported as a total, do not report the value of the merchandise but merely the penalty.

(e) If the statute provides only for the forfeiture of the merchandise, only the value thereof shall be reported.

(d) *Disposition.*—Monthly reports shall be made of the disposition of seizures, customs Form 5161-B or customs Form 5179 being rendered if the disposition involves a collection or receipt of money and customs Form 4651 in other cases. One copy of each of these forms together with a copy of customs Form 5211 will be forwarded at the close of the month direct to the Division of Statistics and Research, Bureau of Customs. One copy each of customs Forms 5211, 5161-B, 5179, and 4651 will be forwarded to the comptroller. When merchandise is destroyed the copy of customs Form 4651 which is submitted to the comptroller will be accompanied by the certificate of the officers witnessing the destruction.

(e) *Report of seizures made for other departments.*—A record should be made of all seizures and apprehensions made by customs officers for other branches of the Government and a report on customs Form 3157 forwarded at the close of the month direct to the Division of Statistics and Research, Bureau of Customs. One copy of the report on customs Form 3157 accompanied by receipts from the adopting department for the property turned over to it should be forwarded to the comptroller.

ART. 1130. *Appraisalment of seized property.*—(a) Tariff Act of 1930, section 606:

The collector shall require the appraiser to determine the domestic value at the time and place of appraisalment of any vessel, vehicle, merchandise, or baggage seized under the customs laws.

(b) The term "domestic value" applied with respect to this section is the price at which such or similar merchandise is freely offered for sale, at the time and place of appraisalment in the same quantity or quantities as seized and in the ordinary course of trade. If there is no market for the seized merchandise at the place of appraisalment, then the value as defined above in the nearest principal market to the place of appraisalment shall be found.

(c) Seized merchandise which is absolutely prohibited from importation and for which no domestic value exists will be appraised at its foreign market value only.

(d) In the case of seized vessels or vehicles, the domestic value is the price at which such or similar vessels or vehicles are freely offered for sale at the time and place of appraisalment.

(e) For the purpose of condemnation proceedings only (secs. 607, 610, and 612 of the Tariff Act of 1930) the value of all merchandise the importation of which is prohibited, shall be held not to exceed \$1,000. For all other purposes, the imposition of penalties, etc., the value found shall be the domestic value as defined herein.

(f) If merchandise be seized for undervaluation disclosed on the original appraisalment or on reappraisalment, because of the seizure, a further appraisalment must be made to ascertain the domestic value.

(g) If the claimant seeks to bond the vessel, vehicle, merchandise, or baggage, he may, with the approval of the court, accept for this purpose the domestic value as returned by the appraiser or apply to the court for appointment of three persons to appraise the property.

(h) If the vessel, vehicle, merchandise, or baggage is valued at less than \$1,000 and subject to summary forfeiture, before the property may be bonded, claim and bond must be filed under section 608 of the Tariff Act of 1930 in order that the United States attorney may have an opportunity to file a libel and bring the case within the jurisdiction of the court.

ART. 1131. Notice of seizure and sale—Value not exceeding \$1,000—Advertisement.—(a) Tariff Act of 1930, section 607:

If such value of such vessel, vehicle, merchandise, or baggage returned by the appraiser does not exceed \$1,000, the collector shall cause a notice of the seizure of such articles and the intention to forfeit and sell the same to be published for at least three successive weeks in such manner as the Secretary of the Treasury may direct. For the purposes of this section and sections 610 and 612 of this Act, merchandise, the importation of which is prohibited, shall be held not to exceed \$1,000 in value. (See art. 1130.)

(b) The notice shall, (1) be published in a newspaper of general circulation in the customs collection district of seizure; (2) describe the property seized; (3) state the time, cause, and place of seizure; and (4) state that any person desiring to claim the property must appear and file with the collector a claim to such property and a bond in the sum of \$250, within 20 days from the date of the first publication of the notice, in default of which the property will be disposed of in accordance with law.

(c) Articles of small value of the same class or kind included in two or more seizures shall be advertised as one combined unit. The notice in such cases shall conform to all the requirements of paragraph (b) hereof.

(d) In the case of automobiles, the advertisement must also specify the motor and serial number.

(e) When a vessel or merchandise has been seized for forfeiture under the navigation laws there shall also be inserted in the advertisement the name and place of residence of the person to whom such vessel and merchandise belongs or is consigned if the same is known to the collector.

(f) Care should be exercised that the advertisement is published in the manner, and that it contains the exact data, required by the statutes and these regulations.

(g) Collectors will designate the newspapers for such advertisements and will authorize publication thereof on standard Form 1053. Such notice should not be inserted oftener than three times unless in the opinion of the collector a greater number of times is necessary in order to sell the property to the best advantage to the Government.

(h) The notice shall be prepared at the headquarters port and duplicate letters of authorization kept by collectors.

(i) Vouchers in payment of such advertisements will be prepared and forwarded as provided for in article 1196.

(j) Before seized drugs, insecticides, seeds, plants, nursery stock, and other articles required to be inspected by the Department of Agriculture are sold, they shall be inspected by a representative of the Department of Agriculture to ascertain whether or not they comply with the requirements of the law and the regulations of that Department and, if found not to comply with such requirements, should be forthwith destroyed.

ART. 1132. Claim for seized property—Value not exceeding \$1,000—Bond for costs.—(a) Tariff Act of 1930, section 608:

Any person claiming such vessel, vehicle, merchandise, or baggage may at any time within 20 days from the date of the first publication of the notice of seizure file with the collector a claim stating his interest therein. Upon the filing of such claim, and the giving of a bond to the United States in the penal sum of \$250, with surties to be approved by the collector, conditioned that in case of condemnation of the articles so claimed the obligor shall pay all the costs and expenses of the proceedings to obtain such condemnation, the collector shall transmit such claim and bond with a duplicate list and description of the articles seized to the United States attorney for the district in which seizure was made, who shall proceed to a condemnation of the merchandise or other property in the manner prescribed by law.

(b) The giving of such bond does not entitle claimant to possession of the merchandise, but stops the summary forfeiture proceedings.

(c) The bond will be on customs Form 4615, and there will be indorsed thereon a list or schedule which must, in every case, be signed by the claimant in the presence of the witnesses to the bond, and attested by them, substantially as follows:

List or schedule containing a particular description of goods, wares, or merchandise seized, on claim to which the within bond is given, to wit:

The foregoing list is correct.

-----, Claimant.

Attest:

(d) The costs and expenses secured by bond, customs Form 4615, are such as are incurred after the filing of the bond, including storage costs, safeguarding, court fees, marshal's costs, etc.

ART. 1133. Award or sale of property summarily forfeited—Value not exceeding \$1,000.—(a) Tariff Act of 1930, section 609:

If no such claim is filed or bond given within the 20 days hereinbefore specified, the collector shall declare the vessel, vehicle, merchandise, or baggage forfeited, and shall sell the same at public auction in the same manner as merchandise abandoned to the United States is sold, and shall deposit the proceeds of sale, after deducting the actual expenses of seizure, publication, and sale, in the Treasury of the United States.

(b) The declaration of forfeiture shall be noted on the report of seizure (customs Form 5955) and thereafter the property either will be delivered for official use or otherwise disposed of according to law. For the procedure relating to reports, requests for assignment, and disposition of forfeited property, see the regulations of the Director of Procurement, published as T. D. 48105. (See also art. 1111 re disposition of *forfeited liquors*.)

(c) If the forfeited property is cleared for sale, it should be sold in accordance with the applicable provisions of chapter XVIII of these regulations.

(d) Collectors may postpone the sale of small seizures until the proceeds of a consolidated sale will pay all expenses.

(e) The summary forfeiture proceedings set forth in this article and articles 1131 and 1132 do not apply to property seized for violation of the food and drugs act (arts. 547 to 566), meat and meat food products (arts. 570 to 587), plants and plant products (arts. 578 to 584), grain and grass seeds (arts. 585 to 604), viruses, serums, etc. (arts. 605 to 611), quarantine of animals, etc. (arts. 612 to 616), prohibited wild animals, etc. (arts. 618 to 623), prohibited tea (arts. 624 to 639), white phosphorus matches (arts. 640 and 641), fur skins, etc. (arts. 645 to 651), obscene or immoral articles, lottery tickets, lists, etc. (arts. 677 to 681), pictorial representations of prize fights (art. 682), counterfeits of coins or securities (arts. 691), nor to any forfeiture or penalty where the statute denouncing the offense provides that the property "may be seized and proceeded against by libel." Such cases should be referred to the United States attorney.

ART. 1134. Transfer of seized property to other districts for sale—Destruction or remanufacture of prohibited merchandise.—(a) Tariff Act of 1930, section 611:

If the sale of any vessel, vehicle, merchandise, or baggage forfeited under the customs laws in the district in which seizure thereof was made be prohibited by the laws of the State in which such district is located, or if a sale may be made more advantageously in any other district, the Secretary of the Treasury may order such vessel, vehicle, merchandise, or baggage to be transferred for sale in any customs district in which the sale thereof may be permitted. Upon the request of the Secretary of the Treasury, any court may, in proceedings for the forfeiture of any vessel, vehicle, merchandise, or baggage under the customs laws, provide in its decree of forfeiture that the vessel, vehicle, merchandise, or baggage, so forfeited, shall be delivered to the Secretary of the Treasury for disposition in accordance with the provisions of this section. If the Secretary of the Treasury is satisfied that the proceeds of any sale will not be sufficient to pay the costs thereof, he may order a destruction by the customs officers: *Provided*, That any merchandise forfeited under the customs laws, the sale or use of which is prohibited under any law of the United States or of any State, may, in the discretion of the Secretary of the Treasury, be destroyed, or remanufactured into an article that is not prohibited, the resulting article to be disposed of to the profit of the United States only.

(b) The authority given the Secretary of the Treasury under this section has been delegated to the Commissioner of Customs.

(c) In the case of merchandise forfeited under summary proceedings if after the forfeiture is completed it appears that the proceeds of sale will not be sufficient to pay the costs thereof the collector may order the destruction of the property.

ART. 1135. *Application for remission of forfeiture, or restoration of proceeds of sale.*—(a) Tariff Act of 1930, section 613:

Any person claiming any vessel, vehicle, merchandise, or baggage, or any interest therein, which has been forfeited and sold under the provisions of this Act, may at any time within 3 months after the date of sale apply to the Secretary of the Treasury if the forfeiture and sale was under the customs laws, or to the Secretary of Commerce if the forfeiture and sale was under the navigation laws, for a remission of the forfeiture and restoration of the proceeds of such sale, or such part thereof as may be claimed by him. Upon the production of satisfactory proof that the applicant did not know of the seizure prior to the declaration or condemnation of forfeiture, and was in such circumstances as prevented him from knowing of the same, and that such forfeiture was incurred without any willful negligence or intention to defraud on the part of the applicant, the Secretary of the Treasury or the Secretary of Commerce may order the proceeds of the sale, or any part thereof, restored to the applicant, after deducting the cost of seizure and of sale, the duties, if any, accruing on the merchandise or baggage, and any sum due on a lien for freight charges, or contribution in general average that may have been filed. * * * (See art. 1145.)

(b) If the property has been authorized for official use, retention or delivery shall be regarded as the sale thereof for the purposes of the above-quoted section, and the appropriation available to the receiving agency of the purchase, hire, operation, maintenance, and repair of property of the kind so received is available for the granting of relief to the petitioner and for the satisfaction of liens for freight, charges, and contributions in general average that may have been filed.

ART. 1136. *Disposition of proceeds.*—(a) Tariff Act of 1930, section 613:

* * * If no application for such remission or restoration is made within 3 months after such sale, or if the application be denied by the Secretary of the Treasury or the Secretary of Commerce, the proceeds of sale shall be disposed of as follows:

(1) For the payment of all proper expenses of the proceedings of forfeiture and sale, including expenses of seizure, maintaining the custody of the property, advertising and sale, and if condemned by a decree of a district court and a bond for such costs was not given, the costs as taxed by the court;

(2) For the satisfaction of liens for freight, charges, and contributions in general average, notice of which has been filed with the collector according to law;

(3) For the payment of the duties accruing on such merchandise or baggage, if the same is subject to duty; and

(4) The residue shall be deposited with the Treasurer of the United States as a customs or navigation fine.

(b) Expenses in connection with seizures and forfeitures shall be paid from the customs appropriations. In the event that the forfeited property has been authorized for transfer to another Federal agency for official use, the receiving agency shall reimburse said appropriation for the costs incurred for hauling, transporting, towing, and storage of such property from the date of seizure to the date of delivery. In case the property is cleared for sale, the customs appropriation shall be reimbursed from the proceeds of the sale for all expenses paid therefrom in connection with the seizure and forfeiture of such property.

(c) If the forfeiture and sale of property be by the court, or the imposition of a fine or penalty results from a prosecution instituted in a civil or criminal case under the customs laws, the sum recovered after deducting all proper charges for marshal's fees, court costs, etc., is payable to the collector of customs. Upon receipt of such sum the collector shall pay and distribute the same without delay as provided for in this article.

ART. 1137. *Summary sale—Perishable articles.*—(a) Tariff Act of 1930, section 612:

Whenever it appears to the collector that any vessel, vehicle, merchandise, or baggage seized under the customs laws is liable to perish or to waste or to be greatly reduced in value by keeping, or that the expense of keeping the same is disproportionate to the value thereof, and the value of such vessel, vehicle, merchandise, or baggage as determined by the appraiser under sec-

tion 606 of this Act does not exceed \$1,000, and such vessel, vehicle, merchandise, or baggage has not been delivered under bond, the collector shall, within 24 hours after the receipt by him of the appraiser's return, proceed forthwith to advertise and sell the same at auction under regulations to be prescribed by the Secretary of the Treasury. * * *

(b) Notice of summary sale will be by advertisement by the collector for such time as he may think reasonable. This notice is of sale only and not the notice of seizure, intention to forfeit and sell provided for in article 1131.

(c) Tariff Act of 1930, section 612:

* * * If such value of such vessel, vehicle, merchandise, or baggage exceeds \$1,000 the collector shall forthwith transmit the appraiser's return and his report of the seizure to the United States district attorney, who shall petition the court to order an immediate sale of such vessel, vehicle, merchandise, or baggage, and if the ends of justice require it the court shall order such immediate sale, the proceeds thereof to be deposited with the court to await the final determination of the condemnation proceedings. Whether such sale be made by the collector or by order of the court, the proceeds thereof shall be held subject to claims of parties in interest to the same extent as the vessel, vehicle, merchandise, or baggage so sold would have been subject to such claim.

ART. 1138. *Release on payment of appraised value.*—(a) Tariff Act of 1930, section 614:

If any person claiming an interest in any vessel, vehicle, merchandise, or baggage seized under the provisions of this Act offers to pay the value of such vessel, vehicle, merchandise, or baggage, as determined under section 606 of this Act, and it appears that such person has in fact a substantial interest therein, the collector may, subject to the approval of the Secretary of the Treasury if under the customs laws, or the Secretary of Commerce if under the navigation laws, accept such offer and release the vessel, vehicle, merchandise, or baggage seized upon the payment of such value thereof, which shall be distributed in the order provided in section 613 of this Act.

(b) The application must be in writing, addressed to the Commissioner of Customs or the Secretary of Commerce, as the case may be, submitted in duplicate to the collector for the district in which the property is seized, signed by the claimant or his attorney, and contain an assent to forfeiture and a waiver of further proceedings. There shall be submitted with this application proof of ownership if the facts in the case make such action necessary. Collectors will forward the application with their recommendation to the Bureau and retain custody of the merchandise pending the action of the Bureau and the payment of the amount offered if the application is approved.

ART. 1139. *Collectors may release when duty does not exceed \$50.*—When the duty does not exceed \$50 seized property may be released by order of the collector for exportation, or upon payment of a fine equal to the duty, or upon payment of the domestic value, or upon such other conditions as the law and circumstances in each case may justify.

ART. 1140. *Release of goods advanced over 100 percent—Stipulation—Petition for relief from seizure.*—(a) When an importer desires immediate possession of merchandise liable to seizure for undervaluation exceeding 100 percent, pending reappraisal proceedings, or a petition to the Commission of Customs for relief from forfeiture on the ground that the presumption of fraud existing in the case can be rebutted, the collector may release such merchandise upon the importer's depositing a sum of money equivalent to the domestic value (as defined in art. 1130) of the case of goods containing the article or articles undervalued more than 100 percent, together with a sum sufficient to cover the supplemental, estimated, or increased duty and 75 percent additional duty accruing thereon, and entering into a stipulation in the following form:

Whereas certain merchandise contained in a case No. _____ on invoice No. _____, entry No. _____, imported by _____ ex. SS. _____, on the _____ day of _____, 19____, has been advanced in value by the appraiser more than 100 percent, and is liable to seizure; and

Whereas (I or we) _____, the said _____, desire to obtain possession of the merchandise covered by the said case, invoice, and entry, notwithstanding such advance; and

Whereas (I or we) _____ have deposited with the collector of the port of _____ a sum of money equivalent to the domestic value of said case of merchandise, said sum to be held by the col-

lector pending reappraisal or re-appraisal of the merchandise, or an application to the Commissioner of Customs for relief.

Now, therefore (I or we) ----- do hereby stipulate and agree to abide by the result of such reappraisal or re-appraisal on the retained samples in the same manner as if the entire case had been held for such proceedings.

It is further stipulated and agreed that, should the appraised value as finally determined exceed the entered value of the said merchandise by more than 100 percent, and the Commissioner of Customs deny relief, the money deposited may be seized and forfeited and covered into the Treasury of the United States as though received from a sale of the merchandise, and (I or we) ----- do hereby waive any and all objections which may at any time be raised by reason of the fact that the merchandise has been delivered and the cash deposited in lieu thereof.

Dated, -----, 19-----

In presence of: -----

(b) Petitions should be addressed to the Commissioner of Customs and transmitted to the Bureau by the collector with a full report of the facts in the case, accompanied by the entry and invoice and his recommendation as to whether or not, in his opinion, the presumption of fraud can be rebutted.

(c) Petitions for remission of forfeitures incurred should not be forwarded to the Bureau pending action by the United States Customs Court if petitions for remission of additional duties have been filed with said court.

(d) If no such petitions for remission or forfeiture are filed within 10 days after final appraisal of the merchandise, forfeiture proceedings will be instituted by the collector.

ART. 1141. *Reports by collectors to United States Attorneys.*—(a) Tariff Act of 1930, section 603:

It shall be the duty of the collector whenever a seizure of merchandise has been made for a violation of the customs laws to report the same to the Solicitor of the Treasury [General Counsel for the Department of the Treasury], and promptly also to report any such seizure or violation of the customs laws to the United States attorney for the district in which such violation has occurred, or in which such seizure was made, including in such report a statement of all the facts and circumstances of the case within his knowledge, with the names of the witnesses, and citation of the statute or statutes believed to have been violated, and on which reliance may be had for forfeiture or conviction.

(b) Report to the United States attorney under the above section is to be made when the violation requires the institution of legal proceedings.

(c) "District" as used in this article of the regulations refers to the judicial district and not the customs district.

(d) Tariff Act of 1930, section 610:

If the value returned by the appraiser of any vessel, vehicle, merchandise, or baggage so seized is greater than \$1,000, the collector shall transmit a report of the case, with the names of available witnesses, to the United States attorney for the district in which the seizure was made for the institution of the proper proceedings for the condemnation of such property.

(e) When the appraised value of the seized property exceeds \$1,000 the collector will, in the absence of any application to the Bureau for relief or an offer to pay the domestic value thereof, as provided in article 1138, report the facts to the United States attorney of the district in which the seizure was made as provided herein.

(f) If the appraised value of seized property is less than \$1,000 and the claimant gives bond on customs Form 4615 to secure the cost of such proceedings within the statutory period, the collector will likewise report the case to the United States attorney.

(g) In each case the collector will submit a report of his action to the Bureau, which may consist of a copy of the case report forwarded to the United States attorney.

(h) If a crime in connection with seized property has been committed in a district other than that in which the property is found, the collector should also report the facts to the United States attorney for that district.

(i) In all cases reported to the United States attorney for the recovery of fines, penalties, or forfeitures, which have been settled by the authority of the Secretary of the Treas-

ury, the collector will promptly notify the United States attorney of the action which has been taken.

(j) *Criminal reports.*—Collectors must also report promptly to the United States attorney of the district in which the crime or offense is committed the arrest of any person for violation of the customs revenue laws. He shall include in such report the names and addresses of the parties arrested, the date and place of arrest, the evidence available, all of the facts and circumstances in the case, including the action of the United States commissioner at the preliminary hearing, a description and the value of the property seized in connection with the arrest, the disposition of such property, if any (whether summarily forfeited or reported to the United States attorney for proceedings), any prior arrest or conviction of the arrested person, the names and addresses of the witnesses and the statutes believed to have been violated.

(k) Such report if prepared by the customs agency service shall be submitted through the collector in triplicate. A copy of the criminal case shall be forwarded by the collector to the Bureau in addition to the report on customs Form 5955.

ART. 1142. *Duty of United States attorneys—Prosecution.*—

(a) Tariff Act of 1930, section 604:

It shall be the duty of every United States district attorney immediately to inquire into the facts of cases reported to him by collectors and the laws applicable thereto, and if it appears probable that any fine, penalty, or forfeiture has been incurred by reason of such violation, for the recovery of which the institution of proceedings in the United States district court is necessary, forthwith to cause the proper proceedings to be commenced and prosecuted, without delay, for the recovery of such fine, penalty, or forfeiture in such case provided, unless, upon inquiry and examination, such district attorney decides that such proceedings can not probably be sustained or that the ends of public justice do not require that they should be instituted or prosecuted, in which case he shall report the facts to the Secretary of the Treasury for his direction in the premises.

(b) The function respecting the direction of prosecutions, and so forth, formerly vested in the Secretary of the Treasury by section 604 above, was transferred to the Department of Justice by section 5, Executive Order 6166 of June 10, 1933.

(c) United States Code, title 28, section 733:

Whenever two or more things belonging to the same person are seized for an alleged violation of the revenue laws, the whole must be included in one suit; if separate actions are prosecuted in such cases the court will consolidate them. (R. S., sec. 920.)

ART. 1143. *Bonding of seized property—Petition to the court.*—(a) Upon the petition of a claimant to the United States district court that a vessel, vehicle, merchandise, or baggage seized should be delivered to him, the court may appoint three persons to appraise such property, the appraisement to be made at the expense of the party upon whose petition it is granted. The seizure appraisement made by the United States appraiser pursuant to article 1130 may, however, be accepted with the approval of the court.

(b) On the return of the appraisement, the claimant shall execute a bond to the United States with one or more sureties, to be approved by the court, for the payment of an amount equal to the sum at which the property is appraised, and shall produce a certificate from the collector of the district where the trial is had that the duties on the merchandise or baggage, or tonnage duties on the vessel, claimed, have been paid.

(c) The court may thereupon order such property to be delivered to the claimant, and the bond shall be lodged with the clerk of the court. If the judgment passes in favor of the claimant, the court may cause the bond to be canceled, but if judgment passes against the claimant, as to the whole or any part of such property, and the claimant does not within 20 days thereafter pay into the court the amount of the appraised value of the property so condemned, with the costs, judgment will be granted upon the bond.

(d) The certificate from the collector should cover an amount representing the regular duties paid as if the goods had been legally entered.

(e) Collectors will, before issuing such certificate, require the payment of the full additional duties due, if any, and the same should be included in the certificate.

(f) Duties paid as a condition to bonding the property will not be refunded without special instructions from the Bureau.

(g) (1) United States Code, title 26, section 1347b:

Notwithstanding any provisions of law relating to the return on bond of any vessel or vehicle seized for the violation of any law of the United States, the court having jurisdiction of the subject matter, may, in its discretion and upon good cause shown by the United States, refuse to order such return of any such vessel or vehicle to the claimant thereof. * * * (June 26, 1936, c. 830, title I, sec. 4, 49 Stat.)

(2) The word "vessel", as used above, includes every description of watercraft used, or capable of being used, as a means of transportation in water or in water and air; and the word "vehicle" includes every animal and description of carriage or other contrivance used, or capable of being used, as a means of transportation on land or through the air.

(h) Where vessels or vehicles are desired for official use or it can be shown that the interests of the Government may suffer by reason of such release the collector should request the United States attorney to contest and object to any petition filed for bonding.

(i) The bond prescribed by this section is a substitute for and in lieu of the property released, and the Government, if forfeiture is decreed, is entitled to recover the penal sum of the bond which shall be in an amount equal to the appraised value.

ART. 1144. *Remission or mitigation of fines, penalties, and forfeitures.*—(a) Tariff Act of 1930, section 618:

Whenever any person interested in any vessel, vehicle, merchandise, or baggage seized under the provisions of this Act, or who has incurred or is alleged to have incurred, any fine or penalty thereunder, files with the Secretary of the Treasury if under the customs laws, and with the Secretary of Commerce if under the navigation laws, before the sale of such vessel, vehicle, merchandise, or baggage a petition for the remission or mitigation of such fine, penalty, or forfeiture, the Secretary of the Treasury, or the Secretary of Commerce, if he finds that such fine, penalty, or forfeiture was incurred without willful negligence or without any intention on the part of the petitioner to defraud the revenue or to violate the law, or finds the existence of such mitigating circumstances as to justify the remission or mitigation of such fine, penalty, or forfeiture may remit or mitigate the same upon such terms and conditions as he deems reasonable and just, or order discontinuance of any prosecution relating thereto. In order to enable him to ascertain the facts, the Secretary of the Treasury may issue a commission to any customs agent, collector, judge of the United States Customs Court, or United States commissioner, to take testimony upon such petition: *Provided*, That nothing in this section shall be construed to deprive any person of an award of compensation made before the filing of such petition.

(b) The authority to ascertain the facts and to remit or mitigate fines, penalties, or forfeitures under the customs laws has been delegated to the Commissioner of Customs, provided that no fine or penalty in excess of \$5,000 shall be remitted or mitigated without the approval of the Secretary of the Treasury. No action looking to the remission or mitigation of a fine, penalty, or forfeiture shall be taken on any petition, irrespective of the amount involved, if the case has been referred to the Department of Justice for the institution of legal proceedings.

(c) In the case of vessels or vehicles awarded for official use, the petition to be considered must be filed before final disposition of the property is made.

(d) Customs officers will inform interested parties of their right to apply for such relief.

(e) In the case of petty smuggling of articles of small value by persons other than masters of vessels, the offenders should be advised of their civil liability, as distinguished from the liability of the articles to forfeiture, and a deposit on account of the penalty incurred in an amount equivalent to the domestic value of the articles should be demanded.

ART. 1145. *Petitions for the remission or mitigation of fines, penalties, and forfeitures, and restoration of proceeds*

of sale.—(a) Petitions shall be filed in duplicate with the collector of customs of the district in which the property was seized, or the fine imposed, addressed to the Commissioner of Customs, if under the customs laws, or the Secretary of Commerce, if under the navigation laws, and executed under oath by the person, firm, or corporation presenting the claim, and shall state in clear and concise terms the following:

1. A description of the property claimed, and the date and place of seizure.

2. The interest of the petitioner in the property supported by bills of sale, contracts, mortgages, or other satisfactory documentary evidence.

3. The facts relied upon by the petitioner to justify the remission or mitigation.

4. If the property was in the possession of a third person, or such person was responsible for the act which caused the fine, penalty, or forfeiture, evidence should be produced as to the manner in which the property came into the possession of such person. Evidence of any investigation made by the petitioner prior to parting with the property should also be produced, or reason given for lack of such investigation.

5. Petitioners holding chattel mortgages or conditional sales contracts against seized property, who consult customs officers regarding the preparation of petitions for relief, should be advised that it is necessary for them to submit, with their petitions, evidence showing that prior to extending credit they made a thorough investigation of the moral character and financial responsibility of the purchaser of the property which showed he was a good credit risk.

6. Where the petition is for the restoration of the proceeds of sale under section 613 of the tariff act, it must be filed within three months after the date of sale and shall be supported by satisfactory proof that the petitioner did not know of the seizure prior to the declaration or condemnation of forfeiture and was in such circumstances as prevented him from knowing the same.

(b) The collector, upon receipt of a petition, shall see that it conforms to the above, and shall cause such investigation to be made as the facts in the case may warrant. In forwarding the petition to the Bureau, he shall accompany it with a copy of the report of the investigation, if any, all other facts which may have come to his knowledge, and his recommendation as to the final action to be taken thereon. The collector's report must be in the form prescribed in Bureau circular letter no. 900 dated August 20, 1932.

(c) If the petition involves a matter which has been referred to the Department of Justice for the institution of court proceedings, the collector will transmit the petition, immediately upon receipt, to the appropriate United States attorney and notify the petitioner of such action.

(d) If a proceeding for forfeiture by summary process is pending (arts. 1131 to 1135) the collector shall postpone the sale or disposition of the property pending final action on the petition by the Commissioner of Customs.

ART. 1146. *Compromise of claims.*—(a) Tariff Act of 1930, section 617:

Upon a report by a collector, district attorney, or any special attorney or customs agent, having charge of any claim arising under the customs laws, showing the facts upon which such claim is based, the probabilities of a recovery and the terms upon which the same may be compromised, the Secretary of the Treasury is hereby authorized to compromise such claim, if such action shall be recommended by the Solicitor of the Treasury [General Counsel for the Department of the Treasury].

(b) No offer of compromise in which a specific sum of money is tendered will be considered until such sum, together with costs of suit, if any, shall have been deposited to the credit of the Secretary of the Treasury's special deposit account with the Treasurer of the United States or the Federal reserve bank, and a certificate of deposit issued therefor is received at the Department. If the offer be rejected, the money will be returned to the proponent; if accepted, it will be covered into the Treasury.

(c) The amount offered and the terms upon which the offer is made should be in writing and limited to civil liability of the proponent in the matter which is the subject of the Government's claim.

(d) To enable a proponent at a distance from any Federal reserve bank to perfect his offer, the Secretary will receive for this purpose a bank draft for the amount of the offer payable to his order at any of the principal cities of the United States, the draft to be collected by him and the proceeds placed to the credit of his account before any action is taken upon the offer. Certificates of deposit will be issued in quadruplicate, on customs Form 6599 (Treasurer), the original to be transmitted to the Treasurer of the United States, the duplicate to be delivered to the officer whose account is to be credited, the triplicate to be retained by the depository, and the quadruplicate to be retained by the depositor.

(e) The amount offered will be deposited in the name of the person submitting the offer and not in the name of the collector of customs.

(f) The authority to compromise any customs case which has been referred to the Department of Justice for prosecution is vested in that Department by virtue of section 5, Executive Order 6166, dated June 10, 1933. Proponents should be advised to submit their offers to the appropriate United States attorney in such cases. Offers received by the collector of customs under such circumstances will be transmitted forthwith to such United States attorney and the proponents notified of such action.

ART. 1147. *Limitation of actions.*—(a) Tariff Act of 1930, section 621, as amended by section 306 of the anti-smuggling act of August 5, 1935:

No suit or action to recover any pecuniary penalty or forfeiture of property accruing under the customs laws shall be instituted unless such suit or action is commenced within five years after the time when the alleged offense was discovered: *Provided*, That the time of the absence from the United States of the person subject to such penalty or forfeiture, or of any concealment or absence of the property, shall not be reckoned within this period of limitation.

ART. 1148. *Burden of proof.*—Tariff Act of 1930, section 615, as amended by section 207 of the anti-smuggling act of August 5, 1935:

In all suits or actions brought for the forfeiture of any vessel, vehicle, merchandise, or baggage seized under the provisions of any law relating to the collection of duties on imports or tonnage, where the property is claimed by any person, the burden of proof shall lie upon such claimant; and in all suits or actions brought for the recovery of the value of any vessel, vehicle, merchandise, or baggage, because of violation of any such law, the burden of proof shall be upon the defendant: *Provided*, That probable cause shall be first shown for the institution of such suit or action, to be judged of by the court, subject to the following rules of proof:

(1) The testimony or deposition of the officer of the customs who has boarded or required to come to a stop or seized a vessel or vehicle, or has arrested a person, shall be prima facie evidence of the place where the act in question occurred.

(2) Marks, labels, brands, or stamps, indicative of foreign origin, upon or accompanying merchandise or containers of merchandise, shall be prima facie evidence of the foreign origin of such merchandise.

(3) The fact that a vessel of any description is found, or discovered to have been, in the vicinity of any hovering vessel and under any circumstances indicating contact or communication therewith, whether by proceeding to or from such vessel, or by coming to in the vicinity of such vessel, or by delivering to or receiving from such vessel any merchandise, person, or communication, or by any other means effecting contact or communication therewith, shall be prima facie evidence that the vessel in question has visited such hovering vessel.

ART. 1149. *Certificate of reasonable or probable cause.*—Costs.—(a) United States Code, title 28, section 818:

When, in any prosecution commenced on account of the seizure of any vessel, goods, wares, or merchandise made by any collector or other officer under any act of Congress authorizing such seizure, judgment is rendered for the claimant, but it appears to the court that there was reasonable cause of seizure, the court shall cause a proper certificate thereof to be entered, and the claimant shall not, in such case, be entitled to costs, nor shall the person who made the seizure, nor the prosecutor, be liable to suit or judgment on account of such suit or prosecution: *Provided*, That

the vessel, goods, wares, or merchandise be, after judgment, forthwith returned to such claimant or his agent. (R. S., sec. 970.)

(b) United States Code, title 28, section 842:

When a recovery is had in any suit or proceeding against a collector or other officer of the revenue for any act done by him, or for the recovery of any money exacted by or paid to him and by him paid into the Treasury, in the performance of his official duty, and the court certifies that there was probable cause for the act done by the collector or other officer, or that he acted under the directions of the Secretary of the Treasury, or other proper officer of the Government, no execution shall issue against such collector or other officer, but the amount so recovered shall, upon final judgment, be provided for and paid out of the proper appropriation from the Treasury. (R. S., sec. 989.)

ART. 1150. *Awards of compensation to informers.*—(a) Tariff Act of 1930, section 619, as amended by section 305 of the anti-smuggling act of August 5, 1935:

Any person not an officer of the United States who detects and seizes any vessel, vehicle, merchandise, or baggage subject to seizure and forfeiture under the customs laws or the navigation laws, and who reports the same to an officer of the customs, or who furnishes to a district attorney, to the Secretary of the Treasury, or to any customs officer original information concerning any fraud upon the customs revenue, or a violation of the customs laws or the navigation laws perpetrated or contemplated, which detection and seizure or information leads to a recovery of any duties withheld, or of any fine, penalty, or forfeiture incurred, may be awarded and paid by the Secretary of the Treasury, a compensation of 25 per centum of the net amount recovered, but not to exceed \$50,000 in any case, which shall be paid out of any appropriations available for the collection of the revenue from customs. For the purposes of this section, an amount recovered under a bail bond shall be deemed a recovery of a fine incurred.

If any vessel, vehicle, merchandise, or baggage is forfeited to the United States, and is thereafter, in lieu of sale, destroyed under the customs or navigation laws or delivered to any governmental agency for official use, compensation of 25 per centum of the appraised value thereof may be awarded and paid by the Secretary of the Treasury under the provisions of this section, but not to exceed \$50,000 in any case.

(b) The term "in any case" as used in the statute, has reference to the information furnished and not to the recoveries growing out of such information.

(c) Collectors are not authorized to pay claims out of proceeds of sale.

(d) The payment of the award for information furnished concerning violations of the narcotic drugs import and export act, as amended, will be made by the court exercising jurisdiction in cases involving violations of the law mentioned.

(e) The original of all claims for compensation should contain the signatures of the respective parties to the claim, report and certificate, and award. Any necessary number of additional copies to complete the disbursement, seizure, or other files, may be obtained.

(f) When information of violations of the customs or navigation laws is furnished to customs officers in writing by an informer, the original document or letter will be immediately forwarded to the Bureau of Customs, a copy thereof to be retained by the customs officer receiving same. If the information is verbal a memorandum thereof will be made and likewise forwarded.

ART. 1151. *Claims for compensation.*—*What to contain.*—

(a) The claim of an informer, or of a detector and seizer, shall be in writing in duplicate on customs Form 4623, and must clearly state the facts in the case, the date when and under what circumstances the information was furnished, or the articles were detected and seized. The signature and address of the informer or detector or seizer must be affixed to the application.

(b) The collector of the district in which the case originated will state on the face of each claim the following facts:

1. The name of the port or place where the case originated.
2. The date upon which the seizure was made or upon which the violation of the law occurred.
3. The precise statute violated.
4. The serial number of the seizure, fine, or duty case upon which it is based.

5. A full description of the articles seized.

6. The name or names of the persons involved in the violation.

7. When seizures are released upon payment of the appraised value and expenses, the precise amount of the appraised value of the articles, as well as the duties and expenses that would have properly accrued.

8. The amount of fine, penalty, or forfeiture, and date collected.

9. The amount paid in compromise, if any, and the date of collection.

10. The date when the amount collected was deposited and the number of the certificate of deposit.

11. The appraised value of the vessel or vehicle destroyed or turned over for official use.

12. The amount of expenses payable from the customs appropriation.

(c) The claim must be approved by the collector, who will certify whether or not the claimant was an officer of the United States; and if an informer, whether he furnished the original information in the case, and if a detector and seizer, whether the claimant actually detected and seized the goods covered by the seizure report under which the claim is made, and that no other person than the claimant gave original information in the case.

ART. 1152. *Collectors to transmit claims to Secretary of the Treasury.*—(a) Claims will be transmitted by the collector to the Secretary of the Treasury in duplicate.

(b) When there has been a decree or order of court designating the informer, a copy should be forwarded to the Department.

(c) In contested cases the collector will forward the applications of all the claimants, and furnish a statement of facts as to the merits of the case with his recommendation.

(d) Persons whose claims for compensation have not, for any reason, been transmitted by the collector, may apply directly to the Department.

(e) No claims of either informers or detectors and seizers for compensation should be forwarded to the Department unless a sum not less than \$5 is available for an award.

ART. 1153. *Sharing of awards by officers of the United States prohibited.*—Penalty.—Tariff Act of 1930, section 620:

Any officer of the United States who directly or indirectly receives, accepts, or contracts for any portion of the money which may accrue to any person making such detection and seizure, or furnishing such information, shall be guilty of a felony and, upon conviction thereof, shall be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or both, and shall be thereafter ineligible to any office of honor, trust, or emolument. Any such person who pays to any such officer, or to any person for the use of such officer, any portion of such money, or anything of value for or because of such money, shall have a right of action against such officer, or his legal representatives, or against such person, or his legal representatives, and shall be entitled to recover the money so paid or the thing of value so given.

ART. 1154. *Extortion by informer.*—United States Code, title 18, section 250:

Whoever shall, under a threat of informing, or as a consideration for not informing, against any violation of any law of the United States, demand or receive any money or other valuable thing, shall be fined not more than \$2,000, or imprisoned not more than 1 year, or both. (R. S. sec. 5484; Mar. 4, 1909, c. 321, sec. 145, 35 Stat. 1114.)

OFFENSES AGAINST THE ADMINISTRATION OF THE CUSTOMS

ART. 1155. *Bribery of customs officers and employees.*—Penalty.—Disposition of bribe moneys.—(a) Tariff Act 1930, section 601:

Any person who gives, or offers to give, or promises to give, any money or thing of value, directly or indirectly, to any officer or employee of the United States in consideration of or for any act or omission contrary to law in connection with or pertaining to the importation, appraisement, entry, examination, or inspection of merchandise or baggage, or of the liquidation of the entry thereof, or by threats or demands or promises of any character attempts to improperly influence or control any such officer or employee of the United States as to the performance of his official duties, shall be guilty of a misdemeanor and on conviction

thereof shall be punished by a fine not exceeding \$5,000 or by imprisonment for a term not exceeding 2 years, or both, and evidence of such giving, offering or promising to give, or attempting to influence or control, satisfactory to the court in which such trial is had, shall be prima facie evidence that the same was contrary to law.

(b) Where moneys received as bribes are placed in the custody of the collector, the same shall be held pending investigation.

(c) If no criminal case is developed, the sum shall be deposited with the Treasurer of the United States as a forfeiture, symbol No. 3850, marking deposit as "bribes to United States officers."

(d) United States Code, title 18, section 570:

All moneys received or tendered in evidence in any case, proceeding, or investigation in any United States court, or before any officer thereof, which have been paid to or received by any official as a bribe, shall after the conclusion and final disposition of the particular case, proceeding, or investigation in which it was received as evidence, be deposited in the registry of the court to be disposed of under and in accordance with the order, judgment, or decree of said court, to be subject however to the provisions of section 852 of title 28 [U. S. Code]. (Jan. 7, 1925, c. 33, 43 Stat. 726.)

ART. 1156. *Giving of gratuities to customs officers prohibited.*—Penalty.—United States Code, title 18, section 124:

Whoever, being engaged in the importation into the United States of any goods, wares, or merchandise, or being interested as principal, clerk, or agent in the entry of any goods, wares, or merchandise, shall at any time make, or offer to make, to any officer of the revenue, any gratuity or present of money or other thing of value, shall be fined not more than \$5,000 or imprisoned not more than 2 years, or both. (R. S. sec. 5452; Mar. 4, 1909, c. 321, sec. 67, 35 Stat. 1100.)

ART. 1157. *Soliciting or receiving gratuities by officers or employees of the United States prohibited.*—Penalty.—Tariff Act 1930, section 600:

Any officer or employee of the United States who, except in payment of the duties or exactions fixed by law, solicits, demands, exacts, or receives from any person, directly or indirectly, any gratuity, money, or thing of value, for any service performed under the customs laws, or in consideration of any official act to be performed by him, or of the omission of performance of any such act, in connection with or pertaining to the importation, entry, inspection or examination, or appraisement of merchandise or baggage, shall be guilty of a misdemeanor and on conviction thereof shall be punished by a fine not exceeding \$5,000, or by imprisonment for not more than 2 years, or both, and evidence, satisfactory to the court in which the trial is had, of such soliciting, demanding, exacting, or receiving shall be prima facie evidence that the same was contrary to law.

ART. 1158. *Falsely assuming to be a revenue officer.*—Vessels carrying ensign of Coast Guard vessels.—Penalty.—(a)

(1) United States Code, title 18, section 123:

Whoever shall falsely represent himself to be a revenue officer, and, in such assumed character, demand or receive any money or other article of value from any person for any duty or tax due to the United States, or for any violation or pretended violation of any revenue law of the United States, shall be fined not more than \$500, and imprisoned not more than 2 years. (R. S. sec. 5448; Mar. 4, 1909, c. 321, sec. 66, 35 Stat. 1100.)

(2) United States Code, title 19, section 1601a:

Whoever without authority shall use the uniform or badge of the Coast Guard, or the Customs Service, or of any foreign revenue service, or any uniform, clothing, or badge resembling the same, while engaged, or assisting, in any violation of any revenue law of the United States, shall be fined not more than \$500 and imprisoned not more than 2 years. (Aug. 5, 1935, c. 438, title III, sec. 309, 49 Stat. 528.)

(b) United States Code, title 14, section 64:

(a) Coast Guard vessels shall be distinguished from other vessels by an ensign and pennant, of such design as the President shall prescribe, the same to be flown as circumstances require. If any vessel or boat, not employed in the service of the customs, shall, within the jurisdiction of the United States, without authority, carry or hoist any pennant or ensign prescribed for, or intended to resemble any pennant or ensign prescribed for, Coast Guard vessels, the master of the vessel so offending shall be liable to a fine of not less than \$1,000 and not more than \$5,000, or to imprisonment for not less than six months and not more than 2 years, or both such fine and imprisonment.

(b) For the purposes of this section, any place in the United States or within the customs waters of the United States as

defined in chapter 5 of Title 19 [Anti-Smuggling Act] shall be deemed within the jurisdiction of the United States. (As amended Aug. 5, 1935, c. 438, title III, sec. 308, 49 Stat. 528.)

ART. 1159. Admitting merchandise to entry for less than legal duty—Penalty.—United States Code, title 18, section 125:

Whoever, being an officer of the revenue, shall, by any means whatever, knowingly admit, or aid in admitting to entry, any goods, wares, or merchandise upon payment of less than the amount of duty legally due thereon shall be removed from office and fined not more than \$5,000, or imprisoned not more than 2 years, or both. (R. S. sec. 5444; Mar. 4, 1909, c. 321, sec. 68, 35 Stat. 1101.)

ART. 1160. Entry by false weight, measure, etc.—Penalty.—United States Code, title 18, section 126:

Whoever, by any means whatever, shall knowingly effect, or aid in effecting, any entry of goods, wares, or merchandise at less than the true weight or measure thereof, or upon a false classification thereof as to quality or value, or by the payment of less than the amount of duty legally due thereon, shall be fined not more than \$5,000, or imprisoned not more than 2 years, or both. (R. S. sec. 5445; Mar. 4, 1909, c. 321, sec. 69, 35 Stat. 1101.)

ART. 1161. Concealment or destruction of invoices—Penalty.—United States Code, title 18, section 120:

Whoever shall willfully conceal or destroy any invoice, book, or paper relating to any merchandise liable to duty, which has been or may be imported into the United States from any foreign port or country, after an inspection thereof has been demanded by the collector of any collection district, or shall at any time conceal or destroy any such invoice, book, or paper for the purpose of suppressing any evidence of fraud therein contained, shall be fined not more than \$5,000, or imprisoned not more than 2 years, or both. (R. S. sec. 5443; Mar. 4, 1909, c. 321, sec. 64, 35 Stat. 1100.)

ART. 1162. Destroying or mutilating records and documents—Penalty.—(a) United States Code, title 18, section 234:

Whoever shall willfully and unlawfully conceal, remove, mutilate, obliterate, or destroy, or attempt to conceal, remove, mutilate, obliterate, or destroy, or with intent to conceal, remove, mutilate, obliterate, destroy, or steal, shall take and carry away any record, proceeding, map, book, paper, document, or other thing filed or deposited with any clerk or officer of any court of the United States, or in any public office, or with any judicial or public officer of the United States, shall be fined not more than \$2,000, or imprisoned not more than 3 years, or both. (R. S. sec. 5403; Mar. 4, 1909, c. 321, sec. 128, 35 Stat. 1111.)

(b) United States Code, title 18, section 235:

Whoever, having the custody of any record, proceeding, map, book, document, paper, or other thing specified in section 234 of this title, shall willfully and unlawfully conceal, remove, mutilate, obliterate, falsify, or destroy any such record, proceeding, map, book, document, paper, or thing, shall be fined not more than \$2,000, or imprisoned not more than 3 years, or both; and shall moreover forfeit his office and be forever afterwards disqualified from holding any office under the Government of the United States. (R. S. sec. 5408; Mar. 4, 1909, c. 321, sec. 129, 35 Stat. 1112.)

ART. 1163. Forgery of certificate of entry—Penalty.—United States Code, title 18, section 119:

Whoever shall forge, counterfeit, or falsely alter any certificate of entry made or required to be made in pursuance of law by any officer of the customs, or shall use any such forged, counterfeited, or falsely altered certificate, knowing the same to be forged, counterfeited, or falsely altered, shall be fined not more than \$10,000 and imprisoned not more than 3 years. (R. S. sec. 5417; Mar. 4, 1909, c. 321, sec. 63, 35 Stat. 1100.)

ART. 1164. Unlawful abatement or compromise of claims—Penalty.—Tariff Act of 1930, section 616:

It shall not be lawful for any officer of the United States to compromise or abate any claim of the United States arising under the customs laws for any fine, penalty, or forfeiture, and any such officer who compromises or abates any such claim or attempts to make such compromise or abatement, or in any manner relieves, or attempts to relieve, any person, vessel, vehicle, merchandise, or baggage from any such fine, penalty, or forfeiture shall be guilty of a felony and upon conviction thereof shall be punished by a fine of not more than \$5,000 or by imprisonment for a term not exceeding 2 years: *Provided*, That the Secretary of the Treasury shall have power to remit or mitigate any such fine, penalty, or forfeiture, or to compromise the same in the manner provided by law.

ART. 1165. Conspiracy—Penalty.—(a) United States Code, title 18, section 88:

If two or more persons conspire either to commit any offense against the United States or to defraud the United States in any manner or for any purpose, and one or more of such parties do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be fined not more than \$10,000 or imprisoned not more than 2 years, or both. (R. S. sec. 5440; May 17, 1879, c. 8, 21 Stat. 4; Mar. 4, 1909, c. 321, sec. 37, 35 Stat. 1096.)

(b) United States Code, title 15, section 8:

Every combination, conspiracy, trust, agreement, or contract is declared to be contrary to public policy, illegal, and void when the same is made by or between two or more persons or corporations either of whom, as agent or principal, is engaged in importing any article from any foreign country into the United States, and when such combination, conspiracy, trust, agreement, or contract is intended to operate in restraint of lawful trade, or free competition in lawful trade or commerce, or to increase the market price in any part of the United States of any article or articles imported or intended to be imported into the United States, or of any manufacture into which such imported article enters or is intended to enter. Every person who shall be engaged in the importation of goods or any commodity from any foreign country in violation of this section, or who shall combine or conspire with another to violate the same, is guilty of a misdemeanor, and on conviction thereof in any court of the United States such person shall be fined in a sum not less than \$100 and not exceeding \$5,000, and shall be further punished by imprisonment, in the discretion of the court, for a term not less than 3 months nor exceeding 12 months. (Aug. 27, 1894, c. 349, sec. 73, 28 Stat. 570; Feb. 12, 1913, c. 40, 37 Stat. 667.)

(c) United States Code, title 15, section 11:

Any property owned under any contract or by any combination, or pursuant to any conspiracy, and being the subject thereof, mentioned in section 8 of this chapter (quoted above) imported into and being within the United States or being in the course of transportation from one State to another, or to or from a Territory or the District of Columbia, shall be forfeited to the United States, and may be seized and condemned by like proceedings as those provided by law for the forfeiture, seizure, and condemnation of property imported into the United States contrary to law. (Aug. 27, 1894, c. 349, sec. 76, 28 Stat. 570; Feb. 12, 1913, c. 40, 37 Stat. 667.)

ART. 1166. "Principals" defined—Punishment of accessories.—(a) United States Code, title 18, section 550:

Whoever directly permits any act constituting an offense defined in any law of the United States, or aids, abets, counsels, commands, induces, or procures its commission, is a principal. (R. S. secs. 5323, 5427; Mar. 4, 1909, c. 321, sec. 332, 35 Stat. 1152.)

(b) United States Code, title 18, section 551:

Whoever, except as otherwise especially provided by law, being an accessory after the fact to the commission of any offense defined in any law of the United States, shall be imprisoned not exceeding one-half the longest term of imprisonment or fined not exceeding one-half the largest fine prescribed for the punishment of the principal, or both, if the principal is punishable by both fine and imprisonment; * * *. (R. S. secs. 5533-5535; Mar. 4, 1909, c. 321, sec. 333, 35 Stat. 1152.)

CHAPTER XXII

CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

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COLLECTIONS

ART. 1167. *Moneys of the United States receivable for duties.*—(a) Gold and silver coins, minor coins of the United States, United States demand notes, United States Treasury notes, gold and silver certificates of the United States, Federal reserve notes issued under the act of December 23, 1913, United States notes, and circulating notes of national-banking associations are receivable for duties.

(b) Debenture certificate and check for payment of drawback shall be received in payment of duties at the custom-house at which it was issued.

(c) Certified checks, drawn on national and State banks and trust companies in favor of the receiver or collector, when they can be cashed without cost to the Government are receivable for duties.

(d) Uncertified checks may be received by collectors of customs in payment of duties on imports, but if a check so received is not paid the person by whom such check has been tendered shall remain liable for the payment of the duties and for all legal penalties and additions to the same extent as if such check had not been tendered.

ART. 1168. *Cashier.*—At ports where there are regularly designated cashiers, such cashiers shall be the recipients of all moneys collected. At other places deputy collectors or other employees will be authorized by the collector to receive customs duties and other public dues. The cashier will stamp the date of payment on the face of each entry or collection voucher and verify the same by his signature or initial.

ART. 1169. *Bills.*—(a) Unless otherwise provided herein all bills or accounts for sums due the Government will be prepared in triplicate. The original shall be forwarded to the party from whom the account is due, the duplicate retained or delivered to the cashier as a collection account, and the triplicate retained as an office record where prepared.

(b) When payment is made the duplicate copy shall be stamped paid by the cashier, and recorded as a collection voucher on the appropriate record and schedule.

(c) When an official receipt is requested by the payor, or the remittance does not identify the account or accounts for which payment is made, the original must accompany the remittance for that purpose.

(d) When billed or other accounts become delinquent a final notice of moneys due, customs Form 4619, notifying the delinquent payor that the amount must be paid to the collector of customs on or before the date stated in the notice or the account will be reported to the United States attorney for collection as required by law, shall be issued and such action as may be necessary, in connection with each particular delinquent account, shall be taken to effect the collection thereof before the expiration of 90 days from the date the account became due. (See art. 1203 (g).)

ART. 1170. *Records and schedules.*—(a) Itemized records and schedules of customs collections will be prepared in duplicate at headquarters ports and in triplicate at ports of entry on the customs forms provided for each class of collection. Additional copies may be prepared when required for official and essential administrative purposes. Unless otherwise provided, ports of entry will retain the original as the office record and forward two copies to the headquarters port.

(b) Monthly summary schedules of duty, miscellaneous, and special deposit collections, or of no transactions, will be prepared and certified in quadruplicate at the headquarters port and in quintuple at ports of entry on customs Forms 5181, 5183, and 5185, respectively. Transactions at customs stations will be accounted for as transactions of, and included in the schedule for, the port under which the station functions. Ports of entry will forward the original and three copies to the headquarters port.

(c) Consolidated monthly summary schedules of duty, miscellaneous, and special deposit collections in the district will be prepared and certified in quadruplicate at the headquarters port on customs Forms 5181, 5183, and 5185, respectively.

(d) The headquarters port will forward one copy of each itemized schedule, the original and two copies of each monthly summary schedule, and of each consolidated monthly summary schedule to the comptroller of customs, who will transmit the original and one copy of each monthly summary and consolidated monthly summary schedule to the Bureau with the customs account.

ART. 1171. *Estimated duties.*—(a) At comptroller of customs ports an entry ticket with coupon receipt, customs Form 5101, attached, will be presented with each entry. At all other ports, entry ticket customs Form 5103 will be prepared by the entry clerk when the entry has been accepted and is ready for payment.

(b) Estimated duties collected on consumption entries at comptroller ports will be recorded on customs Forms 5151-A and similar collections will be recorded on customs Form 5151-B at all other ports by serial number as paid. The record of liquidation will be posted on customs Forms 5151-A and 5151-B immediately opposite the entry to which the data belong, on the right hand page of the loose leaf book.

ART. 1172. *Appraisalment, baggage, informal, and mail entries.*—Appraisalment entries on customs Form 7500 as paid or passed free; baggage entries on customs Form 6059 or 6063 as paid; informal entries on customs Form 5119 as paid or passed free, and mail entries on customs Form 3419 or 3420 as paid, passed free or canceled, shall be separately recorded and scheduled on customs Form 5171 by serial number. An additional copy of the schedule will be prepared for posting as a notice of liquidation. (Art. 830.)

ART. 1173. *Free and warehouse entries.*—Free consumption entries will be recorded and scheduled on customs Form 5151-F at comptroller ports and 5151-D at subcomptroller ports. Warehouse entries will be recorded on customs Form 5153.

ART. 1174. *Duty-paid warehouse withdrawals.*—(a) Duties collected on warehouse withdrawals will be recorded as paid by withdrawal number and bond number and date on customs Form 5157. A receipt on customs Form 5103 will be given.

(b) Combined rewarehouse and withdrawals for consumption entries on customs Form 7519 shall be numbered in the warehouse entry series of numbers and also assigned a number in the warehouse withdrawal series of numbers. The entry shall be scheduled on the warehouse entry schedule, customs Form 5153, and on the warehouse withdrawal schedule, customs Form 5157. The transaction shall also be recorded on a warehouse ledger sheet, customs Form 5201.

ART. 1175. *Increased and additional duties, etc.*—(a) A notice to importers of increased duties, additional duties, balance on bonds, and supplemental estimated duties will be prepared in triplicate on customs Form 5107 at the port of entry of the merchandise, and the original mailed or delivered to the importer by that port.

(b) The collections will be recorded on the day received on the record and schedule, customs Form 5155. The collection voucher for increased duties, customs Form 5107, as soon as entered on the record and schedule, will be recorded in the consumption entry record, customs Form 5151-A, 5151-B, 5151-D, or 5151-E. The amounts collected will also be noted and stamped paid on the entries. (See art. 333 for warehouse procedure.)

ART. 1176. *Storage, labor, cartage, fees, etc.*—A bill for the sum due on account of customs fees, work performed, storage, labor, cartage, etc., will be prepared on customs Form 5109. As soon as paid the items will be recorded on the record and schedule, customs Form 5159 or 5161-B.

ART. 1177. *Services of officers.*—(a) The bill or account for services of officers, and other reimbursable expenses in connection therewith, will be prepared in triplicate on customs Form 5111-A or 5111-B. The amount collected will be recorded on record and schedule customs Form 5161-A.

(b) Services rendered by admeasurers of vessels, whether within or without the limits of the port of entry, and expenses in connection therewith, are not reimbursable and

neither the compensation nor the expenses incident to admeasuring a vessel is chargeable to the parties in interest.

ART. 1178. *Fines, penalties, and forfeitures.*—(a) A bill or notice of the amount to be paid on account of fines, penalties, and forfeitures, except seizures sold, will be prepared in triplicate on customs Form 5113. The amount collected will be entered on the record and schedule, customs Form 5161-B.

(b) Amounts received as fines or in satisfaction of liability incurred for failure to produce consular bills of health as required by the act of February 15, 1893, will be deposited in the regular customs account. The bill or account of the amount to be paid will be prepared in triplicate on customs Form 5113. These collections will be listed separately on the record and schedule of miscellaneous receipts, customs Form 5161-B, as "Public Health Service fines."

(c) Amounts collected on bonds as liquidated damages shall be deposited as such in the regular account. Customs Form 5117 will be used as a collection voucher and the record and schedule made on customs Form 5161-B. Items on customs Form 5161-B representing liquidated damages collected for the nonproduction of documents missing on entry shall be specifically identified as such in sufficient detail to enable the comptroller to clear his record of the entry required by article 1201, in connection with which the liquidated damages have been collected.

(d) Fines collected on informal mail entries, customs Form 3421, will be recorded and scheduled on customs Form 5161-B and reported on record of fines, penalties, and forfeitures, customs Form 5211.

ART. 1179. *Abandoned and seized goods sold.*—(a) A bill for goods sold will be prepared in triplicate on customs Form 5117 A or B. The triplicate copy will be stamped paid and used as a permit to the storekeeper to deliver the merchandise. The storekeeper will indorse his action on the back of the triplicate copy and return the same to the collector.

(b) The gross proceeds will be entered on the record and schedule of special deposits, customs Form 5167, and deposited in special deposit account pending the verification and settlement of the sale account.

(c) A detailed schedule will be prepared on customs Form 5165 for abandoned goods sold and on customs Form 5179 for seized goods sold. The original and one copy, accompanied by copies of vouchers covering expenses paid or payable from the customs appropriation, and other supporting papers necessary to determine the net proceeds, will be forwarded to the comptroller of customs for his verification prior to transfer from special deposit account. Upon verification, the original and supporting papers will be returned to the collector. The record and schedule of funds transferred will be prepared on customs Form 5161 (A) or (B) as the case may be.

ART. 1180. *Merchandise unclaimed or in warehouse beyond 3 years.*—(a) The bill for goods sold will be prepared on customs Form 5117 A or B. The triplicate copy will be stamped paid and used as a permit to the storekeeper to deliver the merchandise. The storekeeper will indorse his action on the back of the triplicate copy and return the same to the collector.

(b) The gross proceeds will be entered on the schedule of special deposits, customs Form 5167, and deposited in special deposit account pending the verification and settlement of the sale account.

(c) A detailed schedule of sale will be prepared in duplicate on customs Form 5163. Both copies of the schedule accompanied by the appraiser's report, customs Form 3617, for each lot, together with all other supporting papers or vouchers will be forwarded to the comptroller of customs for his verification prior to transfer from special deposit. The original upon verification will be returned to the collector. The record and schedule of the funds to be transferred will be prepared on customs Form 5159 or 5161 A or B, as the case may be.

(d) The notice to importer of sale will be prepared on customs Form 5251-A, the order to the storekeeper to trans-

fer for sale on customs Form 5251-B, and the order to the appraiser on customs Form 3617.

ART. 1181. *Special forms.*—When special forms of bills or accounts are not provided, customs Form 5117 A or B will be used as the bill or account, and the record and schedule will be prepared on customs Form 5161-A, 5161-B, or 5167, if special deposit.

ART. 1182. *Special deposits.*—(a) Moneys received by collectors as special deposits will be entered as soon as received by the collector on record and schedule of special deposits, customs Form 5167. Ports of entry will forward the original and duplicate copies to the headquarters port where the original will be used as the office record of the receipt and disposition of amounts in the special deposit account.

(b) A duplicate copy of the record and schedule of special deposit, customs Form 5167, shall be prepared for all receipts under this article and forwarded to comptrollers of customs as soon as the sheet is completed or at the end of the month.

(c) Collectors shall submit to comptrollers all schedules, documents, official papers, and reports necessary for the proper verification and certification of special deposit accounts.

(d) Refunds, transfers, etc., of special deposit collections will be noted in the office record of the headquarters port, customs Form 5167, on the right-hand or credit side of the page. The back of each sheet when inserted in the binder becomes the credit side of the register.

(e) Whenever moneys are deposited with the cashier as a special deposit, the words "special deposit" will be stamped upon the collection voucher.

ART. 1183. *Daily record and monthly summary.*—(a) The total amount collected or deposited each day for each class of receipts including special deposits, as shown on the various records and schedules, will be entered on the daily statement of collections, deposits, and balances on customs Form 5207-A at comptroller ports, and on customs Form 5207-B at all other ports. This report may be prepared on the morning of the following business day and should cover all collections and deposits of the day of the report up to the official closing time. Any undeposited collections received up to the official closing time should be reported as a balance on hand.

(b) One copy of either customs Form 5207-A or 5207-B, accompanied by the collection vouchers, will be forwarded whenever there are any transactions, either in collections or deposits to the comptroller of customs at comptroller ports and to the headquarters port at subcomptroller ports. The period during which there were no transactions and the amount for which signed certificates of deposit have not been received will be noted on the bottom of the form.

ART. 1184. *Deposit of collections.*—(a) At each port all cash collections, including repayments to appropriations, will be deposited daily by the collector at a headquarters port or the deputy collector in charge at a port of entry, in a designated depository at the port of collection, to the credit of the Treasurer of the United States in the name of the collector for the district, except that depositing officers are authorized to withhold from deposit sufficient of their cash collections, not to exceed \$100, for the purpose of making change. The amount of cash so withheld each day shall be reported as cash on hand, except that at the end of each month, or at the expiration of the collector's bond, the cash withheld must be deposited. Each certificate of deposit shall show separately the amount deposited on account of each specific source of collection.

(b) Depositing officers located in a city or town where there is no depository are not required to forward their cash receipts each day, but must forward such receipts to the headquarters port or to the designated depository in the district as directed by the collector when the aggregate collections amount to \$100 or such lesser sum as the collector may prescribe. At the end of each month or at the expiration of the collector's bond the deposits must be made regardless of the amount.

(c) All checks, whether certified or uncertified, and whether or not drawn on banks and trust companies located in the same city with the collector, received by collectors of customs, shall be forwarded for deposit each day by collectors, unless otherwise specifically instructed by the Secretary of the Treasury, to the Federal Reserve bank of the district in which the headquarters port is located (or in case the headquarters port is located in the same city with a branch Federal Reserve bank, to such branch Federal Reserve bank).

(d) Specific instructions may be given by the Secretary of the Treasury, in certain instances, for the deposit of checks with Federal Reserve banks of other districts or branch Federal Reserve banks.

(e) If there be no designated depository at a port of entry, all collections will be forwarded to the headquarters port or deposited in a designated depository in the district as directed by the collector. If there be no designated depository at a headquarters port, the collector shall apply to the Secretary of the Treasury to designate a place of deposit. All such moneys shall be transmitted from time to time to the place of deposit so designated in such manner and by such means as may be prescribed.

(f) Checks forwarded to the Federal Reserve bank in accordance herewith should be arranged in groups of checks drawn on banks and trust companies located in the same city with the Federal Reserve bank or branch with which the deposit is made, and groups of checks drawn on banks and trust companies located outside of the city in which is located the Federal Reserve bank or branch with which the deposit is made, and each such group must be accompanied by a draft certificate of deposit. Such draft certificate of deposit must, in all cases, specify the amounts of the deposits representing collections for the Treasury Department, Department of Commerce, etc.

(g) Payments made into court in cases settled by compromise or in satisfaction of judgments shall be deposited to the credit of the Treasurer of the United States either by the collector of the district concerned or in his name, on account of the specific source of receipts involved in the case compromised or satisfied.

(h) Moneys received from clerks of courts in payment of customs judgment cases will be separated by collectors of customs so as to deposit the principal as "customs duties", "customs fines", etc., according to the nature of the transaction, and the costs as miscellaneous receipts, Department of Justice, under the title "4280 reimbursement of expenses (costs in customs judgment cases)". The segregation of these receipts should be made on the reverse side of certificates of deposit and on the monthly schedule of certificates of deposit, Form 1313.

(i) The total amount deposited as customs duties or fines, etc., as well as the amount representing "costs", shall be taken up as collections and deposits on the regular customs accounts.

(j) When deposits of funds not pertaining to customs are made by collectors, the certificates of deposit should clearly designate the particular branch of the public service to which they belong.

(k) Moneys received by customs officers on account of unclaimed money of deceased seamen will be deposited in a designated depository as miscellaneous receipts "Proceeds from effects and moneys of deceased patients, Public Health Service (trust fund)".

(l) All moneys paid to any collector for unascertained duties or for duties paid under protest against the rate or amount of duties charged shall be deposited to the credit of the Treasurer of the United States, and shall not be held by the collectors to await any ascertainment of duties or the result of any litigation in relation to the rate or amount of duties legally chargeable and collectible in any case where money is so paid.

(m) Receipts from reimbursable charges for overtime services, labor, travel, and other expenses connected with

the customs, including collections of disallowed disbursements, shall be deposited by the collector of customs as a repayment to the appropriation from which paid.

(n) Collections which at the time of receipt can not be definitely allocated as to purpose or account properly applicable, including collections covering deposits in lieu of bonds, gross proceeds derived from the sale of seized, abandoned, and unclaimed goods, deposit of estimated amounts required in advance of the known amount, account, or date due, deposits subject to transfer to other accountable officers, and similar collections, shall be deposited in special deposit account there to be held until proper disposition thereof can be accomplished.

(o) Amounts received covering net proceeds derived from the sale of seized property (art. 1133), net proceeds derived from the sale of perishable articles (art. 1137), deposit of appraised value of seized articles (art. 1138), deposit of appraised value of goods advanced over 100 percent (art. 1140), and maximum fines and penalties imposed (art. 1144), including mail fines, shall be deposited in the regular account.

(p) When the net proceeds of sale or deposits of the appraised value covering seized merchandise are transferred from special deposit to the regular account, the duty accruing on entered dutiable merchandise which is not prohibited shall be deposited and accounted for as duties and the residue, if any, shall be deposited as a customs fine. If such entered merchandise is not dutiable the full amount transferred shall be deposited as a customs fine. In the case of smuggled or prohibited merchandise, whether dutiable or not, the full amount transferred shall be deposited as a customs fine. Such amounts deposited as fines shall be shown on the certificate of deposit and accounted for as miscellaneous receipts under the classification of forfeitures.

(q) Public moneys are not to be deposited in the name of subordinates, but in the names and in the official accounts of the collectors of customs.

(r) Funds delivered to the bank toward the close of the month, for which a certificate of deposit is not received from the depositary until the following month, should be shown in the account for the month in which collected as "balance due the United States."

ART. 1185. *Certificates of deposit (regular account).*—(a) Certificate of deposit Form 4 will be prepared by collectors of customs covering customs duties including those of the Philippine Island tariff fund, which deposits are not subject to check, and deposited with the Treasurer of the United States, Federal Reserve banks, and general bank depositaries.

(b) Certificate of deposit Form 5 will be prepared by collectors of customs, covering internal-revenue collections, collections of tonnage tax, including those belonging to the Philippine Island fund, miscellaneous receipts, and repayments to appropriations, which deposits are not subject to check, and deposited with the Treasurer of the United States, Federal Reserve banks, and general bank depositaries.

(c) Certificate of deposit, Form 1, shall be prepared by collectors of customs, covering deposits not subject to check, other than deposits made on certificate of deposit Forms 4 and 5.

(d) Headquarters ports will accompany all deposits with an original and three copies, one being in the form of a letter of transmittal of this certificate; all other ports of entry will furnish an additional copy.

(e) The depositary will date and sign all certificates, entering credit therefor in the Treasurer's account, transmit the original to the Secretary of the Treasury through the Treasurer of the United States with daily transcript of same date, retain the quadruplicate copy for its files, and return the remaining copies to the collector or deputy from whom received, who will send the duplicate copy by the first mail to the comptroller of customs of said district, retain the triplicate copy for his file, and, in case of deposits by sub-ports, forward the quintuple copy to the headquarters port.

Instructions relative to the disposition of copies are printed on the left-hand margin of the certificate.

(f) The original certificates form a permanent record of the Department and must be prepared by typewriter or written legibly with durable ink. The deposit numbers on these forms are to be inserted by the depositor and should be in numerical sequence, beginning with number 1 on July 1 of each year, one series of numbers being used for Forms 1, 4, and 5.

(g) The reverse side of certificate of deposit Form 5 is printed and ruled for the purpose of indicating the specific account titles to which the moneys are to be credited. Care should be exercised in designating the correct receipt titles, with symbol numbers prescribed in Gen. Reg. No. 67, G. A. O., to insure the proper covering of the deposits into the Treasury by warrant.

(h) When certificate has been signed and forwarded, the depositor will in no case correct an error made therein by preparing a second certificate, but will notify the Treasurer of the United States of the error and await instructions relative thereto.

(i) When a deposit is received by a depositary unaccompanied by the prescribed form of certificate of deposit, the depositary may prepare the certificate, but the depositor should prepare it whenever practicable for him to do so.

(j) At ports of entry the quintuple copy will be forwarded to the collector at the headquarters port upon receipt of signed copies from the depositary.

(k) In no case will a second or duplicate set of certificates be issued for any deposit except upon special authority from the Secretary of the Treasury.

(l) When a collection is made of a repayment to an appropriation, the certificate of deposit must invariably state the fiscal year to which it belongs.

ART. 1186. *Certificates of deposits (special deposit accounts).*—(a) Certificate of deposit for checking account, customs Form 6599 (revised 1934), in quintuple, shall be prepared and numbered by collectors of customs using separate certificates and series of numbers followed by the words "Customs", "Commerce", or "Labor" for deposits included in each of the respective special deposit accounts.

(b) Collections shall be deposited by the port at which collected for credit, subject to check, in the special deposit disbursing account of the chief disbursing officer for disbursements made within the limits of the continental United States, and of the assistant disbursing officer for disbursements made beyond the limits of the continental United States, under the special deposit disbursing symbol number of the disbursing officer receiving the certificate of deposit in either case.

(c) The original and four copies of the certificate of deposit, the quadruplicate copy being in the form of a letter of transmittal, shall accompany the deposit sent to the depositary. The depositary will date, sign, and forward the triplicate copy to the disbursing officer, whose account is to be credited, and return the duplicate and quintuple copies to the depositor. Ports, other than the headquarters port, shall forward both copies to the headquarters port with the daily record and statement of collections, deposits, and balances, customs Form 5207-B. The headquarters port shall transmit the duplicate copies covering customs special deposit accounts to the comptroller of customs and covering commerce and labor special deposit accounts, with the account current, to the respective administrative office concerned.

(d) Moneys received as offers in compromise of pending claims due the United States shall be deposited to the credit of the special deposit account no. 5 of the Secretary of the Treasury. These collections shall be scheduled on customs Form 5161-B and separately reported on customs Form 5183 without consolidation with, or inclusion in, the total of customs Form 5183 used to report and consolidate miscellaneous customs collections. The deposit shall be made on certificate of deposit, customs Form 6599, showing the deposit as made by the collector of customs in the name and

for the account of the proponent, citing on the certificate information as to the name of the party and number of the case involved. These certificates of deposit shall be given a separate series of numbers and shall not be listed on the schedule of certificates of deposit, Form 1313, covering deposits into the Treasury not subject to check, nor on the schedule of special deposit certificates of deposit covering deposits subject to check and deposited to the credit of the disbursing officer. The duplicate copy of customs Form 6599 shall be forwarded to the comptroller of customs, the triplicate copy to the Secretary of the Treasury, and the quintuple copy retained. The collection and deposit shall be entered as a separate item on the collector's account current, customs Form 4939, using the title "Offers in Compromise" and noting thereon that the deposit was made to special deposit account no. 5 of the Secretary of the Treasury.

ART. 1187. *Date of deposit.*—The actual date of deposit is the date on which an account is credited in the Treasurer's account and is the same as that placed on the certificate of deposit by the depositary.

ART. 1188. *Schedules.*—(a) The schedule of certificates of deposit to regular account, Forms 1, 4, and 5, will be prepared in quadruplicate at the close of each month on division of bookkeeping and warrants Form 1313. A separate schedule will be prepared covering deposits made at each port of entry. Only certificates of deposit certified within the month will be included in this schedule. The actual date of deposit is the date placed on the certificate by the depositary.

(b) The deputy collectors in charge at ports of entry will prepare this form covering deposits made at their respective ports and forward the original and three copies to the collector at the headquarters port, who will prepare a summary in quadruplicate covering all ports in the district. The original of all schedules will be mailed to the Secretary of the Treasury.

(c) A separate schedule of special deposit certificates of deposit listing all certificates of deposit dated by the depositary within a calendar month, or other period of time covered by an account current, shall be prepared on letter-size paper in sextuple for each series of numbers, plainly showing thereon that the schedule covers the "customs", "commerce", or "labor" special deposit account. The original and one copy of the schedule covering the customs account shall be forwarded to the comptroller of customs, who shall transmit the original to the Bureau of Customs with the account current. The original and one copy of the schedule covering the commerce and labor accounts shall be forwarded with the account current to the respective offices concerned. Three copies of the schedule shall be forwarded to the disbursing officer concerned.

ART. 1189. *Internal-revenue taxes on imported distilled spirits and wines.*—(a) All internal-revenue taxes payable on distilled spirits, including perfumes containing distilled spirits, and on wines imported into the United States from foreign countries and coming into the United States from the Virgin Islands, when entered or withdrawn for consumption, and on such distilled spirits and wines which are unclaimed or abandoned under the customs laws, if sold for consumption, will be collected or deducted from the proceeds of sale as the case may be, accounted for, and deposited as internal-revenue collections by collectors of customs.

(b) The amount of internal-revenue taxes payable on distilled spirits, including perfumes containing distilled spirits, and payable on wines, will be separately computed and stated with each entry filed and sale lot prepared.

(c) Baggage declarations or other entries on which such internal-revenue taxes are collected, will be classed, and, if not prenumbered, will be numbered in the same series of numbers in which dutiable baggage declarations or dutiable entries are numbered, and scheduled as dutiable entries.

(d) The entry schedules, customs Forms 5151, 5153, 5157, and 5171, covering a dutiable entry on which an internal-revenue tax is collected, should show the notation "IRT" on the line for that entry and if internal-revenue tax only is

collected, should show the notation "IRT" in the space for the amount of duty, to indicate the rescheduling of those entries on the schedule of internal-revenue collections, customs Form 5161B.

(e) The bids received by collectors of customs for the purchase of distilled spirits and wines which are unclaimed or abandoned under the customs laws, will include and must be in an amount not less than the internal-revenue tax on each lot sold. The gross proceeds of sale will be scheduled on customs Form 5167 and deposited in the special deposit account. The internal-revenue tax on each lot sold will be deducted from the gross proceeds in full and covered into the Treasury as internal-revenue collections.

(f) A receipt for payments made on an entry at the time of filing, when issued, will cover all payments made on that entry, including the amount of internal-revenue tax. A notice of supplemental estimated and increased payments due on an entry, including internal-revenue tax separately shown, will be issued on customs Form 5107. A receipt for the gross proceeds received from the sale of distilled spirits and wines, without separation as to distribution thereof, will be issued on customs Form 5117A or 5117B.

(g) The amount of internal-revenue taxes accruing on the total amount of distilled spirits and wines covered by an entry, will be separately computed and stated in the liquidation or reliquidation of the entry. A net difference between the total estimated and liquidated internal-revenue taxes on one entry of less than \$1 will be disregarded and of \$1 or more will be separately settled as an internal-revenue account.

(h) All internal-revenue taxes collected on all classes of entries, or deducted from the gross proceeds of sale, when covered into the Treasury, will be accounted for and scheduled under the entry or lot number on customs Form 5161B. The date collected, or transferred from the special deposit account to the regular account, will be shown in the first column and the kind of entry and number, or the word "lot" and number will be shown in the second column. The headings of the fourth and fifth columns should be amended to read "Dist. Sp." and "Wines" and the amounts collected under each classification should be shown in the respective columns. Supplemental estimated and increased internal-revenue taxes collected subsequent to the date of the entry, will be indicated on the schedule by showing "SE" or "INC" together with the date of the entry in the last column.

(i) The total internal-revenue taxes on distilled spirits and wines received by collectors of customs will be deposited on a separate certificate of deposit Form 5 as internal-revenue collections without separation as to whether the tax is collected on distilled spirits or on wines, and without including any other collections therewith.

(j) An internal-revenue tax report for the district stating the total balance due the United States from the last monthly account, amount collected on distilled spirits during the month, amount collected on wines during the month, total amount of balance and collections, amount deposited during the month which is the amount covered by certificates of deposit dated by the depositary within the month, and balance due the United States at the close of the month, will be prepared in letter form, addressed to the Commissioner of Internal Revenue, attention of Accounts and Collection Unit, and mailed thereto promptly at the close of the month but not later than the fifth day of the succeeding month.

(k) Promptly after an excess collection of internal-revenue tax has been ascertained upon the liquidation or reliquidation of an entry an original and one copy of the notice of refund, customs Form 5269, will be prepared at the headquarters port showing the district number, headquarters port, and date on which issued. The accounts "Excess of Duties" and "Drawback Allowances" will be deleted and the account should be stated in the blank space clearly showing the refund is on account of internal-revenue tax on distilled spirits and wines. Separate notices of refund should be prepared for entries filed at each port and the name of the port at which the entries were filed should be shown in the blank space above "Remarks." When the refund is due

to a reliquidation of an entry "Reliq." should be shown after the entry in the column for remarks. More than one entry, but not more than seven entries may be listed in each notice of refund and the total must be shown in the line space following the dollar sign whether one or more entries are listed. The name of the importer of record at the time the notice of refund is issued, together with a complete mailing address, will be shown in the lower left-hand corner. When otherwise complete for scheduling, both copies of the notice of refund will be serially numbered in the upper right-hand corner in a separate series for each fiscal year. The original only will be signed in the lower right-hand corner by a responsible officer at the headquarters port and the name and title of the officer signing the original should be stamped or indicated on the copy.

(l) Notices of refund will be scheduled at the headquarters port on customs Form 5193, in triplicate, for entries filed at the headquarters port and on a separate schedule, in quadruplicate, for entries filed at each port of entry other than the headquarters port. Additional copies may be prepared when required for official and essential administrative purposes. The title of the schedule should be amended to show it to be a record and schedule of notices of refund of internal-revenue taxes on imported distilled spirits and wines. The words "paid by" should be deleted and the words "issued by the" inserted in lieu of inserting the name of the collector of customs or other disbursing officer. The number of the district and the name of the headquarters port should be inserted in their appropriate spaces and the name of the port at which the entries were filed should be shown on the first line of each schedule for that port. The payee must be the same as the importer of record appearing on the notice of refund. When a notice of refund covers only one entry the amount of refund will be shown in the second column for dollars and cents under "amount", and when it covers more than one entry the amount of refund on each entry will be shown in the first column and the total of the notice of refund carried to the second column. The totals in the second column must agree with the totals on each notice of refund. The serial number and date of each notice of refund will be shown in the columns for check number and date opposite each total. When a refund is due to a reliquidation of an entry "Reliq." should be shown in the column for "Notations" opposite the entry involved. All notices of refund dated within a month will be included in the schedule for that month.

(m) At the close of each month the collector of customs will forward the original schedules, customs Form 5193, together with two copies for the headquarters port and three copies for ports other than the headquarters port, to the comptroller of customs for verification. The comptroller of customs will certify the original set for a customs district as to his verification of the account and forward it to the Commissioner of Internal Revenue, attention of the Alcohol Tax Unit, and will stamp the remaining copies showing the verification thereof and date the original was certified and return one set for the headquarters port and two sets for other ports to the collector of customs who will forward one of the two copies, covering entries filed at ports other than the headquarters port, to the port concerned for the completion of its records.

(n) When a schedule of notices of refund verified by the comptroller of customs has been received by the collector of customs, he will forward each original notice of refund listed on the schedule to the importer of record shown on the notice of refund. The copy of each notice of refund will be retained in the accounting files of the collector of customs. Signed or unsigned notices of refund, other than the original, will not be issued or forwarded to importers, brokers, or others concerned. In the event of the nonreceipt or loss of an original notice of refund the importer of record may apply to the collector of customs for the issuance of a duplicate by filing an affidavit identifying the notice of refund, citing the kind, number, and date of each entry, amount of refund due and definitely stating that the original notice

of refund has not been, and will not be, included in any claim for refund and, if later located, will be returned to the collector of customs for cancellation. If the application is acceptable to the collector of customs he will prepare from the retained copy an exact transcript thereof as to numbers, dates, amounts, and signature, certify as to its issuance as a duplicate, and without rescheduling forward or deliver it to the applicant for use in lieu of the lost original. The application bearing a notation as to date and fact of issuance of the duplicate will be attached to the retained copy of the notice of refund from which the duplicate was prepared.

(o) Collections in excess of the amount found due the Government upon the liquidation or reliquidation of an entry by a collector of customs, when claim therefor on internal-revenue Form 843 is submitted in accordance with these regulations, will be refunded through a collector of internal revenue by the Bureau of Internal Revenue at Washington from an appropriation provided for that purpose and under the administrative jurisdiction of that Bureau.

(p) On receipt of the notice of refund, customs Form 5269, from a collector of customs the importer of record, as shown on the notice of refund, may prepare a claim in his name on internal-revenue Form 843, in duplicate. Each claim must be confined to refunds of entries filed in the same customs district. Item 1 will show the number of the customs district and name of the headquarters port of the customs district issuing the notice of refund. Item 3 will show the character of the tax as "Internal Revenue Tax on Imported Distilled Spirits and Wines." Item 6 will show the total amount of all notices of refund included in the claim. Items 2, 4, 5, 7, and 8 need not be completed. The reason why the claim should be allowed may be briefly stated indicating that internal-revenue taxes on imported distilled spirits and wines were paid to the collector of customs in excess of the tax found due the Government upon the liquidation or reliquidation of entries for which notices of refund were issued by the collector of customs at ————. Following this statement there should be a tabulation of all notices of refunds included in the claim showing the serial number and date of the notice of refund, the kind, number, date of, and amount of refund on each entry and the port at which the entry was filed. If the space on the claim is insufficient to list each entry on which a refund is claimed, the tabulation should be listed or continued on letter-sized sheets, and securely attached to and made a part of the claim. The certificate of the collector of internal revenue on the back of the form is not required.

(q) When a claim is complete in all respects, including the affidavit of the claimant, the original with notices of refunds attached and the duplicate thereof should be filed by the claimant with the collector of internal revenue of the internal-revenue district in which the claimant is located. The collector of internal revenue will retain the duplicate copy of the claim and forward the original with the notices of refund attached to the Commissioner of Internal Revenue, attention of the Alcohol Tax Unit.

(r) Correspondence relative to a particular report of collections, deposits and balances, notice of refund, schedule of refund, or claim, will be conducted directly by and between the Bureau of Internal Revenue, the collector of customs, the comptroller of customs, the collector of internal revenue, or claimant concerned. Correspondence relative to the provisions of these regulations will be conducted with or through the Bureau of Customs.

(s) A supply of blank claims, internal-revenue Form 843, sufficient for the needs of a customs district will be obtained from a collector of internal revenue by the collector of customs for distribution to and issuance from ports where required in the customs district.

DISBURSEMENTS

ART. 1190. *Certification.*—(a) The Division of Disbursement shall disburse moneys only upon certification of persons by law duly authorized to incur obligations on behalf of

the United States. The function of accountability for improper certification shall be transferred to such persons and no disbursing officer shall be accountable therefor.

(b) The name and title of each customs officer or employee recommended for designation to certify pay rolls and vouchers shall be submitted separately by letter, in duplicate, to the Bureau of Customs. The head of the office and his assistant, if any, and such other qualified officers or employees as may be necessary to provide a sufficient number of designated persons to meet the administrative necessity in each office may be recommended and designated. Signature cards, obtainable from the regional disbursing office, shall be prepared showing the class of vouchers to be certified, signed by each person recommended and transmitted in triplicate with the letter of recommendation. The signature of the recommending officer will be certified in the Bureau. The signature of all other officers and employees will be certified by the recommending officer.

(c) Whenever an officer or employee designated to certify pay rolls or vouchers for payment leaves the service, transfers to another post of duty, or is not available or qualified to certify pay rolls or vouchers for payment, a separate report thereof, in duplicate, shall be submitted to the Bureau for revocation of the designation, so that the designation of only available and qualified officers and employees will be on record in the Department, Bureau, field office, central disbursing office, and regional disbursing office.

(d) Recommendations for the designation of an officer or employee in addition to those previously designated, or in lieu of an officer or employee whose designation has been revoked, shall be submitted as provided in paragraph (b) of this article.

ART. 1191. *Customs salaries and expenses.*—(a) Separate pay rolls shall be prepared for each port in a customs district, for each separate administrative office at each port, and for officers and employees paid in cash. Separate pay rolls may be prepared for distinct functional units at the headquarters port and at the larger ports of entry.

(b) Salaries of customs officers and employees at ports other than the headquarters port, and at headquarters ports not located in the same city with the regional disbursing office, shall be paid by check. Salaries of customs officers and employees at headquarters ports located in the same city with the regional disbursing office shall be paid by check so far as possible. When administrative necessity makes it impracticable to pay the salaries of officers and employees of a particular class or at a particular location by check then payment may be made in cash to those employees of that class or at that location by either the disbursing officer or by an agent-cashier of the disbursing officer designated by and under bond to the chief disbursing officer.

(c) Pay rolls and vouchers covering services rendered and expenses incurred at ports or offices other than the office from which they will be certified to the disbursing officer for payment, when complete in all respects, will be certified by the officer or employee having knowledge as to the receipt of the services or supplies, and forwarded to the office from which they will be certified to the disbursing officer for payment. Pay rolls and vouchers so certified shall also be certified and approved for payment by an officer or employee designated to certify vouchers for payment before forwarding the same to the disbursing officer. Pay rolls and vouchers certified as to receipt of services or supplies by an officer designated to certify vouchers for payment require only the one signature.

(d) Separate schedules for pay rolls paid by check and paid in cash and for vouchers covering contingent expenses shall be prepared on standard Form 1064 in quadruplicate. A Bureau or office voucher number shall be assigned to each pay roll and voucher in the order in which listed on the schedule for identification purposes. The schedule covering pay rolls paid by check shall show the payee as "salaries as per pay roll." The schedule covering pay rolls paid in cash shall show the payee as the name and title of the officer in charge of the regional disbursing office and

underneath "cash for pay roll." Schedules covering pay rolls shall show the net amount paid, the amount of the retirement deductions, and the gross amount of each pay roll. Each schedule will consist of only one page. Each page will be numbered in the space provided for the Bureau's schedule number, totaled, and certified by a certifying officer. The original and two copies of the schedule, with the original of each pay roll and voucher listed thereon attached shall be forwarded to the regional disbursing office for payment. In the case of pay rolls, the original and two copies of the schedule of retirement deductions, standard Form 1070, shall accompany the schedule and vouchers forwarded to the disbursing office.

(e) When it is necessary for a regional disbursing office to return a pay roll or voucher included with others on a schedule for further action before payment can be made, it will be deleted from the schedule and the total of the schedule will be reduced accordingly. Such eliminated pay rolls or vouchers when resubmitted for payment shall be rescheduled under the original office voucher number assigned and may be included on a schedule covering other pay rolls or vouchers originally submitted for payment.

(f) The regional disbursing office will return one copy of each schedule with the date of payment and disbursing voucher numbers shown thereon and in the case of pay rolls paid by checks will forward the salary checks issued therefor to the office from which the pay roll was received to effect delivery of the checks.

(g) Customs officers and employees on separate pay rolls to be paid in cash will be paid and signature obtained by an officer of the regional disbursing office so far as practicable and in accordance with the procedure which may be mutually arranged and adopted by the particular customs and regional disbursing offices concerned. When the payment of salaries in cash is made by a customs officer as the agent-cashier of the regional disbursing officer, the cash will be advanced and the original pay roll will be delivered by the regional disbursing office direct to the agent-cashier who will make payment, obtain the signatures of the employees, return the completed original pay roll, and account for the cash advances, expenditures, and balances direct to the regional disbursing office.

ART. 1192. *Refunds and drawback.*—(a) A notice of refund, customs Form 5269, shall be prepared covering authorized refunds of excessive customs collections or receipts which have been deposited into the Treasury and of drawback due. The name of the payee and a complete mailing address shall be shown on the notice of refund. If an authority to collect checks, customs Form 4811, is on file with the collector the address of the payee shall be shown as in care of the address of the authorized person. If a power of attorney is on file with the collector the address of the payee may be shown as in care of the address of such attorney, if requested.

(b) A separate schedule for each class of refunds and for each port shall be prepared at the headquarters port on customs Form 5193 in quadruplicate for entries filed at the headquarters port and in quintuple for entries filed at other than the headquarters port. The schedules shall be serially numbered, and the original certified and approved for payment by an officer designated to certify and approve vouchers for payment. The original and two copies of the schedules, accompanied by the notices of refund, shall be forwarded, at least semimonthly from the headquarters port, to the regional disbursing office for payment.

(c) The regional disbursing office will issue and mail the check with the notice of refund directly to the payee at the address shown on the notice of refund and will return one copy of the schedule to the headquarters port. The headquarters port shall complete the retained copies as to payment and shall forward one copy of all paid schedules for the district to the comptroller of customs and one copy for ports other than the headquarters port to the port concerned.

ART. 1193. *Special deposits.*—(a) Collections for deposit in the customs special deposit disbursing account of the regional disbursing office shall be recorded and scheduled on customs Form 5167 in duplicate at the headquarters port and in triplicate at ports other than the headquarters port. Each class of special deposit collections shall be separately scheduled. Ports other than the headquarters port shall forward the original and one copy to the headquarters port. The headquarters port shall forward one copy of each schedule for the district to the comptroller of customs. The original of all schedules will be retained at the headquarters port as the control record showing the receipt and disposition of all special deposit funds. Two copies of the consolidated monthly summary schedule for the district, on customs Form 5185, shall be prepared, in addition to the original and three copies required to support the collector's account current of collections and deposits, and forwarded to the regional disbursing office concerned.

(b) Payments to be made by the regional disbursing office from the special deposit disbursing account shall be scheduled at the headquarters port on customs Form 5189 in quadruplicate. A separate schedule shall be prepared for each class of special deposit collections showing in the respective columns the amounts to be disbursed, refunded, or transferred to the regular account. Original vouchers covering amounts to be disbursed properly certified shall be forwarded with the schedule to the regional disbursing office for payment. The vouchers and schedule shall be serially numbered for identification purposes. The original schedule shall be certified and approved for payment by an officer designated to certify vouchers.

(c) A notice of refund of special deposit, prepared on customs Form 5269 and showing a complete mailing address shall accompany the schedule to the regional disbursing office. The check and notice of refund will be mailed by the regional disbursing office directly to the payee at the address shown on the notice of refund. In the case of refund of all or part of a customs fine upon the remission or mitigation thereof, the original letter of authority shall be attached to the original schedule for transmission to the General Accounting Office. The payee of amounts for transfer to the regular account shall be shown on the schedule as Treasurer of the United States. The check will be forwarded by the regional disbursing office with the return copy of the schedule to the headquarters port. Such checks shall be endorsed by the collector of customs, deposited with other checks covering collections, and accounted for at the headquarters port as a collection and deposit under the appropriate receipt symbol number and included in the revenue receipt account current rendered by collectors of customs. Collectors of customs shall prepare, on plain letter-size paper, and submit with their regular collection account a schedule showing the name of the headquarters port and the transfers received from the special deposit account of the disbursing officer during the month, which are included in the amounts reported as collections, together with the symbol number and title of the account in which deposited and the amount deposited. Accounts for months during which no transfers were received from the special-deposit account of the disbursing officer shall contain a copy of this schedule showing "No transactions."

(d) On receipt of a schedule, customs Form 5189, from the regional disbursing office showing the disbursements from the special deposit account, the headquarters port shall complete the retained copy and forward it to the comptroller of customs.

(e) A record showing the deposits to, disbursements from, and balances in the special deposit accounts of collectors of customs shall be maintained at the headquarters port on a separate appropriation and accounts ledger, customs Form 5205, for the customs, commerce, and labor accounts.

ART. 1194. *General.*—(a) Advancement of funds to a regional disbursing office to make payments for the customs district or districts assigned to that office will be obtained

by the regional disbursing office in the field from the central disbursing office in Washington.

(b) The account current covering disbursements made by regional disbursing offices for the customs service together with the supporting schedules and vouchers, will be forwarded from the central disbursing office to the Bureau of Customs for administrative audit.

(c) Letters of exceptions will be issued when necessary by the Bureau direct to collectors of customs, and replies thereto will be forwarded by collectors of customs to the Bureau for consideration.

(d) When a notice of exception is issued by the General Accounting Office, the administrative copy will be received in the Bureau of Customs and one of the two copies received by the central disbursing office will be transmitted through the regional disbursing office to the collector of customs concerned for reply to, or adjustment of, the exceptions. A reply to a notice of exception shall be prepared by the collector of customs on Form 2085 in quadruplicate. The original shall be signed only on the right-hand side by an officer authorized and responsible for the certification of vouchers and the copies shall be stamped showing the name and the title of the officer signing the original. The disbursing symbol number of the disbursing officer shall be shown in the lower right-hand corner. The original and two copies of the reply to exception shall be forwarded direct to the Bureau for consideration. If the exception is satisfactorily explained or adjusted the original will be administratively verified and signed in the Bureau and it, together with one copy, forwarded to the central disbursing office.

(e) Disallowances by the Bureau of Customs or the General Accounting Office in vouchers paid by a regional disbursing office, shall be collected and deposited by the collector of customs as a repayment to the appropriation from which paid and taken up in his revenue receipt account current in the same manner as other collections of repayments to appropriations. In such cases the reply to the Bureau letter of exception or the reply on Form 2085 to notices of exception issued by the General Accounting Office will cite the name of the collector of customs accounting for the collection together with the certificate of deposit number and date under which the collection of the disallowed amount was covered into the Treasury.

ART. 1195. *Authorization for expenditures or purchases.*—

(a) Unless the exigencies of the service require immediate performance of a service or delivery of an article, no expense payable from the appropriation "Collecting the revenue from customs" should be incurred or paid without previous authorization from the Bureau of Customs except as provided herein.

(b) A Department letter making an appointment to the Customs Service constitutes authority for the payment of salary of the person appointed.

(c) Collectors of customs are authorized to incur expenses for travel and subsistence on official business (not in connection with the transfer of the official stations of officers and employees) within their districts for themselves and officers and employees under their jurisdiction.

(d) Expenses for the objects listed below may be incurred and vouchers therefor certified for payment without submission to the Bureau of Customs for specific authorization:

(1) Rent under a lease covering rented premises for the use and under the control of the Customs Service.

(2) Services under a contract involving only one transaction and payment, or involving a continuing service of a definite amount at a fixed rate for a fixed period of time and requiring periodical payments, such as storage of an official automobile in other than rented premises, etc.

(3) Any device furnished by a public-utilities company under contract.

(4) Services under a contract covering cartage of examination cases of merchandise to the appraiser's or public stores.

(5) Services under a contract involving an indefinite amount at a fixed rate, including such services as storage of any number of seized automobiles in other than rented premises, hire of boats for boarding purposes, but not including repairs to automobiles and boats in excess of \$100 in any one case.

(6) Any public advertising required by law.

(7) Any post-office registration fees covering registration of funds or other communications forwarded by registered mail.

(e) Vouchers covering authorized travel and subsistence expenses, including travel and subsistence expenses incurred by officers and employees of the customs agency service, shall be certified for payment without submitting the vouchers to the Bureau of Customs for specific authorization therefor if prepared in accordance with the Standardized Government Travel Regulations and approved by the disbursing officer. (Reimbursable expenses incurred for purchases and other services not in connection with official travel shall not be included in reimbursement vouchers covering travel expenses.)

(f) Awards of compensation to informers made by the Secretary of the Treasury, shall be certified by the collector of customs for payment by a regional disbursing office from the appropriation "Collecting the Revenue from Customs."

(g) Collectors of customs shall carefully examine all vouchers covering expenses incurred under the provisions of paragraphs (d), (e), and (f), and, if in proper form, approve and certify the same for payment by a regional disbursing office without submission to the Bureau of Customs for further authorization.

(h) Collectors of customs, comptrollers of customs, chief chemists, and other administrative officers to whom allotments for contingent expenses are made at the beginning of each fiscal year, are not authorized to incur expenses in excess of the authorized allotments. In event it is necessary to incur an obligation in excess of the allotment, the facts shall be reported to the Bureau prior to obligating the appropriation in order that the allotment may be adjusted if sufficient funds are available. Obligations are chargeable to the allotments granted to the various services incurring the expenses.

(i) Such vouchers paid under paragraphs d, e, and f during a month shall be reported not later than the tenth of the following month direct to the Bureau of Customs in duplicate under the title of "Report of expenditures charged to allotments", customs Form 4805. The expense covered by each voucher shall be sufficiently described to identify the allotment concerned, citing the disbursing voucher number for reference purposes, and listed under the appropriate allotment title to which charged. Expenditures under these regulations for separate services to which allotments have been granted, shall be scheduled and reported separately for accounting purposes.

(j) Requests for authority to incur expenses for services other than personal not covered by paragraphs d, e, and f (including repairs to automobiles and boats in excess of \$100 in any one case) will be prepared on customs Form 4801 in triplicate. The original and one copy, detailing the nature of the service, accompanied by any proposals received or an estimate of the amount of the expense involved and justified by a statement of the official necessity therefor, will be forwarded to the Bureau of Customs for specific authorization.

(k) Requests for approval of expenses covering services other than personal obtained in emergency or to meet an exigency of the service and for authorization to pay vouchers covering such expenses incurred will be prepared on customs Form 4801 in triplicate. The original and one copy, accompanied by the various vouchers as listed thereon and justified by a statement of the cause and nature of the emergency or the official necessity for the immediate procurement of the service, will be forwarded to the Bureau of Customs for approval of the expense incurred and spe-

cific authorization to make payment therefor. Competitive bids should be obtained and attached to the vouchers whenever practicable.

(l) An emergency or exigency of the service justifying the incurring of expense must be based upon facts and it must be established that the service was immediately necessary and could not be foreseen by ordinary care and that injury to the public interest would have resulted from the delay incident to procuring prior authorization. A mere statement that the expense was incurred in emergency or to meet an exigency of the service with no showing of the cause or official necessity therefor will not suffice. A service rendered for personal convenience or immediate use with no official necessity being shown therefor will not be approved.

(m) Requisitions covering such emergency purchases will be made on customs Form 4807 in triplicate. The original and one copy, accompanied by the certified vouchers, proposals, if any, and statement of circumstances necessitating the emergency purchase will be forwarded to the Bureau of Customs for approval.

(n) The districts of Puerto Rico and the Virgin Islands are specifically excepted from these instructions, as purchases for the Customs Service in these districts are paid from the receipts of the respective districts.

ART. 1196. *Vouchers.*—(a) Each voucher, unless required by law or regulations to be verified by affidavit, shall be certified by the claimant that it is correct and just and that payment therefor has not been received, except that payrolls for services rendered under the supervision of an administrative officer and certified by him need not be certified by the claimant provided that the payroll describes specifically the position, rate of compensation, and period covered. Unless required by law, vouchers shall not be taken in duplicate, triplicate, etc. Only original vouchers shall contain signed certificates, approvals, and receipts. As many copies in memorandum form, duly authenticated if desired, may be taken as administrative requirements demand.

(b) The payment of extra compensation to a customs officer on account of overtime services performed under the act of February 13, 1911, as amended (U. S. C., title 19, sec. 267), shall be made on voucher, customs Form 4961, on which shall be clearly indicated the date and hours of service, the exact nature of such service, and the daily rate of pay of the officer performing the service, who shall certify on his voucher that it is correct and just and that payment therefor has not been received.

(c) Vouchers covering official advertising, standard Forms 1054 and 1054-A, together with the advertising order, standard Form 1053, and a copy of or a full sheet torn from each issue of the paper in which the advertisement appeared, must be submitted to the Division of Printing, Treasury Department, for certification prior to submission of the voucher for payment from an appropriation or from the proceeds of sale out of special deposit.

ART. 1197. *Preparation of vouchers and pay rolls.*—(a) Care should be exercised to insure the proper execution of all contingent expense vouchers. The date of service, method of securing service, contract numbers, etc., should invariably be noted on all vouchers in the spaces provided therefor. The following rules in regard to vouchers and pay rolls must be strictly observed.

(b) Whenever required, vouchers, including pay rolls, must be taken for all disbursements of public moneys.

(c) *Form.*—Vouchers, including pay rolls, must be in exact conformity with law, and the terms, conditions, and requirements of the Department.

(d) *In whose favor drawn.*—Vouchers must be in the name of the person, persons, firm, or corporation furnishing the service or supplies, except in the case of supplies or services paid for in an emergency by a customs officer or employee, in which case they may be in the name of the employee making the payment.

(e) *Authority.*—All vouchers must clearly set forth the transactions or payments to which they relate and cite the

laws, regulations, contract, and departmental authorization under which the expenditure was or is to be made. All vouchers for reimbursement of travel expenses shall be supported by an order authorizing such travel or a copy thereof and shall be executed and the charges for which reimbursement is claimed enumerated thereon strictly in accordance with the standardized travel regulations.

(f) *Signatures*.—Signatures made by mark must be attested in each case by some disinterested witness.

(g) *Erasures, etc.*—No erasure, interlineation, or change of any kind or character in a voucher, including pay roll, after the signature of any officer, clerk, or employee has been placed thereon, will be permitted. When corrections or changes are necessary, the voucher or pay roll must be returned to the office of issue for such purpose, and such changes or corrections must be initialed by the verifying or certifying officer.

(h) *Figures*.—Each figure in a voucher, including pay roll, shall be separate and distinct and not joined to any other.

(i) *Dates*.—The dates appearing on receipts and vouchers, including pay rolls, must always be the actual dates of the transactions recorded or action taken thereon.

(j) *Certification*.—Vouchers, including pay rolls, must contain a certificate that the articles have been received or the services performed, as the case may be, and that they were necessary for the public interests; that they were furnished under contract, after due advertisement, or that the exigencies of the service required the immediate purchase of the articles or the performance of the service and that the prices paid were just and reasonable.

(k) *Pay rolls*.—Pay rolls should be made up according to units of organizations and the names of employees listed thereon in the following order:

- (1) Alphabetical.
- (2) Numerical.
- (3) Salary.

(4) Other recognized systematic order, including nature of service, such as professional, clerical, administrative and fiscal, custodial, etc.; with grades under each service, commencing with the highest; salaries under each grade, commencing with the maximum; and names under each salary rate, arranged alphabetically.

(5) Where names of employees are arranged in alphabetical, numerical, salary, or other order which does not clearly reveal the grade, designation of position, and salary rate of such employees, said information will be shown opposite their names, so that the complete data heretofore required to be otherwise shown on the rolls will be furnished in every case.

(l) *Computation of salaries*.—For the purpose of computing annual or monthly salaries and compensation, each calendar month shall consist of 30 days, and the computation of salary shall be by each month separately, one-twelfth of an annual salary constituting the compensation for each month.

(m) One-thirtieth of a monthly installment of salary is to be allowed for each day of service from the 1st to the 30th, inclusive. The last day of February counts as 3 days of service (2 days in leap year).

(n) The 31st day of a month enters into the computation of salary only where there is 1 day's absence in a nonpay status on that day; that is, absence in a nonpay status did not occur also on the 30th. For such absence on the 31st 1 day's pay is forfeited.

(o) A person appointed on the last day of February will receive 3 days' pay (in leap years 2 days' pay) and when appointed on the 31st day of a month will receive no salary or compensation for said day's service.

(p) On all pay rolls and individual vouchers paying salary, pay, or compensation, no more than 96½ percent of the basic salary, pay, or compensation can be paid to the employees to whom the acts of May 22, 1920, September 22, 1922,

July 3, 1926, and May 29, 1930, apply. The rates appearing in the Government salary table of 1929 should be used.

(q) *Approval*.—The gross amount to be charged to the customs appropriation should always be approved for payment by the administrative officer, and this total should agree with the amount paid to the employees plus retirement deductions.

(r) *Appropriation*.—The appropriation from the year to which expenditures are chargeable is determined, not by the date of authorization or date of payment, but in the case of personal service by the time when the service is performed; in the case of rent, by the time covered by the rent; and when materials are purchased, by the date of the purchase order, if immediately delivered, and if contracted for, the fiscal year will be determined by the terms of the contract.

ART. 1198. *Adjustments of errors in retirement deductions*.—When an erroneous amount has been deducted from the pay of an employee due to error in (1) stating the gross amount earned, (2) computing an amount short of the proper deduction, (3) making deduction from an employee "not within the act", and/or (4) computing an amount in excess of the proper deduction, adjustment thereof will be made on the next pay roll or pay voucher on which the employee's name appears as an increase or decrease in the retirement deduction columns or in the space provided for showing retirement deductions on the pay voucher, with corresponding decrease or increase of the net amount due the employee. The total of the retirement deductions on the pay rolls or pay vouchers will be increased or decreased, as the case may be, by such adjustments. Appropriate notation, explaining the basis on which each individual adjustment is made, should be shown in the "Remarks" column of the pay rolls on the line and opposite the entry to which it applies, or in an appropriate space on the pay vouchers.

ART. 1199. *Advance payments*.—Salary or compensation of whatever nature will not be paid in advance.

ART. 1200. *Payments by check*.—Where physical conditions, the number of changes in personnel, or other reasons require such practice, pay rolls showing the exact basic salary, the exact 3½ percent retirement deduction, and the net amount payable to each employee may be prepared twice a month and payment therefor may be made by check drawn to the order of such employee.

ART. 1201. *Refund of excessive duties, etc.*—(a) The authorized refunds of amounts deposited into the Treasury covering duties collected in excess of the amount found due upon the liquidation or reliquidation of an entry, fees, charges, or exactions collected erroneously or in excess of the amount actually due, or fines, penalties, or forfeitures collected which did not accrue or accrued in a lesser amount or which have been mitigated to an amount less than collected or which have been remitted, shall be refunded from the appropriation "Refunds and Drawbacks (Customs)". Refunds of duties collected in Puerto Rico and refund of duties and other receipts collected in the Virgin Islands will be made from the customs receipts of Puerto Rico or the Virgin Islands, as the case may be.

(b) Whenever it is found on liquidation or reliquidation of an entry that a refund is due, a notice of refund, customs Form 5269, shall be prepared at the headquarters port in the name of the person to whom the refund is due as determined by paragraph (c).

(c) Refunds of such excessive duties shall be made by check drawn to the order of the importer of record, that is, the person in whose name the entry was made, or to the order of the actual owner when substituted for the importer of record in accordance with section 485 (d) of the tariff act. The person in whose name a rewarehouse entry is made may, for the purpose of making refunds, be considered the importer of record of the merchandise covered by the rewarehouse entry, provided he has filed a rewarehouse bond and the principal in the original warehouse

entry bond does not, in advance of payment of the refund, file a written notice of an adverse claim. (See T. D. 45614.) The check covering the amount due, accompanied by the original notice of refund, shall be delivered or mailed together to the person entitled to receive the same, provided that, in the case of entries made at ports of entry other than headquarters ports, the check and notice shall first be sent to the deputy collector in charge at the port of entry for mailing after noting payment on the proper schedule.

(d) In case the nominal consignee has become bankrupt, refunds of duties on merchandise entered in the name of such nominal consignee for the account of the actual owner should be withheld from payment pending the receipt of claim therefor and establishment of rights thereto, unless the declaration of the ultimate consignee or actual owner has been filed with the collector, under the provisions of section 485 of the tariff act.

ART. 1202. *Set-off of claims.*—When an importer of record has a judgment or other claim allowed by legal authority against the United States, and he is indebted to the United States either as principal or surety, collectors shall withhold payment of an amount of such judgment or claim equal to the debt due the Government and shall report the facts to the Bureau for instructions.

ACCOUNTS

ART. 1203. *Accounts current.*—(a) Accounts of the receipt of all moneys pertaining to customs made by collectors under their bonds, including the schedules necessary to the settlement thereof, will be rendered monthly and forwarded to the comptroller of customs within 13 days after the expiration of each month unless a longer time has been authorized.

(b) In regular and special deposit accounts current, customs Form 4939 (standard Form 1019), collectors shall credit the United States with all moneys received including customs duties, miscellaneous receipts and special deposits, and shall charge the United States with all moneys deposited.

(c) Regular and special deposit account current, customs Form 4939 (standard Form 1019), will be used for moneys placed on special deposit with the Treasurer of the United States, subject to check awaiting final disposition, such as gross receipts from the sale of merchandise, customs fines, deposits of money for the immediate delivery of perishable merchandise, deposits in lieu of bonds, and for any other item pertaining to customs.

(d) Regular and special deposit account current, customs Form 4939 (standard Form 1019), will be prepared in quadruplicate, the original and two copies to accompany the accounts to the comptroller of customs, and a copy to remain on file in the office of the collector of customs.

(e) All accounts current of customs collections with the required itemized schedules of duty, miscellaneous and special deposit collections, monthly summary schedules by ports, and consolidated monthly summary schedules by districts, together with any necessary collection vouchers in support thereof shall be submitted by the collector of customs to the comptroller of customs.

(f) Accounts of collectors covering transactions for other executive departments and for bureaus and branches of the Treasury Department, other than customs, shall be forwarded direct by the collectors (without submission to comptrollers) to the respective administrative offices concerned. An additional copy of each of these accounts current will be prepared and forwarded with the customs accounts to the Bureau of Customs through the offices of the comptrollers of customs.

(g) *Outstanding accounts.*—Customs Form 5259, report of accounts outstanding more than 90 days, will be forwarded to comptrollers of customs with the collectors' accounts at the end of each quarter. Outstanding accounts of liquidated damages for failure to produce documents missing on entry shall be stated on customs Form 5259 in sufficient detail as will enable the comptroller to identify the

items against his record required by article 1212. A single report will be compiled for a district and not separate reports for the several ports within a district. The correctness of the reports will be verified by the comptrollers' offices from their own records. The comptrollers of customs are hereby designated to act for the Bureau of Customs in following up the collection of outstanding accounts. They will maintain close contact with collectors of customs to see that diligent efforts are made to effect prompt collections, utilize the services of customs agents when necessary, communicate with United States attorneys to ascertain the status and progress of cases in their offices, and take such other action as may be desirable. At the end of each quarter comptrollers of customs will forward to the Bureau on customs Form 5259 a report showing in a single item for each customs district in their respective districts the total number of outstanding accounts and the total amount involved. At the same time a detailed statement, in letter form, shall be submitted separately for each account in connection with which, in the comptroller's opinion, all reasonable efforts to collect have been made and action by the Bureau is recommended. These reports should show what efforts have been made to collect and should contain such specific recommendations as to Bureau action as may appear desirable. No account should be reported for Bureau attention merely because it is old if it is otherwise in a satisfactory status, that is, in litigation or such other circumstances that the Bureau obviously could do nothing to expedite its closing. When an account is reported for Bureau attention, no further action should be taken thereon by a comptroller without Bureau authority. An account once reported to the Bureau for attention need not again be so reported even though it may appear on a subsequent report on customs Form 5259.

ART. 1204. *Preparation.*—The original customs regular and special deposit account current must be completed in every respect, including the execution of the required affidavit and certificate by the collector of customs before it is forwarded to the comptroller of customs. All copies of the customs account current and of other accounts current required for customs purposes must be completed by stamping the name and title of the officer by whom, and dates on which, the original accounts current were signed and dated. The instructions printed on customs accounts current, reports, schedules, and vouchers not in conflict with the customs regulations are a part of such regulations and must be strictly observed.

ART. 1205. *Signing accounts.*—Accounts current must be signed by the collector, except in case of his absence or sickness, when they may be signed by the assistant collector or other officer authorized to act in his behalf.

ART. 1206. *Closing accounts, etc.*—(a) When the accounts of a collector of customs are closed due to change of bond or relinquishment of office by change of station, resignation, removal or death, each collection account rendered by such officer shall be closed immediately covering all collections up to the close of business on the last day of the account. New accounts shall be opened covering collections occurring thereafter.

(b) As soon as possible after an account is closed, all undeposited cash on hand under the closed regular account shall be deposited in the Treasury to the credit of the Treasurer of the United States and all cash on hand under the closed special deposit account shall be deposited in the Treasury to the special deposit disbursing account of the disbursing officer concerned, with personal credit to the officer whose account is closed. Promptly thereafter the accounts current shall be prepared which shall include all collections made up to the closing date of the account, and all deposits of such collections, leaving no balance due the United States under the closed account.

ART. 1207. *Supporting papers.*—The duplicate copy of each schedule of moneys received and deposited, together with all supporting papers, will be forwarded to the comptroller

of customs weekly or as soon thereafter as the sheet is completed or at the end of the month.

ART. 1208. *Records.*—(a) Customs officers charged with the duty of receiving and depositing public money shall keep accurate records of all their receipts and deposits, and shall promptly render to the proper administrative bureau such accounts as may be required by law or regulation.

(b) The retained records, memorandum vouchers and other documents of an office are the property of the Government subject to inspection by authorized persons and must be turned over by collectors to their successors.

FEES

ART. 1209. *Customs fees.*—(a) The following fees are to be collected from the private parties concerned on customs Form 5109, and deposited to the credit of the Treasurer of the United States as miscellaneous receipts.

(b) The fees in column A are those collectible on the seacoast, the gulf, and western rivers; those in column B are collectible on the northern, northeastern, and northwestern frontiers, otherwise than by sea.

Table of customs fees

	A	B
Fee No. 1. Every official certificate issued on request of the interested parties and not for use in the customs service, including certified copies of and extracts from official documents, certificates of weight, gauge, or measure, and certificates of moneys received (par. 9, sec. 2654, and par. 19, sec. 4382, R. S.) (In addition, cost of labor and material if documents themselves are prepared by customs officials.—T. D. 32901.)	\$0.20	\$0.20
Fee No. 2. Bond taken in case of vessel proceeding to a foreign port to discharge foreign cargo, manifested and destined therefor, if same be of dutiable character (sec. 442, act June 17, 1930), bond of claimant of seized goods for costs of court, and every other bond taken officially other than those taken upon the entry of imported and exported goods and the passage thereof through the customs (par. 7, sec. 2654, and par. 17, sec. 4382, R. S.)	.40	.50

(d) Customs officers are not required to make copies of dock books, weigher's returns, etc., without charge. Importers should be permitted to make copies of such records, and the same may be certified as correct and a fee of 20 cents charged for such certification. If, however, importers prefer, they may have copies of such records made by a customs employee, and should be required to reimburse the Government for the actual cost of the labor and materials necessary therefor. The money received as a fee should be covered into the Treasury as miscellaneous receipts. The money received for work performed should be covered into the Treasury as a repayment to the appropriation "Collecting the revenue from customs, 19—", customs Form 5109 being used in each case.

(e) United States Code, title 19, section 59:

Every collector, comptroller, and surveyor shall cause to be affixed, and constantly kept in some public and conspicuous place of his office, a fair table of the rates of fees * * * demandable by law, and shall give a receipt for the fees received by him, specifying the particulars whenever required so to do; and for every failure so to do, he shall be liable to a penalty of \$100, recoverable to the use of the informer. (R. S., sec. 2635.)

COMPTROLLERS OF CUSTOMS

ART. 1210. *Accounting.*—The comptroller's office is a branch of the Customs Service, established in the field for the sake of convenience, economy, and efficiency in making prompt examination and verification of the merchandise and money accounts of collectors of customs.

ART. 1211. *Assignment of districts.*—(a) *Comptroller of customs, Boston, Mass.*—Customs districts Nos. 1 (Maine and New Hampshire), 2 (Vermont), 4 (Massachusetts), and 5 (Rhode Island).

(b) *Comptroller of customs, New York, N. Y.*—Customs districts Nos. 6 (Connecticut), 7 (St. Lawrence), 8 (Rochester), 9 (Buffalo), 10 (New York), 49 (Puerto Rico), and Virgin Islands.

(c) *Comptroller of customs, Philadelphia, Pa.*—Customs districts Nos. 11 (Philadelphia), 12 (Pittsburgh), 38 (Michigan), 40 (Indiana), 41 (Ohio), 42 (Kentucky), and 43 (Tennessee).

(d) *Comptroller of customs, Baltimore, Md.*—Customs districts Nos. 13 (Maryland), 14 (Virginia), 15 (North Carolina), 16 (South Carolina), 17 (Georgia), and 18 (Florida).

(e) *Comptroller of customs, New Orleans, La.*—Customs districts Nos. 19 (Mobile), 20 (New Orleans), 21 (Sabine), 22 (Galveston), 23 (San Antonio), 24 (El Paso), and 26 (Arizona).

(f) *Comptroller of customs, San Francisco, Calif.*—Customs districts Nos. 25 (San Diego), 27 (Los Angeles), 28 (San Francisco), 29 (Oregon), 30 (Washington), 31 (Alaska), 32 (Hawaii), and 48 (Utah and Nevada).

(g) *Comptroller of customs, Chicago, Ill.*—Customs districts Nos. 33 (Montana and Idaho), 34 (Dakota), 35 (Minnesota), 36 (Duluth and Superior), 37 (Wisconsin), 39 (Chicago), 44 (Iowa), 45 (St. Louis), 46 (Omaha), and 47 (Colorado).

ART. 1212. *Verification of entries—Comptroller's record of entries having documents missing.*—(a) After the tentative liquidation of an entry by the collector of customs has been verified by the comptroller of customs, the collector's copy of the entry with all supporting papers will be returned to the collector for final liquidation. The result of the verification will be recorded on the appropriate schedule.

(b) At the time an entry in connection with which a required document or documents have not been produced comes before the comptroller in the process of liquidation, a suitable record of such entry with respect to the missing document or documents shall be made in the comptroller's office.

(c) In the liquidation of warehouse entries no cases need be separately liquidated unless necessary for the purpose of withdrawal.

ART. 1213. *Return of drawback entries, etc.*—After final liquidation of drawback entries, the original entry with all supporting documents will be returned to the collector of customs. The duplicate entry will be filed by the comptroller of customs after comparison with the payment schedule.

ART. 1214. *Merchandise received in bond.*—When copies of in-bond entries are received they will be placed in a "pending" file. After noting disposition of the merchandise thereon the entries shall be transferred to a "closed" file.

ART. 1215. *Merchandise forwarded in bond.*—When copies of entries outgoing are received they shall be placed in a "pending" file. After noting the receipt of the certificate of delivery thereon the entries shall be transferred to a "closed" file and the certificate of delivery shall be forwarded to the port of origin.

NOTE.—Imported merchandise and withdrawals from warehouse, for transportation and exportation, enter the accounts of the comptroller of customs for the port of origin only.

ART. 1216. *Seizure reports.*—Disposition of seized merchandise by sale or otherwise will be noted by comptrollers of customs on customs Form 5211 and the supporting schedules customs Forms 4651, 5161-B, and 5179 verified. Comptrollers of customs will follow up all seizures released to the United States marshal in order to see that all moneys properly belonging to customs and resulting from the sale or disposition of such seizures are finally covered into the customs accounts.

ART. 1217. *Accounts current.*—All receipts and deposits shown on the regular and special deposit account current, customs Form 4939 (standard Form 1019), shall be verified by comptrollers of customs.

ART. 1218. *Special deposits account.*—(a) Comptrollers of customs will verify all receipts and disposition of moneys pertaining to collectors' special deposit accounts, and certify the same to the Secretary of the Treasury.

(b) The disposition of collections, entered in the special deposits account, shall be noted on customs Form 5167 by comptrollers of customs.

ART. 1219. *Transmission of documents.*—Accounts, entries, and other documents will be accompanied by a detailed statement itemizing the inclosures.

ART. 1220. Return of documents.—Requests for information and return of documents and official papers by the comptroller of customs shall be addressed to the collector at the headquarters port.

ART. 1221. Correction of errors.—Accounts current will not be changed by comptrollers except for manifest clerical errors. In the case of discrepancies or errors otherwise, a statement indicating the same should be attached to the account current.

ART. 1222. Disposition of documents.—(a) Collectors' copies of entries and other papers and documents submitted by collectors to comptrollers for verification or accounting will, after verification or notation by the comptroller, be returned. The original accounts current and required schedules submitted by collectors to comptrollers will be forwarded, after verification, to the Bureau of Customs.

(b) Comptrollers of customs will retain their copies of entries, schedules, and other documents until authority is granted for their disposition. (Art. 1489.)

TRAVEL

ART. 1223. Authority.—Authority for officers to travel outside the collection district in which appointed and to incur expenses incident thereto must be secured from the Bureau of Customs in advance, except in cases of imperative emergency. Travel within a collection district may be performed and expense incurred in connection therewith under the direction of collectors of customs.

ART. 1224. Change of station.—All changes of employees from one position to another must be authorized by the Secretary or Assistant Secretary before any expense is incurred in connection with such changes of station or transfers. This applies only to cases where the traveling expenses incurred in connection with the change of station or transfers of position are to be reimbursed by the Government. Such reimbursement may be made only in cases where the change of station or transfer is effected in the interests of the public service and not for the convenience of the officer or employee.

ART. 1225. United States ships—Use of.—(a) Any officer or employee of the Customs Service traveling on official business overseas to or from foreign countries or to or from any of the possessions of the United States shall travel and transport his personal effects on ships registered under the laws of the United States when such ships are available.

(b) Under no circumstances will credit be allowed for transportation or expenses involved through the use of ships of foreign registry unless and until satisfactory proof of the necessity for using such ship or ships is furnished to the Bureau of Customs, and the Secretary of the Treasury certifies that travel or shipping expenses on such foreign ships were necessary to protect the revenue.

TRANSPORTATION

ART. 1226. Government request.—(a) In those cases where a traveler is to sign a request both as issuing officer and as traveler, a book or books of requests will be issued to him in blank for purposes of official travel based on proper travel authority.

(b) The officer issuing the book or books must not sign the requests (standard Form 1030) in blank, but will execute the face of the fly leaf in the book (standard Form 1029) as many times as a book is issued and reissued.

(c) Each traveler must be furnished with an identification card (standard Form 1033) signed by the issuing officer who issues to him the book or books in blank and signs on standard Form 1029 (face).

(d) The rule that a real emergency must exist under which the use of the prescribed means of identification of a traveler who signs a request both as issuing officer and traveler may be waived must be strictly observed.

(e) Inspectors of customs may accept passes or free transportation for interstate and intrastate travel and other customs officers and employees may accept passes or free

transportation for intrastate travel only. The use of such passes or free transportation shall be limited to travel on official business in the interests of the transportation company or for the purpose of examining baggage and similar routine duties.

HOUSEHOLD EFFECTS—TRANSFER

ART. 1227. Authority.—(a) An employee transferred from one official station to another for permanent duty may be allowed, within the discretion and under written orders of the Secretary of the Treasury, the expenses incurred for packing, crating, freight, and drayage in the transfer of household effects and other personal property.

(b) Shipment of personal property must be made on Government bill of lading. Care should be taken not to ship on the same bill of lading property of an official and personal character. Shipment must be released to the lowest valuation applicable to the classes of articles transported.

(c) Transportation of personal effects is limited to one handling (packing, crating, and carting) at point of shipment, one continuous journey by common carrier, and one handling (cartage only) at destination. Charges for storage at place of shipment or destination must be borne by the employee.

(d) When shipment is made by truck or moving van, the voucher shall be accompanied by a letter, stating why such means of transportation was used and showing what the cost would have been if shipped by freight; and if the cost be greater, the amount of the excess will be borne by the employee.

SUPPLIES AND EQUIPMENT

ART. 1228. Requisitions—Approval of.—(a) Requisitions covering purchases of materials, supplies, and equipment shall be made on Purchase Authority, Form 1, in quintuple. The original and three copies shall be forwarded to the Bureau of Customs for consideration. If approved, the original requisition will be transmitted to the Procurement Division, Treasury Department, or returned to the requisitioning office to consummate the purchase. In those cases where the requisition is forwarded to the Procurement Division, a copy will be returned to the requisitioning office for its information.

(b) Any requisition covering a purchase of furniture should specify in what building the furniture is to be used and the status of such building as to control and use. Furniture for use in Federal buildings under the control of the Director of Procurement is not chargeable to the appropriation "Collecting the revenue from customs" and should be requisitioned through the custodian of such building.

(c) In cases where the public exigencies require the immediate delivery of an article purchase may be made without prior authority of the Bureau. An emergency justifying such purchase must be based upon facts and it must be established that the purchase was immediately necessary and could not be foreseen by ordinary care and that injury to the public interest would have resulted from delay incident to procuring authority for the purchase in the usual manner. The nature of the emergency must be fully explained to the satisfaction of the administrative officers. Emergency purchases should be made by soliciting competitive bids when practicable.

(d) Requisitions covering stationery will be made direct to Division of Printing, Treasury Department, on departmental stock Form 2162.

(e) Requisitions for customs books and blanks not salable will be made on customs Form 3039 and forwarded to the Bureau for check and transmission to the Chief of the Section of Books and Blanks, Division of Printing, Treasury Department.

ART. 1229. Proposals or bids.—(a) Requisitioning officers shall in all instances when practicable, unless the supplies to be furnished may be procured on Government contract, secure and transmit, together with the requisitions, competitive bids or proposals from several reputable dealers.

The failure to secure "competition", or at least "one bid", should be briefly explained on the requisition.

(b) Where the lowest bid is accepted, and no offsetting or equalizing elements are for consideration, and a certificate to that effect is furnished, neither the rejected bids nor an abstract thereof need be forwarded with the accepted bid. In all cases where other than the lowest bid is accepted, there should be forwarded with the contract a statement giving the reasons for the acceptance thereof, together with an abstract of all bids received. If no abstract of bids is made, the bids should be forwarded.

ART. 1230. *Gasoline and oil.*—(a) In the case of gasoline purchased under exigency and not covered by any contract, the voucher of the vendor for the cost of the gasoline must have a statement on the face thereof that the price charged does not include any State tax. When transient purchases are made by Government officers or employees who find it impracticable or impossible to establish their right to exemption at the time the purchases are made, it is permissible for such officers or employees to pay for the gasoline, including the tax, and later secure reimbursement therefor on their regular expense vouchers.

(b) Standard Form 1094, United States Government Tax Exemption Certificate must be used in the procurement of motor fuel, lubricants, and other articles on which there is a Federal, State, or local tax, for the purpose of securing exemption from the payment of such taxes.

(c) The use of the certificate by employees using their personally owned motor vehicle while traveling on official business, for which they are reimbursed on a mileage basis under authority of law, is unauthorized and should not be permitted.

ART. 1231. *Record of purchases.*—A record of all supplies received and the costs thereof shall be kept by the administrative office submitting the requisition.

ART. 1232. *Transportation charges.*—(a) All supplies forwarded to officers of the service must be shipped on the standard form of Government bill of lading, and transportation charges on such shipments must not be paid by consignees, as they are paid by the Department upon vouchers rendered by transportation companies upon the standard form of voucher prescribed for the purpose. Transportation vouchers must be accompanied by original bills of lading on which should appear complete shipping and billing directions, the name of the department and office authorizing shipment, and, when known, the name of the appropriation from which charges covering such services should be paid.

(b) When temporary motor transportation of Government property or official supplies is needed, the collector should call upon the area coordinator for his district for the use of Government-owned vehicles to meet the requirements. Expense should not be incurred for the hire of privately owned vehicles unless it is impracticable to secure the services of those owned by the Government.

CAR, COMPARTMENT, AND PACKAGE SEALS

ART. 1233. *Kind, procurement, and accounting.*—(a) Tyden seals, manufactured by the International Seal & Lock Co., Hastings, Mich., and automatic metal seals, manufactured by the International Seal & Knot Protector Co., 109 Spring Street, New York, N. Y., shall be used in sealing openings, packages, or articles requiring the security provided by such sealing.

(b) "In-bond" seals, used for sealing imported merchandise shipped between ports in the United States, shall be colored red and stamped "U. S. CUSTOMS IN BOND." "In-transit" seals, used for sealing merchandise shipped from one port in the United States through foreign territory or water to another port in the United States, shall be colored blue and stamped "U. S. CUSTOMS IN TRANSIT." "Customs" seals, used for sealing merchandise for customs purposes, other than for shipping in bond or in transit, shall be uncolored and stamped "U. S. Customs." All seals shall be stamped with the name of the port for which they are

ordered. Each Tyden seal shall be stamped with a serial number and each automatic metal seal shall be stamped with a symbol number.

(c) Serial numbers, used in connection with Tyden seals, shall be assigned to each class of seals. A series of numbers shall cover one ("in-bond", "in-transit", or "customs") class of seals ordered by any party for use in one customs district and shall run from 1 to 999,999 before repeating. Symbol numbers, used in connection with automatic metal seals, shall be assigned to each particular carrier or party concerned. A symbol number shall cover all classes of seals ordered by one party for use in any customs district. The serial numbers and symbol number to be stamped on seals shall be designated by the Bureau of Customs when an order or requisition therefor is authorized.

(d) Customs bonded carriers may purchase "in-bond", "in-transit", and "customs" seals; other carriers of merchandise may purchase "in-transit" and "customs" seals; and parties concerned may purchase "customs" seals from the respective manufacturer of the Tyden or the automatic metal seals by drawing a separate order thereon for a definite number of seals, and specifying in the order whether "in-bond", "in-transit", or "customs" seals are desired, the name of the port for which they are ordered, and the consignee at that port to which they are to be shipped. Each order shall be confined to seals for use at one port, and shall be forwarded to the collector of customs at the headquarters port of the customs district in which the port is located, who will submit the order, with his recommendation as to the need for the seals ordered, to the Bureau of Customs for authorization and transmission to the manufacturer, if approved.

(e) Collectors of customs will be supplied with Tyden and automatic metal "in-bond", "in-transit", and "customs" seals for official use and for sale. The requisition therefor, prepared on Purchase Authority Form 1 specifying the number, kind, and class of seals required and the name of the headquarters port to be stamped thereon, shall be forwarded to the Bureau of Customs for authorization, if approved.

(f) The manufacturer shall ship the seals to the consignee named in the order and shall advise the collector of customs for the customs district to which the seals are shipped as to the number and class of seals shipped, the name of the port and the serial numbers or symbol number stamped thereon, the name and address of the consignee, and the date of shipment. Consignees, other than collectors of customs, shall, when a shipment of seals is received, immediately deliver it intact into customs custody. The quantity and stamping of each shipment of seals received by a customs officer shall be checked with the authorization therefor and any discrepancy noted shall be reported to the Bureau of Customs by the collector of customs.

(g) Seals required for official use and for sale at ports in a customs district, other than the headquarters port, shall be supplied from the stock at, and stamped with the name of, the headquarters port, and a record of the quantity and description of such seals transferred from one port to another, including the serial number of Tyden seals, shall be maintained in both the sending and receiving ports.

(h) The stock of seals of each owner, including the stock of the collector of customs, shall be separately kept under lock and key at all times. The key shall be kept in the custody of a customs officer and unauthorized persons shall be denied access to unissued seals. Only quantities of seals sufficient for immediate requirements shall be issued from the stock of the owner or sold from the stock of the collector of customs, and the use of such seals shall be carefully safeguarded. An accurate record shall be kept of seals issued for use showing the date of issue, name of owner, name of persons to whom issued, quantity of seals issued, used, returned unused, and returned defective. The serial number of Tyden seals issued, used, and returned shall also be recorded. The unused seals returned shall be placed with the stock of the owner. All defective seals returned shall be immediately and effectually destroyed and the date of destruction re-

corded. At least once in every 6 months the seal records and the stock of seals on hand at each port shall be checked. Any discrepancy between the records and the seals, or any irregularities in the use or disposition of seals shall be reported to the Bureau of Customs.

(i) Collectors of customs may sell "in-bond" seals only to customs bonded carriers, "in-transit" seals only to customs bonded and other carriers of merchandise, and "customs" seals to any carrier or party concerned, entitled to purchase and use the same. Seals sold by collectors of customs shall be charged for at the rate of 5 cents per seal. Amounts collected on account of such seals shall be accounted for as miscellaneous receipts and deposited as "sale of equipment."

SALABLE CUSTOMS FORMS

ART. 1234. *Requisitions.*—(a) Customs forms for sale to the general public, for which an accounting is required, will be furnished in pads of 100 blanks per pad and will have shown thereon the price to be charged per pad.

(b) Purchasers requesting special printing on customs salable forms may have their name, address, the number and name of the district, etc., printed on the face and reverse of the standard edition of salable forms. These forms will not be padded, and the requisition should show the number of forms desired. The minimum number of forms for such orders will be 5,000. Orders for special printed forms must be filed with the collector of customs at least three months in advance of the time needed and payment at the special price therefor must be made at the time of filing the order with the collector.

(c) The requisition for salable pads will be made on customs Form 4909-A-B-C periodically as the needs of the office require. Separate requisitions should be made for specially printed forms, to be accompanied by a copy for the printer with the special printing desired plainly printed or typewritten thereon. Ports of entry will forward requisitions on customs Form 4909-A-B-C to the headquarters port.

(d) A collection receipt will be prepared for each sale on customs Form 5109 and the collection scheduled on record and schedule, customs Form 5159.

(e) Collectors may set aside for free distribution or official use one or more pads of any salable form, not to exceed 5 percent of the total number of pads requisitioned, and will take credit on the account of salable customs forms (customs Form 4911) for the number of pads set aside, which credit will be taken only on requisitions accompanying the account.

(f) An account will be prepared on customs Form 4911 for the district, which consolidated district account with the invoice (customs Form 4909-B) attached of all pads received should accompany the schedule of collections and the account current forwarded to the comptroller of customs.

DISPOSITION OF FORFEITED AND ABANDONED PROPERTY

ART. 1235. *Procedure.*—(a) United States Code, title 40, sec. 3041:

The Director (of Procurement, Treasury Department) is authorized, with the approval of the Secretary of the Treasury, (1) to require any agency, from time to time, to make a report of all property abandoned to it or seized and the disposal thereof, and (2) to make such rules and regulations as may be necessary to carry out the provisions of sections 3041 to 3044 of this title. (Aug. 27, 1935, c. 740, sec. 307, 49 Stat. 880.)

(b) For the procedure relating to reports, requests for assignment, and disposition of abandonment and forfeited property, see the regulations prescribed by the Director of Procurement, published as T. D. 48105.

(NOTE.—See T. D. 48104 and art. 1111 re disposition of forfeited liquors.)

TELEGRAMS

ART. 1236. *Procedure.*—(a) Telegraphing shall be done by the use of Government facilities so far as possible and shall be done by the use of commercial facilities at Government expense only on important matters and when the mail facilities, including air mail, fail to afford sufficient dispatch and Government facilities are not available.

(b) Telegrams, except those demanding immediate attention and of such a nature that action can be taken on the day of sending, will be filed for transmission as night messages at night rates.

(c) Telegrams received at Washington after office hours will not be acted upon until the following day unless such action is absolutely necessary.

(d) In determining whether a telegram should be filed as a night message, consideration should be given to the difference in time between the two points, to the length of time required for transmitting and delivering the telegram, and the closing time of the office to which the message is addressed.

(e) Official telegrams that are not prepaid must be marked "Official business. Collect. Government rate." Those that are paid for by the sender at the time of filing shall bear the notation "Paid in cash", and the sender shall retain a receipted copy of the message.

(f) Telegrams relating to official business sent by customs officers for the accommodation of private parties must be paid for both ways by such parties at commercial rates.

(g) Telegrams passing between collectors and their subordinates and between the subordinates of such officers will be paid for in advance at Government rates by the officers sending them, except when sent from or to a place where the sender or receiver is regularly stationed, in which latter case the charge may be paid by either. A copy of each official telegram paid for by the traveler must accompany his expense account; except only in those rare instances in which the subject matter is of such a confidential nature that to divulge its contents would be prejudicial to the public interest. In such cases the points between which sent and number of words must be stated, and a receipt from the person to whom payment was made must be furnished.

(h) Official telegrams sent to the chief officers of the Department at Washington should not be prepaid.

(i) Amounts paid for telegrams in excess of Government rates will be disallowed by the accounting officers of the Department. The rates annually established by the Postmaster General will be published from time to time for the information of customs officers.

AUTOMOBILES AND BOATS

ART. 1237. *Operation—Maintenance.*—(a) When a vessel or vehicle has been forfeited to the United States for use by the Customs Service, or when a purchased vessel or vehicle has been delivered, the officer designated to receive the same shall transmit to the Bureau of Customs a complete description of such vessel or vehicle, the cost of acquiring and the appraised value thereof, if forfeited, or the purchase price, if purchased, on customs Form 4657.

(b) The description of automobiles must state the name or make of car (Cadillac, Buick, etc.), the type (5-passenger touring, 2-ton truck, etc.), model (year), engine number, factory number, number of cylinders, and general description of other special features or important points. The particular type of car, whether light six, special six, etc., should be indicated on the report under the make of car. The total mileage (speedometer reading), proposed assignment (patrol, general customs, or customs agency), and proposed station, should also be indicated.

(c) The description of vessels must state the name of the boat (*Speed King*, etc.), type of boat, length, beam, draft, make, type and number of engine, number of cylinders, rated horsepower, speed of boat, fuel consumption (miles per gallon), crew required to operate, capacity (number of persons), cabin, sleeping accommodations, and general description of other special features.

(d) If the report to be submitted covers a seized vessel or vehicle, the place and date of seizure, the service making seizure, from whom seized, and the seizure number, should be stated in all cases; also the date and number of the court order, if any, and the judicial district issuing the same. If the report covers a purchased vessel or vehicle the date and number of the purchase requisition should be indicated.

(e) The cost of acquiring a seized vessel or vehicle includes all expenses paid from the customs appropriation in connection with the seizure up to the date the vessel or vehicle is forfeited to the United States for use of the Customs Service. The cost should be itemized as storage, advertising, liens, and miscellaneous. The principal items under miscellaneous should be briefly indicated. Wherever the report covers a purchased automobile or boat the total cost, delivered, should be indicated.

(f) The appraised value of the forfeited vessel or vehicle should be the value returned by the appraiser under section 606 of the Tariff Act of 1930. If a decided depreciation has occurred since seizure, the approximate commercial sale value at the time of forfeiture should also be stated.

(g) Upon receipt in the Bureau of Customs of the report of description, etc., customs Form 4657, a registration number will be assigned to the vessel or vehicle in question, which number will thereafter be used as a means of identification of the vessel or vehicle in all records, reports, and correspondence. The registration number, when assigned to a vehicle or vessel, establishes its identity permanently, and such number must not be changed or transferred to another vehicle or vessel without departmental authority.

(h) Every customs motor vehicle and every customs vessel will be marked with the letters "U. S. C.", followed by the registration number assigned by the department. On automobiles the marking will be done by stencil on the body frame arch forming the cowl or on the chassis frame, under the hood, on the right side of the engine. Vessels will be marked at some convenient place protected from the weather, if possible on the forward part of the cockpit or cabin.

(i) Where State tags are furnished to Federal vehicles without charge, they will be displayed on customs vehicles in lieu of any other identification number. Where State license tags are not furnished without charge, tags will be provided by the Department, bearing the letters "U. S. C." and the registration number assigned to the vehicle. These tags will be carried on the vehicle, front and rear, and serve for identification purposes in lieu of the State license tags. In transmitting the report of a vehicle to be assigned for official customs use the reporting officer should state whether State or Department tags will be used. Expenses for license tags or operators' licenses will not be approved by the Department.

(j) An individual record, customs Form 4659a, must be kept of the daily performance and use to which each vessel and vehicle is put, whether such vessel or vehicle was acquired by forfeiture, by purchase, or otherwise.

(k) An original and one copy of a report, on customs Form 4659, covering each vessel and vehicle, should be forwarded to the Bureau of Customs promptly at the close of each month. This report should indicate the official registration number of the automobile or boat, the district to which assigned, the place where stationed, and the character of work (patrol, general customs, or customs agency). The number of miles traveled, days in use, hours in service, and the amount of gasoline (in gallons) and oil (in quarts) consumed, must also be shown. Under "Results Accomplished" in the case of seizures, the number of seizures made by the use of the vessel or vehicle, and the appraised value thereof, should be reported. Data in explanation of the report as to the use or nonuse, costs incurred or results accomplished, and narrative report of unusual incidents of special importance or interest, should be stated on the reverse side of the form.

(l) The costs incurred in the maintenance and operation of the vessel or vehicle should be itemized as follows: Gasoline, lubricants (oils and grease), repairs (labor and parts), tires, tubes, and repairs, equipment, etc., storage, and other.

(m) Expenditures from appropriations made for the maintenance, upkeep, and repair, exclusive of garage rent, pay of operators, tires, fuel, and lubricants, on any one motor-propelled passenger-carrying vehicle, shall not exceed

one-third of the market price of a new vehicle of the same make or class, nor in any case more than \$400.00.

(n) Any vessel or vehicle no longer required for official use should be promptly reported to the Bureau of Customs as surplus, and proper instructions for its disposition will subsequently be issued. Lists of such surplus property should be submitted to the Bureau by collectors of customs, in quadruplicate, together with a letter of transmittal, in duplicate. The list should contain a complete description of the property involved, including the odometer reading in the case of vehicles, together with a statement as to its present condition and, if possible, the value at which the property is carried on the records or the appraised value thereof. If the vessel or vehicle is in such condition as to be considered worthless, information to that effect should be indicated.

NUMBERING CONTRACTS

ART. 1238. *Procedure.*—(a) All contracts, formal and informal, involving the receipt or expenditure of Government money, except as otherwise provided herein, shall, upon the execution thereof, be numbered in the upper right-hand corner consecutively.

(b) Contracts and less formal agreements, such as proposal and acceptance documents, required to be numbered are—

(1) Formal contracts, regardless of amount.

(2) Less formal agreements, where amount determined at the time of making agreement is \$1,000 or more.

(3) Less formal agreements, involving more than one payment, regardless of amount.

(c) Agreements which must *not* be numbered are—

Less formal agreements involving less than \$1,000 where only one payment is to be made. Such agreements shall be attached to the voucher on which payment is made and accompany such voucher to the General Accounting Office.

(d) The contract number will be shown after the collection district symbols, separated therefrom by a hyphen, commencing with no. 1 and continuing in succession indefinitely without reference to fiscal years. The combination of symbol letters and a contract number form a complete symbol number for each contract by which its origin may be identified, as follows:

T (Treasury) 39 (Chicago district number) C (Customs)—175 (serial number). Example: T39C-175.

(e) In cases where contracts are made with contractors listed in the General Supply Schedule, involving more than one payment, and where the contract papers have been deposited with the General Accounting Office, the voucher need not carry any number but the General Supply Committee schedule item number.

(f) All original formal contracts and informal agreements shall be forwarded to the Bureau of Customs in duplicate. These serially numbered documents should be accompanied by abstract of agreement, standard Form 1036, in duplicate, for disposition by the Bureau of Customs.

(g) A new supplemental agreement or contract should be obtained each year covering services obtained from public utilities companies, such as telephone, electric light, water, gas, etc., which should be given the same number as the original contract.

(h) Supplemental agreements or contracts covering annual contracts should also be given the same number as the original annual contract.

(i) All other annual agreements or contracts obtained each year by soliciting bids or otherwise, should be given the next number in the district series.

LEASES—REAL ESTATE

ART. 1239. *Execution.*—(a) Collectors, assistant collectors, and officers in charge of foreign offices, will make application and obtain authority from the Bureau to rent quarters or space required for customs purposes in advance of the contemplated date of occupancy of the premises in all cases except emergency. Applications for authority to enter into lease contracts should include a statement showing the pur-

pose for which the premises will be used, the probable period they will be required, and the annual rental; whether the rent to be paid is as low as can be had for similar premises in the immediate vicinity by private parties; whether the rate of rent includes heat, light, water, janitor service, etc.; whether the proposed rental rate is considered reasonable; whether other premises can be obtained at lower rental or better situated, describing fully such other premises and stating the rate of rent at which they may be obtained; and whether the lessor can give a valid lease.

(b) Leases or renewals thereof for the rental of quarters or space to be occupied solely by the Customs Service or by the Customs Service jointly with other Government agencies should be executed in accordance with the instructions printed therein and such special instructions as may be issued from time to time. The present instructions are contained in T. D. 47696.

CLAIMS

ART. 1240. *Employees—Deceased.*—(a) The collector shall immediately, upon the death of an employee, notify the Department, giving the date of death. The report will be executed on customs Form 3021 and forwarded to the Bureau of Customs in triplicate.

(b) The name and date of death of an employee who died during a pay period shall be entered as usual on the pay roll for that period. If salary is due the employee only the amount of the retirement deduction due the retirement fund up to and including the date of death shall be shown in the "gross amount earned" column and in the "retirement deduction" column with no amount shown in the "net amount paid" column. The amount of the retirement deductions shall be deposited for credit to the civil-service retirement fund of the employee. The net amount of salary due the deceased up to and including the date of death is for settlement by the General Accounting Office. An application for settlement, standard Form 1055, accompanied by a certified copy of letters testamentary and a voucher, drawn in favor of the estate, approved for payment in the net amount and showing the gross amount earned, amount of retirement deduction, net amount due, date of death, name and symbol number of the disbursing officer and disbursing office voucher number for the last pay roll on which the name of the deceased employee appeared shall be forwarded direct to the Bureau of Customs for administrative approval and transmission to the General Accounting Office. Claims for refund of retirement deductions shall not be included in the voucher claiming the net salary due. If there is to be no administration of the estate, a receipt for funeral expenses shall be forwarded with the application and voucher of the representative of the deceased.

(c) If the funeral expenses have not been paid, the bill for same and waiver to claim on compensation of the deceased, executed by the undertaker in favor of the representative, should be forwarded with the affidavit and voucher.

(d) To facilitate early settlement, full information should be forwarded regarding claims against the estate of the deceased, such as funeral expenses, physician's services, hospital charges, or any preferred claims under the laws of the domicile of the deceased. Information relative to salary which has been certified on rolls, and receipt, disposition, and action on checks should also be furnished.

(e) If any checks have been issued and remain unnegotiated, same should be forwarded to the Bureau of Customs with short certificate of letters of administration, or, in case there is to be no administration of the estate, with application on standard Form 1055, executed by representative of the deceased for indorsement of the check by the General Accounting Office, or other action toward payment to the person legally entitled to the salary of the deceased.

(f) An application (Pension Bureau Form 3R15) for use in applying for refund of retirement deduction should be forwarded upon receipt of notification of death. The amount claimed on this account should not be included in the salary voucher, and should be executed in accordance with the in-

structions on the form. The application will be forwarded direct to the Bureau of Customs, personnel division, accompanied by a copy of the death certificate and, if there is to be administration of the estate of the deceased, certified copies of the letters of administration, or certificate of court, for transmission to the Bureau of Pensions, through the division of appointments.

(g) If there be any other claim for moneys due the deceased employee, such as for overtime services rendered or travel or subsistence expenses not refunded, the same procedure should be followed as in the case of claims for unpaid salary.

ART. 1241. *Miscellaneous claims.*—(a) All other claims of whatever nature arising under the customs laws and/or which may be chargeable against customs funds, as well as claims for surplus from proceeds of sale, when such surplus has been covered into the Treasury, shall be forwarded direct to the Bureau of Customs, together with all supporting documents and information available, for administrative examination.

(b) In the case of claims for surplus from proceeds of sale of unclaimed merchandise, the original bill of lading shall be submitted in support of the application unless the claim involves only a part of a shipment, in which case a photostat copy of such bill of lading will be required.

OVERTIME SERVICE

ART. 1242. *Extra compensation.*—(a) Customs officers and employees performing services at night, or on Sundays and holidays, for lading or unlading of cargo or merchandise, or lading cargo or merchandise for transportation in bond or for exportation in bond or for exportation with benefit of drawback, or in connection with the receiving or delivery of cargo or merchandise on or from the wharf, or in connection with the unlading, receiving or examination of passengers' baggage, or in boarding vessels, or in the entrance and clearance of vessels, or in the issuance and recording of their marine documents and instruments of title, shall receive extra compensation, to be paid by the master, owner, or agent of the vessel, or by the transportation company.

(b) Boarding officers shall receive extra compensation for night services and Sunday and holiday service at the same rates as other customs officers, the amount of such extra compensation to be prorated among the various vessels boarded.

(c) The rates of extra compensation are payable in cases where the services of customs officers or employees have been duly requested and the officers or employees have reported for duty, even though no actual service may be performed.

(d) Customs officers and employees should be ordered to report for duty sufficiently in advance of the expected arrival of a train or vessel to properly safeguard the revenue. However, waiting time should be reasonable and compatible with the circumstances in each case.

(e) The extra compensation for overtime services is in addition to the regular compensation paid by the Government in the case of officers and employees whose compensation is fixed on the ordinary per diem basis and those receiving a compensation per month or per annum.

(f) Extra compensation for "waiting time" will not be allowed unless and until an officer or employee actually reports for duty.

(g) Extra compensation will not be allowed for overtime services rendered in connection with visaing passports and inspecting baggage of passengers destined to foreign ports; searching vessels and freight trains for contraband articles; inspecting car seals and checking manifests; and examining vessels under the Passenger Act of 1882.

ART. 1243. *Definition of "night" and "holiday."*—For the purpose of computing extra compensation the word "night" will be construed to mean the time from 5 p. m. to 8 a. m. and the term "holiday" shall include only national holidays, viz, January 1, February 22, May 30, July 4, the first Monday in September, Thanksgiving Day (when designated by the

President), and December 25, and such other days as may be made national holidays.

ART. 1244. *Rate of compensation.*—(a) For service performed after 5 p. m. of any days, including Sundays and holidays, one-half day's pay will be allowed for each 2 hours or fraction thereof of at least 1 hour that the overtime extends beyond 5 p. m., provided that the overtime is not less than 1 hour. The maximum amount which may be paid an employee for services between 5 p. m. and 8 a. m. shall not exceed 2½ days' pay.

(b) In computing the amount earned for overtime at the rate of "one-half day's pay for each 2 hours or fraction thereof of at least 1 hour that the overtime extends beyond 5 p. m.," one-half day's pay shall be one-half of the gross daily rate of pay; each 2 hours is the time period for purpose of computation; at least 1 hour means the minimum service in each period for which extra pay may be granted. If service continues beyond a 2-hour period, it must extend for at least 1 hour into the following 2-hour period to be entitled to extra pay for the second period. When the overtime extends beyond 5 p. m. payment of extra compensation from 5 p. m. for services consisting of at least 1 hour is authorized, even though such services may not actually begin until 7 p. m., 9 p. m., or later: *Provided, however,* That the officer rendering the service remained on duty from 5 p. m., in which case the time between 5 p. m., and the time of beginning the actual service shall be computed as waiting time, and where the actual services begin as late as 9 p. m. there should be an affirmative statement that the officer was required to remain on duty between 5 p. m. and 9 p. m., if a charge for waiting time is made. Where, however, service is rendered between 6 a. m. and 8 a. m. only, the charge for such services, or 1 hour thereof, will be one-half day's extra pay.

(c) In computing extra compensation where the services rendered are in broken periods and less than 2 hours intervene between such broken periods, the time served should be combined with the waiting time and computed as continuous service.

(d) Where 2 hours or more intervene between broken periods, one-half day's extra pay will be allowed for each distinct 2-hour period or part of a 2-hour period, if waiting time and actual service rendered within each period consist of at least 1 hour.

(e) The same construction should be given the act when charging for waiting time as governs the charge for services actually rendered. No charge should be made unless after having reported for duty the waiting time amounts to at least 1 hour.

ART. 1245. *Sundays and holidays.*—(a) For authorized services performed on Sundays and holidays between 8 a. m. and 5 p. m., customs officers and employees shall be entitled to 2 days' pay in addition to their regular compensation.

(b) Officers and employees who are paid on a per diem basis "when employed" will receive no other compensation for services rendered by them on Sundays and holidays than that allowed under the overtime act.

(c) If overtime service is performed on Sundays or holidays in connection with the unloading or other authorized service for two or more vessels or vehicles the 2 days' extra compensation shall be prorated between the different vessels or vehicles.

ART. 1246. *Accounting for overtime.*—(a) Vouchers, customs Form 4961, covering extra compensation for overtime services shall be paid from the appropriation "Collecting the Revenue from Customs" for the fiscal year in which the services were rendered. Collection from the persons in interest in payment for such services shall be deposited as a repayment to the appropriation from which the extra compensation was paid.

(b) Protests against the exaction of extra compensation should be forwarded by collectors to the Commissioner of Customs.

(c) An application and permit to load or unload cargo at night or on Sundays and holidays, customs Form 3851, shall be filed with the collector before the assignment of customs officers and employees for overtime service.

INCREASED, ADDITIONAL, AND SUPPLEMENTAL DUTIES

ART. 1247. *Collection of.*—(a) Notice of increased, additional, and supplemental duties due upon liquidation (customs Form 5107) will be promptly sent to the importer of record or to the actual owner when the latter has become liable for the duties under the provisions of section 485 (d), Tariff Act of 1930. If within 10 days thereafter such duties shall not have been paid, the collector shall cause an investigation to be made to ascertain the whereabouts of the parties indebted and make efforts to collect the duties. If the parties cannot be found, or are dead, leaving no estate, or are insolvent, he shall report the facts to the General Counsel for the Department of the Treasury, through the Bureau of Customs, who may authorize the collector to treat such duties as uncollectible, without prejudice, however, to the right of action on the part of the Government.

(b) In all other cases, where the amount involved exceeds \$10 and the same has not been paid within 10 days, the United States attorney should be requested to proceed to enforce collection. If the amount is \$10 or less the facts should be reported to the General Counsel for the Department of the Treasury, through the Bureau of Customs, for authority to treat such duties as uncollectible, without prejudice to the right of future action on the part of the Government.

(c) When entry is made in the name of a nominal consignee, as provided in section 485 (d), Tariff Act of 1930, suit for recovery of the duties should not be commenced until 10 days after the 90 days provided by said section for the submission of such declaration.

PHILIPPINE ISLAND TARIFF FUND (DUTIES)

ART. 1248. *Collections.*—(a) Duties collected in the United States upon articles coming from the Philippine Archipelago will be separately scheduled on the appropriate itemized schedule of duty collections, captioned "Philippine Islands." The total amount of all classes of duty collections will be shown as a separate item entitled "Philippine Islands" in the monthly summary and consolidated monthly summary of duty collections on customs Form 5181. All collections will be deposited into the Treasury upon Certificate of Deposit Form 4, to the credit of the trust fund receipt account entitled "Customs Duties, Philippine Islands."

(b) Refunds found due upon liquidation or reliquidation of an entry will be separately scheduled on the record and schedule of refunds, customs Form 5193, and refunded in accordance with the procedure prescribed in article 1201, as amended, from the trust fund appropriation entitled "Philippine Trust Fund (Customs Duties)."

(c) Funds from the trust fund appropriation "Philippine Trust Fund (Customs Duties)" will be advanced in accordance with article 1194 (a).

(d) Tonnage tax on foreign vessels from the Philippine Islands shall be deposited as a miscellaneous receipt on certificate of deposit Form 5, to the credit of the United States in account "Philippine Island Fund (tonnage tax)."

VIRGIN ISLAND FUND (DUTIES)

ART. 1249. *Collections.*—Duties collected in the United States upon articles coming from the Virgin Islands will be scheduled, accounted for, and deposited into the general funds of the United States Treasury with and as duties on imports. Refunds found due upon liquidation or reliquidation of an entry will be made from the appropriation "Refunds and Drawbacks (Customs)", in accordance with the procedure prescribed in article 1201.

CHAPTER XXIII

CUSTOMS BONDS

AUTHORIZATION AND CLASSES

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AUTHORIZATION AND CLASSES

ART. 1250. Bonds.—Tariff Act of 1930, section 623 (a):

In any case in which bond or other security is not specifically required by law, the Secretary of the Treasury may by regulations require, or authorize collectors of customs to require, such bonds or other security as he, or they, may deem necessary for the protection of the revenue and to assure compliance with the customs laws and regulations. Except as otherwise specifically provided by law, whenever a bond is required by law or regulations, the Secretary of the Treasury may by regulations prescribe the conditions and form of such bond, provide for the approval of the sureties thereon (without regard to any general provision of law), fix the amount or penalty thereof, whether for the payment of liquidated damages or of a penal sum, and authorize the cancellation of any such bond, in the event of a breach of any condition thereof, upon the payment of such lesser amount as he may deem sufficient. No condition in any such bond shall be held invalid on the ground that such condition is not specified in the law authorizing or requiring the taking of such bond. Whenever a bond is required by the customs laws or regulations, the Secretary of the Treasury may authorize the execution of a single bond, the conditions of which shall extend to and cover similar cases or importations over a period of time, not to exceed 1 year, or such longer period as the Secretary of the Treasury may fix to meet the circumstances of any particular case.

ART. 1251. Classes.—All bonds required to be given under the customs revenue statutes or customs regulations will be known as "customs bonds" and consist of three classes, viz, those approved by the Secretary of the Treasury, those approved by the Commissioner of Customs, and those approved by collectors of customs.

BONDS APPROVED BY THE SECRETARY OF THE TREASURY

ART. 1252. Form and execution.—(a) The following bonds after execution by the principals and sureties must be forwarded to the Secretary of the Treasury for approval:

- (1) Bonds of collectors, comptrollers, and surveyors, required by law, in such amounts as the Secretary of the Treasury may direct.
- (2) Bond for deputy collector of customs in charge of port of entry in a penalty to be recommended by the collector of customs and approved by the Secretary of the Treasury.
- (3) Cartage contract bond, customs Form 3083, penalty to be fixed by the Secretary of the Treasury.

(b) The cartage contract and bond shall be executed in quadruplicate and forwarded to the Bureau.

BONDS APPROVED BY THE COMMISSIONER OF CUSTOMS

ART. 1253. Form and execution.—(a) The following bonds must be prepared in duplicate, except as otherwise provided in article 972 pertaining to warehouses of class 6, and after execution by the principals and sureties delivered to the collector of customs and forwarded by him with his recommendation, together with all reports, documents, and drawings filed in connection therewith, to the Commissioner of Customs for approval.

- (1) Proprietor's warehouse bonds on customs Forms 3581 and 3583, in a penalty of \$5,000 on each of the premises covered, but not to exceed \$50,000 on all premises, unless the commissioner believes additional security necessary. Collectors are required, in submitting proprietor's warehouse bonds for approval, to set forth the basis of their recommendations as to the penal sum of the bonds, and to submit information on the following points:

(a) Location of the warehouse.

(b) Amount of space to be used for the storage of bonded merchandise.

(c) What, if any, police protection prevails at the place where the bonded premises are located.

(d) Responsibility of the proprietor.

(2) Carrier's bond, customs Form 3587, in a penalty to be recommended by the collector and approved by the Commissioner of Customs.

(3) Special blanket term overtime bond for railroad and trucking concerns. For the form thereof see T. Ds. 46780 and 46892.

(4) Blanket vessel term bond, customs Form 7569, in a penalty of \$10,000, or such larger amount as may be fixed by the Commissioner of Customs. A marine carrier desiring to execute a blanket vessel bond shall file with the collector of customs at the principal port of entry, for transmission to the Commissioner of Customs, an application for permission to file a blanket bond, which application shall be accompanied by the recommendation of the collector as to the sufficiency of the penalty, together with a statement showing the ports at which it is intended that the vessel shall trade, the character of cargoes consigned to such ports, and the estimated number of vessels entering and clearing at each port mentioned in the application.

(5) General or blanket term bond for entry of merchandise in a penalty of \$100,000, or such larger amount as may be fixed by the Commissioner of Customs. A principal desiring to execute a blanket bond covering the entry of merchandise shall file with the collector at the principal port of entry, for transmission to the Commissioner of Customs, an application for permission to file a blanket bond, which application shall be accompanied by the recommendation of the collector as to the sufficiency of the penalty, together with a statement showing the port or ports at which it is intended that entry will be made, the general character and average value of merchandise consigned to the various ports together with the estimated duties payable thereon. There is no printed form of this bond, but upon approval of the application the Bureau will furnish a sufficient number of mimeographed copies for execution.

(6) Upon notification by the Commissioner of Customs of the approval of the application and the penalty fixed for the bonds provided under paragraphs (4) and (5) of this article, the collector shall cause the bond, with the necessary extra copies, to be executed and forwarded to the Bureau for approval.

(7) Blanket smelting and refining bond, form given in T. D. 40651, in a penalty to be fixed by the Commissioner of Customs.

(8) Special bond for observance of neutrality in a sum double the value of the vessel and cargo. There is no printed form of this bond.

(b) Blanket term bonds must be accompanied by a sufficient number of copies for transmittal, through the collector of customs, to each port at which the principal seeks to conduct business.

BONDS APPROVED BY COLLECTORS

ART. 1254. *Form and execution.*—(a) The following bonds will be approved by the collector and remain on file in his office except Form 4615, which is transmitted to the United States attorney:

(1) Bond of customs cartmen or lightermen, customs Form 3855, in an amount of \$5,000, but not to exceed \$50,000, unless collector deems latter amount it not sufficient and reports matter to the Bureau for action.

(2) Bond of claimant of seized goods for costs of court, customs Form 4615, in an amount of \$250.

(3) Bond of vessel to produce complete manifest and export declarations, customs Form 7301, in an amount of \$500 conditioned for the payment as liquidated damages of \$50 for each shipper's declaration not filed within the prescribed time, the damages not to exceed \$500 in the aggregate.

(4) Bond to produce shipper's export declaration for goods exported to Canada or Mexico by car, vehicle, or ferry, customs Form 7303, in an amount of \$500, \$50 to be collected as liquidated damages for each shipper's export declaration not filed within 6 days.

(5) Term bond to produce shipper's export declarations for goods exported to Canada or Mexico by car, vehicle, or ferry. For the form thereof see T. D. 46594.

(6) Special single entry carpet wool and camel's hair bond, customs Form 7547, in an amount double the regular duties on the quantity of wool or hair of the camel withdrawn or transferred, plus 50 cents per pound of such quantity.

(7) Special term carpet wool and camel's hair bond, customs Form 7549. The penalty on this bond shall be \$10,000, or such larger amount as may be determined by the collector to afford ample security to the revenue.

(8) Single consumption entry bond, customs Form 7551, in an amount equal to the value of the articles described on the entry, plus the estimated duty thereon. In the case of merchandise which appears to the satisfaction of the collector to be unconditionally free of duty and not prohibited from admission into the commerce of the United States, the penalty may be in such lesser amount (disregarding the value of the articles) as, in the opinion of the collector, will be sufficient to accomplish the purpose for which the bond is given.

(9) Term consumption entry bond, customs Form 7553, in an amount of \$10,000, or such larger amount as may be determined by the collector to afford ample security to the revenue. This bond refers only to entries to be made at a single port. The rule prescribed in paragraph (a) (8) for determining the penalty of the bond in the case of merchandise unconditionally free of duty shall be applied in making charges against term bonds.

(10) Immediate delivery single entry bond, customs Form 7551-A, in an amount equal to the value of the articles plus the estimated duties thereon, if any.

(11) Immediate delivery term bond, customs Form 7553-A, in an amount which the collector deems sufficient, but not less than \$10,000.

(12) Warehouse entry bond, customs Form 7555, in an amount equal to double the estimated duty on the merchandise.

(13) Single entry bond for exportation or transportation, or for transportation and exportation, customs Form 7557, in an amount equal to double the estimated duty.

(14) Term bond for exportation or transportation, or for transportation and exportation, customs Form 7559, in an amount of \$10,000, or such larger amount as may be determined by the collector to afford ample security to the revenue.

(15) Bond for articles entered or withdrawn from warehouse conditionally free of duty, customs Form 7561, in an amount equal to double the estimated duties.

(16) Bond for temporary importations, customs Form 7563, in an amount equal to one and one-quarter times the estimated duties.

(17) Bond for articles for permanent exhibition, customs Form 7565, in an amount equal to one and one-quarter times the estimated duties.

(18) Single entry vessel or aircraft bond, customs Form 7567, in an amount to be fixed by the collector sufficient to protect the revenue, but in no case less than \$500.

(19) Vessel or aircraft term bond, customs Form 7569, in an amount of \$10,000, or such larger amount as may be determined by the collector to afford ample security.

(20) Special term overtime bond for railroad and trucking concerns. For the form thereof see T. D. 46780.

(21) Single entry or withdrawal bond on entry for manufacturing warehouse, customs Form 7571, in an amount equal to double the estimated duties.

(22) Single entry bond to produce bill of lading, customs Form 7581, in an amount equal to one and one-half times the invoice value.

(23) Antidumping bond, customs Form 7591, required by the Antidumping Act of 1921, in an amount equal to the estimated value of the merchandise.

(24) Special bond, taken under the provisions of section 337 (f), Tariff Act of 1930. The penalty on this bond will be prescribed in each specific instance as individual cases arise.

(25) Special bond for clearance of vessel penalized for carrying smoking opium under the provisions of section 584, Tariff Act of 1930. The penalty of this bond shall be in an amount satisfactory to the collector to guarantee the payment of any fine imposed against the vessel. This form of bond is not printed.

(26) Bond for storage of imported tea, in an amount of \$5,000. This form of bond is not printed.

(27) Bond for entry and transportation of special delivery packages under act of June 8, 1896, in an amount of \$10,000. (See art. 349.)

(28) Special bond for exportation of convict-made goods, in an amount equal to the domestic value of the merchandise. This form of bond is not printed.

(29) Landing bond, customs Form 7593, to land spirits, wines, or other alcoholic liquors in foreign ports.

(b) All single entry bonds must bear the entry number and must be promptly filed with the entries to which they relate. (See art. 355 (e).)

(c) Term bonds, when approved, must be numbered serially and filed in separate binders in consecutive order.

(d) The penalty named in any customs bond approved by the collector shall not be less than \$100, except when the law or regulation expressly provides that a lesser amount may be taken. Fractional parts of a dollar will be disregarded in computing the penal sum, which will always be stated in the next higher dollar. The penalty of the bond must be stated both in words and figures. Abbreviations must not be used, except in dates, in descriptions of merchandise, and the marks and numbers on packages. Lines must be drawn through all spaces not filled in.

PROVISIONS APPLICABLE TO ALL BONDS

ART. 1255. *General instructions.*—(a) The names of the principals and sureties and their respective places of residence must appear in full in the body of the bond. All signatures, except those of officers of corporations, must be made in the presence of two persons, who must sign their names as witnesses, followed by their addresses. If the bond is executed by an authorized officer of a corporation, the officer's signature must be properly attested under the corporate seal.

(b) When two persons signing as witnesses act for both principal and surety, they must so indicate by stating "as to both", or a similar term.

(c) The bond must bear date as of the day it was actually executed. The termination date must be the last day of the period and not the first day of a succeeding period. To illustrate: January 1, 1930, to December 31, 1930, and not January 1, 1930, to January 1, 1931.

(d) Bonds in which erasures, interlineations, and alterations occur must have placed upon them the statement by an agent of the surety company, or of the personal sureties thereto, that such alterations or erasures were made prior to the signing of the bond; or if such alterations or erasures were made after the bond was signed, the consent of all the parties thereto must be written in the bond.

(e) In no case will a bond, after having been approved, be changed in condition or extended by stipulation or otherwise, and when such changes or extensions are desired a new bond must be executed.

ART. 1256. *Seal*.—(a) In the case of bonds approved by the Secretary of the Treasury or Commissioner of Customs, seals of wax or wafer must be attached to the signatures of principals and sureties, if individuals, and corporate seals must be affixed to the signatures of persons signing on behalf of corporations.

(b) Bonds approved by collectors of customs must be sealed in accordance with the law of the State in which executed, except that when the charter or governing statute of the corporation requires its acts to be evidenced by its corporate seal, such seal must be required.

ART. 1257. *Partnerships*.—(a) Tariff Act of 1930, section 495:

When any bond is required by law or regulations to be executed by any partnership for any purpose connected with the transaction of business at any customhouse, the execution of such bond by any member of such partnership shall bind the other partners in like manner and to the same extent as if such other partners had personally joined in the execution, and an action or suit may be instituted on such bond against all partners as if all had executed the same.

(b) Partnership bonds must be executed in the firm name, with the name of the member or attorney of the firm executing same appearing immediately below the firm signature. The names of all persons composing the partnership must appear in the body of the bond, as for example, "A., B., and C., composing the firm of A., B. and Co."

(c) The insertion of the individual names of partners, in bonds executed by a firm as principal, may be omitted when written notice of the full names of all partners embraced in such firm shall have been previously filed with the collector.

ART. 1258. *Corporations*.—(a) When a corporation is the principal, its legal designation and address of its principal place of business must be inserted in the body of the bond, which bond must be signed by an authorized officer or attorney of such corporation, and the corporate seal must be affixed to the bond immediately adjoining the signature of the person executing the same. When the bond is approved by the Secretary of the Treasury or the Commissioner of Customs, the official character and authority of the person or persons executing the bond for the principal, shall be certified by the secretary or assistant secretary, according to the "certificate as to corporate principal" appearing in the bond. In lieu of such certificate there may be attached to the bond so much of the records of the corporation as will show the official character and authority of the officer signing, the evidence consisting of—

(1) A certificate from the proper public officer, showing the legal existence of the corporation.

(2) A copy of the bylaws, or so much thereof as authorizes the execution of such bonds, certified by the secretary of the corporation and verified by its corporate seal.

(3) A copy of the document authorizing such officer to sign such bonds, certified by the secretary of the corporation under the corporate seal, or a power of attorney, executed in accordance with article 301, containing such authority.

(b) When the bond is approved by the collector, the evidence hereinabove referred to must be filed with such officer.

The collector may waive the production of evidence of incorporation when such fact is a matter of common knowledge and he will so certify.

(c) When an attorney in fact executes bonds on behalf of a corporation and the bond is of a class approved by the Secretary of the Treasury or the Commissioner of Customs, there must be attached a power of attorney executed under the corporate seal by an officer of the corporation, whose authority to execute such power must be shown as prescribed in paragraph (a) of this article. If the bond is of a class approved by the collector, the power of attorney must be filed with him on the prescribed form.

(d) The name of a corporation executing customs bonds may be printed or placed thereon by means of a rubber stamp or otherwise, followed by the written signature of the authorized officer or attorney.

ART. 1259. *Individual sureties*.—(a) If individuals sign as sureties, there must be not less than two except that, in the case of bonds approved by the collector, one surety may be accepted if the collector is satisfied that such surety is sufficient for the protection of the Government. Every surety on a customs bond must be both a resident and citizen of the United States, and before being accepted as surety must take oath on customs Form 3579, setting forth the amount of his worth, over and above all his debts and liabilities, and such exemptions as may be allowed by law, the general description and the location of one or more pieces of real estate owned by him within the limits of the customs district, and the value thereof over and above all encumbrances, and shall produce such evidence of solvency and financial responsibility as the collector may require.

(b) Each individual surety must have unencumbered property liable to execution, the current market value of which shall be equal to the penalty of any bond executed by him. If a single surety is accepted, he shall qualify in an amount equal to twice the penalty of the bond. The property should be located within the limits of the customs district in which the contract of suretyship is to be performed.

(c) An individual surety shall not be accepted on a bond until he has satisfied the collector as to his financial responsibility. The collector may refer the matter to the supervising customs agent or the customs agent in charge, as the case may be, for immediate investigation to verify the financial responsibility of the surety. When an individual surety has previously been investigated, further reference to the customs agency service need not be made oftener than once every 6 months, unless the collector believes a further investigation is necessary in order to follow the continued solvency of such sureties.

(d) In order to follow the continued solvency or the sufficiency of individual sureties, collectors must require a new oath and determine the sufficiency of such sureties as prescribed in paragraphs (a) and (c) of this article at least once every 6 months, or oftener if they deem it advisable.

(e) A married woman will not be accepted as surety.

(f) Individuals other than married women may execute powers of attorney to sign as surety on customs bonds. If limited to bonds of one or several importers, they must be named in the power. Such power must have attached a justification of the donor in a specified amount.

ART. 1260. *Delinquent sureties*.—(a) Persons shall not be accepted as sureties on bonds who are in default upon any other bond.

(b) No person shall be accepted as a surety who, at the time of the submission of the bond, is required to make satisfaction upon an unexpired bond or bonds, except in an amount equal to his assets which are not encumbered by any such unexpired bond or bonds.

ART. 1261. *Partners as sureties*.—A person may act as surety for a business partner when such person is acting with respect to his separate property and in his respective individual capacity, but not when the act relates to partnership matters or to his status as a member of the partner-

ship. A member of a partnership shall not be accepted as surety on a bond executed by the firm as principal.

ART. 1262. *Corporate sureties.*—(a) A list of corporations authorized to act as sureties on bonds, with the amount in which each may be accepted, will be furnished semi-annually to all collectors of customs by the Secretary of the Treasury, and no corporation will be accepted as a surety on a bond unless appearing in such list and no bond shall be for a greater amount than the limit therein unless the excess is protected as prescribed in T. D. 39195, paragraph 12.

(b) Two or more companies may be accepted as sureties on any obligation, the penal sum of which does not exceed the limitations of their aggregate qualifying power, as fixed and determined by the Secretary of the Treasury. In such cases each company shall limit its liability, in terms, upon the face of the bond, to a definite specified amount, such amount to be in all cases, however, within the limitations herein prescribed, unless such excess is protected as prescribed in paragraph (a) of this article.

(c) When a bond is executed by an authorized and approved corporate surety through an agent or attorney of said company, a power of attorney on treasury Form 272, showing the authority of such persons to act for the surety company, must be filed in the office of the collector approving such bond, or filed in the Treasury Department when the bond is to be approved by the Secretary of the Treasury or the Commissioner of Customs.

(d) Whenever a bond is executed in a customs district other than the one in which it is to be filed, the bond shall be approved as to surety by the collector of customs in the district in which it was executed, and the authority of the agent of the surety company executing the bond on behalf of the company must be set forth on card power of attorney, treasury Form 272, properly completed and attached to the bond, if such evidence has not been submitted to the collector at the port of filing.

ART. 1263. *Same party as principal and surety—Attorney.*—The same person, partnership, or corporation can not be both principal and surety on a bond, but a person may act as attorney in fact for both the principal and surety. A person acting as attorney in fact for a principal may be accepted as surety on the same bond, and when acting as attorney for the surety may be the principal on such bond.

ART. 1264. *Acceptance of United States bonds and notes in lieu of sureties.*—(a) United States Code, title 6, section 15:

Wherever by the laws of the United States or regulations made pursuant thereto, any person is required to furnish any recognition, stipulation, bond, guaranty, or undertaking, hereinafter called "penal bond", with surety or sureties, such person may, in lieu of such surety or sureties, deposit as security with the official having authority to approve such penal bond, United States Liberty bonds or other bonds or notes of the United States in a sum equal at their par value to the amount of such penal bond required to be furnished, together with an agreement authorizing such official to collect or sell such bonds or notes so deposited in case of any default in the performance of any of the conditions or stipulations of such penal bond. The acceptance of such United States bonds or notes in lieu of surety or sureties required by law shall have the same force and effect as individual or corporate sureties, or certified checks, bank drafts, post-office money orders, or cash, for the penalty or amount of such penal bond. The bonds or notes deposited hereunder, and such other United States bonds or notes as may be substituted therefor from time to time as such security, may be deposited with the Treasurer of the United States, a Federal reserve bank, or other depository duly designated for that purpose by the Secretary, which shall issue receipt therefor, describing such bonds or notes so deposited. As soon as security for the performance of such penal bond is no longer necessary, such bonds or notes so deposited shall be returned to the depositor. * * *

(b) Collectors accepting such securities shall be governed by the general rules and regulations applicable to such transactions, as prescribed in Department Circular 154, dated Feb. 6, 1935.

ART. 1265. *Acceptance of cash deposits or obligations of the United States in lieu of surety bonds.*—(a) Tariff Act of 1930, section 623 (b):

The Secretary of the Treasury is authorized to permit the deposit of money or obligations of the United States, in such

amount and upon such conditions as he may by regulations prescribe, in lieu of any bond required by the provisions of the customs laws, or by regulations promulgated thereunder.

(b) Collectors are authorized to accept in lieu of any bond required by the customs laws or regulations, United States money, United States bonds, certificates of indebtedness, Treasury notes, or Treasury bills in an amount equal to the penalty of the required bond, except that in the case of temporary importations under paragraphs 1607, 1747, 1808, and 1809 and section 308 of the tariff act, the security shall be in an amount equal to one and one-quarter times the estimated duties on the merchandise. At the time of the deposit of any such obligations with the collector of customs, the obligor shall deliver to such collector a duly executed power of attorney and agreement, in favor of the collector, in a form similar to that prescribed in Department Circular 154, dated February 6, 1935, authorizing such officer to collect or sell such obligations so deposited in case of any default in the performance of any of the conditions or stipulations of the bond in lieu of which the deposit is taken, and to apply the proceeds of such sale or collection, in whole or in part, to the satisfaction of any damages, demands, or deficiency arising by reason of such default. In modifying the power of attorney hereinbefore prescribed, the conditions or stipulation of the bond applicable, in lieu of which the deposit is taken, shall be written into such power of attorney so that in case of any default, the collector will have full power to dispose of the obligations deposited. The procedure outlined in Department circular hereinabove referred to shall be followed in all cases except as modified with the approval of the Secretary of the Treasury to cover special cases.

CANCELLATION OF BONDS

ART. 1266. *Export bonds.*—(a) Bonds required for the exportation of merchandise may be canceled upon the specification of such merchandise on the outward manifest, or outward bill of lading, the inspector's certificate of lading, the record of clearance of the vessel, and the production of a foreign landing certificate, if such certificate is required by the collector; or, if exportation or destruction is not timely, upon the payment of duties imposed by law, in the case of articles entered under paragraphs 1747 and 1808, or, in the case of articles entered under paragraph 1607 or section 308, upon the payment of liquidated damages equal to the entire penal sum of the bond, or the payment of such amount less than the full liquidated damages as may be fixed by the Commissioner of Customs. The requirements of paragraph 3 of vessel bonds, customs Form 7567 or 7569, may be considered as having been complied with upon the production of such of the above-mentioned documents as may be applicable thereto: *Provided*, That upon exportation of narcotic drugs, and the equipment, stores (except such supplies as are placed on board vessels under the provisions of secs. 309 and 317 of the Tariff Act of 1930), and machinery for vessels, a landing certificate will be required in all cases.

(b) The landing certificate herein provided for must be produced within 6 months from date of exportation and must be signed by a revenue officer of the foreign country to which the merchandise is exported, unless it is shown that such country has no customs administration, in which case the certificate may be signed by the consignee or by the vessel's agent at the place of landing, and sworn to before a notary public or other officer authorized to administer oaths and having an official seal.

(c) In cases where landing certificates are required and the same can not be produced, an application for waiver thereof may be made to the Bureau through the collector, accompanied by such proofs of exportation and landing abroad as may be available.

ART. 1267. *Exportation—When not bona fide.*—(a) An exportation is a severance of goods from the mass of things belonging to this country with the intention of uniting them to the mass of things belonging to some foreign country.

The shipment of merchandise abroad with the intention of returning the same to the United States is not an exportation. Merchandise of foreign origin returned from abroad under these circumstances is dutiable according to its nature, weight, and value at the time of its original arrival in this country.

(b) Bonds given for the exportation of merchandise should not be canceled by collectors, unless they are satisfied that there has been an actual bona fide exportation.

ART. 1268. Time for production of missing documents.—

(a) When entry is made prior to the production of a document, whether the entry is charged against a single entry or a term bond, a card memorandum on customs Form 5101, at comptrollers' ports, or on customs Form 3513 at other ports, must be prepared by the importer and presented with the entry and this card must be filed as a card index of missing documents, either alphabetically, by dates of expiration, or by entry number, as most convenient. When the document is produced the card must be signed by a customs officer and delivered as a receipt and notation made on the entry. No other record is required in connection with the cancellation of consumption entry bonds.

(b) Except when a definite period is fixed by law, all documents for the production of which bond is given must be delivered to the collector of customs within 6 months from the date of the transaction. If the period ends on a Sunday or holiday the next day will be allowed.

ART. 1269. Application for extension of time.—On written application, addressed to the collector, showing to his satisfaction that failure to produce the documents was not due to lack of diligence, bonds given by agents to produce consignee's declarations, and bonds given to produce certificates of exportation, landing certificates, and other documents, except invoices, may be extended for a period of three months, and a further extension of three months. It is not necessary to secure the assent of the sureties to an extension of time on bonds the obligation of which provides for the continued liability on any lawful extension thereof.

ART. 1270. Nonproduction of documents.—Failure to redeliver packages.—Penalties and deposit of.—(a) Collectors of customs, in treating bonds for the production of missing documents as satisfied, will demand and collect a sum of \$10 for each missing declaration of the consignee or other document, except shipper's export declarations and consular invoices, not produced within the time prescribed by the regulations, or any lawful extension thereof. A like amount shall be collected for each required consular invoice which is not produced on the date of entry or within 6 months thereafter, provided the person making entry submits an application under oath for relief from the full penalty of the bond, explaining in detail why the consular invoice cannot be produced, and the collector of customs is satisfied by such application, or otherwise, that the failure to produce the missing invoice is due to causes wholly beyond the control of the person making entry, and is not due to any purpose of the foreign seller or shipper to withhold information required by law, regulation, or special instruction to be shown on the invoice.

(b) The sum of \$50 shall be collected as liquidated damages for each shipper's export declaration not produced within the time prescribed by the regulations, or any lawful extension thereof.

(c) An amount equal to the invoice value plus the duty will be collected for failure to return to the collector on demand packages subject to redelivery.

(d) Such sums as shall be collected on bonds as liquidated damages will be deposited as miscellaneous receipts.

(e) **Free entry documents.—**(1) When free entry is dependent upon the production of a document which the importer fails to produce, or where the conditionally free provision claimed on entry is held to be inapplicable, the claim for free entry should be treated as abandoned upon the assessment of duty, and the bond given for the production of the free entry document should be canceled without the collection of liquidated damages.

(2) When the production of a document required by the regulations is waived, by either the Department or the collector, and free entry is permitted, such waiver automatically relieves the importer from the payment of liquidated damages.

(3) When a bond is given for the production of a certificate of exportation (art. 397 (a)), within 6 months from the time of entry, and the certificate is produced after the expiration of the bonded period but prior to the liquidation of the entry, it should be accepted as satisfying the requirement that it be filed in connection with the entry, and no liquidated damages should be collected under this article.

ART. 1271. Uncanceled bonds—Report of, to Bureau.—Collectors will report to the Bureau for instructions all bonds given for the production of documents at the expiration of 3 months from the date of maturity, with respect to which no application is pending for cancellation or extension.

ART. 1272. Prosecution of bonds—Report to United States attorney.—(a) Collectors will report to the United States attorney, on customs Form 4627, for prosecution all custom bonds, except those given for the production of documents, which remain uncanceled 30 days from date of maturity, accompanied by certified copies of the bonds. Such report will be made in triplicate, one copy to be forwarded to the General Counsel for the Department of the Treasury, through the Bureau of Customs, and the third copy to be filed in the office of the collector.

(b) The original bonds will be retained at the custom-house, subject to the request of such attorney for inspection or for use upon the trial, and his receipt taken therefor when delivered to him.

(c) Application for relief on bonds reported for prosecution will be referred by the collector to the United States attorney.

ART. 1273. Cancellation by mistake or through fraud.—The cancellation of a customs bond by mistake or through fraud will not relieve the parties from liability thereunder. Such fraud will, on discovery, be forthwith reported to the United States attorney for prosecution.

CHAPTER XXIV

REPORTS AND ACCOUNTS OF CUSTOMS OFFICERS OTHER THAN TO BUREAU OF CUSTOMS

ART. 1274. List of forms.—The following is a list of reports, abstracts, schedules, requisitions, and accounts, with their catalog numbers, which collectors and comptrollers of customs are required to submit to the various officers of the Treasury Department, other than the Bureau of Customs, and to the Departments of Commerce, Labor, and of Agriculture, and to the United States Maritime Commission.

TREASURY DEPARTMENT

To the Surgeon General of the Public Health Service

[To be made by customs officers when in charge of established relief stations of the Public Health Service]

Monthly

Public health Form

1922A. Medical officer's monthly report of relief.

1926. Voucher for the care of seamen in hospital.

1927. Report of relief furnished foreign seamen or other pay patients.

Standard Form

1034. Voucher for purchases and services other than personal.

Public health Form

1971F. In-patient card.

1982E. Monthly report of encumbrances.

Annually

1930. Proposal to furnish care and treatment of seamen in hospital.

1931. Proposal for the care and treatment of seamen in contagious hospitals.

D. F. 226. Proposal for the burial of deceased seamen.
Standard Form

1036. With each proposal recommended.

NOTE.—Proposals 1930, 1931, and 1932A are to be forwarded only in case such services are provided for by the Public Health Service.

Whenever necessary

Public health Form

1928. Statement of account and receipt for care and treatment of foreign seamen or other pay patients.

1929A. Statement of account and receipt for treatment of foreign seamen (out patients).

1971E. Out-patient card.

[To be made by customs officers not in charge of established relief stations of the Public Health Service]

To the Commandant, Coast Guard

Whenever Necessary

Coast Guard
Form

2692. Report of casualty to vessel.

DEPARTMENT OF COMMERCE

NOTE.—Blank forms under this head will be furnished by the Department of Commerce upon requisition (commerce Form 1501) and as per instructions contained in commerce Form 1500, "Catalogue of books and blanks."

To the Director of Marine Inspection and Navigation

[To be forwarded on day of issue]

Commerce Form

1266. Duplicate of each certificate of registry issued.

1271. Duplicate of each certificate of enrollment issued on seaboard and western rivers.

1273. Duplicate of each certificate of enrollment issued on Great Lakes.

1285. Duplicate of each license issued to vessel under 20 tons on seaboard and western rivers.

1288. Duplicate of each license issued to yachts under 20 tons on seaboard and western rivers.

1290. Duplicate of each certificate of enrollment issued to yachts.

Monthly

Standard Form

1020. Account current.

1063. No transactions for which an accounting is required.

Commerce Form

1001. Record and schedule of navigation fees, accompanied by vouchers, commerce Form 1008.

1001. Record and schedule of collections on account of deceased passengers, accompanied by voucher, commerce Form 1008.

1004. Recapitulation of tonnage tax collected, accompanied by voucher, commerce Form 1002.

1007. Record and schedule of navigation fines, penalties, and forfeitures, accompanied by vouchers, commerce Form 1006.

1007. Record and schedule of navigation fines, penalties, and forfeitures remitted.

1071. Record and schedule of special deposits accompanied by receipts, commerce Form 1075.

1073. Record and schedule of special deposits refunded, accompanied by vouchers, commerce Form 1076.

1081. Record and schedule of fines, penalties, and forfeitures under navigation laws.

1209. Report of no transaction under abstract of marine documents surrendered at other than port of issue.

1461. Summary of examination of vessels having on board passengers other than cabin.

1462. Report of examination of passenger vessels.

Quarterly

1200. Statement of vessels built, lost, abandoned, sold to aliens, etc.

1201. Letter of transmittal showing balances of tonnage.

1202. Abstract of marine documents issued and surrendered.

1318. Transcript of all marine documents deposited after the expiration of the statutory period.

129. Laid-up vessels, 500 gross tons and over.

130. Laid-up vessels, 100 to 499 gross tons.

Semiannually

Commerce Form

1079. Report of unsettled cases of fines, penalties, and forfeitures for violations of the navigation laws. (Forwarded June 30 and December 31.)

Annually

1004a. Annual and semiannual recapitulation of tonnage tax collected.

10. Annual alphabetical list of documented yachts.

12. Annual list of documented merchant vessels.

12½. Annual recapitulation of documented merchant vessels.

132. Unrigged vessels of 5 net tons and over not now documented.

133. Yachts of 5 net tons to and including 15 gross tons not now documented.

134. State and municipal vessels of 5 net tons and over not now documented.

135. Laid-up vessels, 5 net to 99 gross tons.

136. Laid-up yachts, 5 net tons and over.

Whenever Necessary

1086. Certified statement of erroneous or excessive exactions other than of import duties.

1250. Application for yacht commission.

1320. Application for official number and signal letters for vessel.

1322. Certificate showing that official number and net tonnage have been marked on vessel.

1339. Bill of sale recorded since issue of outstanding marine document.

To the Bureau of Foreign and Domestic Commerce

Monthly

1182. Report of fuel or bunker coal and oil supplied to steamers in foreign trade.

Quarterly

1115. Manufactured articles exported with benefit of drawback.

Whenever Necessary

1175. Report of no transactions.

DEPARTMENT OF LABOR

To the Commissioner General of Immigration and Naturalization

Monthly

Standard Form

1020. Consolidated account current of collections on account of head tax, fines for violations of the immigration laws, fines for violations of the Chinese exclusion laws, and moneys received and disposed of on account of special deposits on account of alien passengers or immigrants detained or in transit through the United States, and persons making unsupported claims to United States citizenship.

Immigration Form

703. Record and schedule of collections on account of head tax, accompanied by bill and notice of head tax (immigration Form 603), and the disposition of fines for violations of the immigration laws and fines for violations of the Chinese exclusion laws (a separate schedule for each class), accompanied by bill and notice of fines (immigration Form 604).

706. Schedule of special deposits refunded that were collected on account of alien passengers or immigrants detained or in transit through the United States, persons making unsupported claims to United States citizenship, and fines for violations of the immigration laws (a separate schedule for each class), accompanied by the receipt vouchers (immigration Form 708).

605. Schedule of fines, penalties and forfeitures.

Standard Form

1063. Report of no transactions. To be used when no transactions occurred during the month.

NOTE.—Blank forms under this head will be furnished by the Department of Labor (Division of Publications and Supplies) upon requisition (Immigration Form 712) and as per instructions printed on the back of the blank.

To the United States Maritime Commission

Daily

Maritime Commission Form

7036. Daily report of vessel movements. Arrivals.

7037. Daily report of vessel movements. Departures.

7038. No transaction report (both arrivals and departures).

7801. Cargo report of vessels entering American ports from foreign and noncontiguous United States ports and in intercoastal trade.

7802. Cargo report of vessels clearing from American ports for foreign and noncontiguous United States ports and in intercoastal trade.

DEPARTMENT OF AGRICULTURE

To the Biological Survey

Quarterly

Customs Form

6551. Report of wild animals and birds imported and also of game-bird eggs imported for propagation.

CHAPTER XXV

STATISTICS

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REPORTS TO BUREAU OF CUSTOMS

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GENERAL PROVISIONS

ART. 1275. *Compilation and publication.*—(a) Statistics of imports and exports are compiled and published by the Bureau of Foreign and Domestic Commerce of the Department of Commerce from data supplied by collectors of customs as hereinafter provided. Correspondence relative to statistical reports should be addressed to the above Bureau at Washington, D. C.

(b) Inquiries relating to statistical requirements of import entries and export declarations, and the procedure of coding and forwarding these documents, should be addressed to the Section of Customs Statistics, Department of Commerce at New York.

ART. 1276. *Accounts, what to show.*—(a) The accounts of the commerce of the United States with foreign countries (or its noncontiguous territory) shall comprehend and include, in tabular form, the quantity, by weight or measure, as well as the value of the various articles of foreign commerce.

(b) Articles sent out of the country temporarily, such as automobiles for touring purposes, commercial samples, circuses, race horses, and other articles intended to be returned to the United States, which are not sold and do not enter the trade of the country to which sent, should not be included in the statistics as exports when shipped abroad, nor as imports when returned to the United States.

ART. 1277. *Statistical reports furnished to collectors.*—(a) The Section of Customs Statistics will supply each collector monthly with statistical reports of the imports into and exports from his district, by commodities and countries, in the form of machine-made tabulations, the district, port, vessel, country, classification, etc., being in code numbers.

(b) The statistical report of imports will appear upon white sheets and exports upon yellow sheets. These sheets should be bound by collectors and used as statistical blotters.

ART. 1278. *Statistics furnished by collectors.*—Trade papers, trade organizations, and commercial concerns may be furnished with such statistical information regarding the foreign trade by customs districts as may be available from the records kept for the purpose of making reports to the Department of Commerce, or as shown in the monthly statistical reports supplied to collectors by the Section of Customs Statistics at New York. In no case shall information be furnished in such manner as to disclose individual transactions or names of importers or exporters. (See art. 1465.)

ART. 1279. *Confidential information.*—The contents of invoices, entries, manifests, and export declarations must be treated as confidential and not disclosed to others than the parties in interest by employees of the Customs Service or the Section of Customs Statistics. (See art. 1465.)

STATISTICAL CLASSIFICATION SCHEDULES

ART. 1280. *Statistical information required in entries.*—

(a) The kinds, quantities, and values of all imported articles shall be ascertained from the entries. Collectors of customs shall require entries of imported merchandise to contain the information required in Schedule A, statistical classification of imports, as prescribed by the Secretary of the Treasury, the Secretary of Commerce, and the chairman of the United States Tariff Commission. Tons, where required, should be long tons of 2,240 pounds as construed in section 2951, Revised Statutes, unless short tons are specified.

(b) The values of imported merchandise will be returned in the statistical reports in accordance with the dutiable values as defined in section 402 of the tariff act. The value of the containers or coverings and other charges or expenses incident to placing the merchandise in condition packed

ready for shipment to the United States, should be included in the statistical value of merchandise, whether the merchandise is dutiable or free of duty.

(c) For statistical purposes nondutiable charges should be deducted in entries from total invoice values or imported merchandise free of duty, as well as for merchandise subject to duty at specific or ad valorem rates.

ART. 1281. *Shippers' export declarations.*—The kinds, quantities, and values of articles exported to foreign countries or shipped to noncontiguous territory of the United States shall be compiled from the export declaration furnished by the shipper to the collector of customs at the port of exportation, prepared on the official form (customs Form 7525) in accordance with the instructions of T. D. 38410.

ART. 1282. *Separation of domestic and foreign merchandise.*—(a) The export declaration must show foreign goods separately from goods of domestic production. Only those goods will be reported as foreign which have undergone no change in form or condition or enhancement in value by the application of labor in the United States. Articles made from foreign materials or changed from the conditions in which imported by repacking, grinding, refining, or smelting will be classed as of domestic production or manufacture.

(b) Articles exported which are the growth, produce, or manufacture of the United States and articles of foreign origin which have been changed in form and enhanced in value by labor or manufacture in the United States are to be classified in accordance with Schedule B, statistical classification of domestic commodities exported from the United States, issued by the Department of Commerce.

(c) Articles exported which had been previously imported, and which are the growth, produce, or manufacture of foreign countries, and are exported in the same condition in which imported, will be classified in accordance with the Department of Commerce statistical classification of foreign merchandise exported from the United States.

ART. 1283. *Values of exports.*—(a) Articles exported to foreign countries or shipped to noncontiguous territory shall be valued at their actual cost or the values which they may truly bear at the time of exportation or shipment in the ports of the United States from which they are exported or shipped, including the value of cartons, cases, crates, boxes, sacks, and coverings of any kind.

(b) The value stated should be the actual cost or selling price, if the goods are sold, including actual or estimated inland freight charges from the interior place of shipment to the seaport or border point of exportation. If shipped on consignment without a sale having been made, the market value at the time of exportation in the ports of the United States from which exported should be stated.

(c) Freight and other charges from the port of departure in the United States to the place of destination in the foreign country or noncontiguous territory to which shipped must not be included in the export value.

ART. 1284. *Classification of countries.*—(a) In the statistical reports of imports, exports, and vessels entered and cleared the foreign countries will be classified in accordance with Schedule C of the Department of Commerce.

(b) The country to which imports shall be credited for statistical purposes is the country of origin. In cases in which the merchandise is invoiced in or exported from a country other than the country of origin, care should be taken to insure that the country of origin is correctly specified.

(c) Entries for immediate consumption or for warehouse, and withdrawals from warehouse for consumption, shall clearly specify the country of origin of the imported articles as well as the nationality and motive power of the vessel from which the imported articles were landed in the United States or in Canada or Mexico if shipped through either of these countries.

ART. 1285. *Country of destination of exports.*—(a) If the country of ultimate destination of the commodities exported is different from that for which the vessel or car clears or

departs, collectors will require exporters and shippers or their agents to state in the shippers' declarations as the country of ultimate destination the country to which the commodities are sold or destined for a market.

(b) Special care should be taken to state the final destination of goods shipped through Canada to Europe and of goods to be transshipped in the United Kingdom, the Netherlands, Germany, and France to other countries, and of goods shipped through Chile or Peru destined to Bolivia.

ART. 1286. *Fractions in quantities and values.*—In the expression of values in export declarations and statistical copies of entries, fractions of a dollar less than 50 cents will be ignored, and fractions of 50 cents or upward will be counted as \$1. A like rule will apply to fractions of weight, measure, and tonnage.

ART. 1287. *Dates of importation and exportation.*—For statistical purposes the date of entry will be regarded as the date of importation and the date of clearance will be regarded as the date of exportation.

ART. 1288. *Description of articles exported.*—(a) The description of merchandise in export declarations must be stated in specific and not in general terms. Such designations as "fruits", "provisions", "groceries", "canned goods", "hardware", "machinery", or any other general term must not be used. The articles should be described in sufficient detail to permit of their classification under the proper classes of export Schedule B, giving total quantity and value of each article, but omitting invoice details for different marks, sizes, and kinds of the same article.

(b) The number of packages, boxes, barrels, bales, etc., must be specified, with quantities in the unit stated in Schedule B, in net weight exclusive of the weight of barrels, boxes, or other bulky coverings and of salt or pickle in the case of salted or pickled fish and meats. Tons, where required, should be given in long tons of 2,240 pounds.

(See art. 657 (i) relative to export declarations for drugs.)

ART. 1289. *Errors in entries and export declarations.*—(a) Collectors will make a preliminary examination of all import entries and export declarations presented.

(b) If on examination any entries or declarations are found to be inaccurate or incomplete, either in the description of articles, or in omitting to state proper quantities and values, or insertion of the intermediate country instead of the country of final destination, or containing any error apparent on the face of the entry or declaration, the correction thereof will be required before acceptance. (Arts. 174 and 298, par. c.)

REPORTS TO THE BUREAU OF FOREIGN AND DOMESTIC COMMERCE

ART. 1290. *Reports, forwarding of.*—The following reports will be prepared by collectors at headquarters ports in accordance with the detailed instructions printed on the blank forms and forwarded to the Bureau of Foreign and Domestic Commerce at Washington, D. C., as early as possible after the close of the month and in no case later than the time specified for the various reports.

ART. 1291. *Imports and exports of gold and silver.*—(a) The statistical copy of every entry or export declaration involving gold or silver ore, bullion, coins, etc., shall be transmitted daily by air mail, special delivery, to the Division of Foreign Trade Statistics, Department of Commerce, Washington, D. C. This shall apply to entries and export declarations covering such commodities as copper, lead, etc., if any gold or silver is included therein.

(b) All entries or export declarations covering gold or silver shall furthermore be mailed to the Division of Foreign Trade Statistics, Department of Commerce, Washington, D. C., direct by the port where the entry papers or export declarations are filed.

(c) A separate series of identifying numbers covering such entries and export declarations shall be used. These identifying numbers will be placed immediately above the regular entry or export declaration numbers, and will be continued in numerical order.

ART. 1292. *Manufactured articles exported with benefit of drawback on imported materials contained therein.*—(a)

Such articles will be reported quarterly on commerce Form 1115 within 30 days after the close of each quarter. The articles will also be returned as domestic exports from the district of exportation.

(b) The articles exported will be shown, with quantities, classified according to Schedule B of the Department of Commerce, enlarged by the addition of sufficient subclasses to show separately each different kind of article exported, though several may be grouped under the same class number.

(c) For each exported article there will be shown the imported articles contained therein, classified according to Schedule A, showing quantities or values, or both, with rates of duty, sufficient to verify the amount of drawbacks paid.

ART. 1294. *Bunker coal or fuel oil.*—(a) Bunker coal or fuel oil laden on vessels cleared for foreign countries will be reported monthly on commerce Form 1182, within 15 days after the close of each month.

(b) Collectors will require masters or agents of vessels clearing in the foreign trade to show on the outward foreign vessel manifest the quantities and values of bunker or fuel coal and oil taken on board such vessels for their own fueling use apart from such quantities as may have been laden on the vessel as cargo.

ART. 1295. *Dumping duties.*—Collectors will report quarterly dumping duties collected under section 202 of the Antidumping Act, 1921, showing commodity, country from which imported, and amount of dumping duties. (Art. 845.)

ART. 1296. *No transactions report.*—Whenever there are no transactions in any of the above statements a report to that effect should be rendered within the required time on commerce Form 1175.

ART. 1297. *Statistical reports prepared at headquarters ports.*—The above statistical returns will be prepared and transmitted at the headquarters ports covering the commerce of the entire district, but the collectors may require that deputy collectors at ports of entry compile monthly reports covering transactions at such ports, to be forwarded to headquarters for consolidation with the district returns.

REPORTS TO SECTION OF CUSTOMS STATISTICS AT NEW YORK

ART. 1298. *Imported foods, drugs, etc., subject to inspection.*—(a) Statistical copies of entries for imported foods, drugs, insecticides, and fungicides; meat and meat-food products; grain and grass seeds; viruses, serums, and toxins; tea; narcotic drugs, and other special classes of merchandise covered in chapter X (arts. 547 to 692) as subject to inspection, examination, or permit by the Department of Agriculture or other Government offices, should not be transmitted to the Section of Customs Statistics of the Department of Commerce until the goods are admitted and released to the consignee.

(b) Entries for rejected goods which are exported or destroyed, regarded as "nonimportation" under article 557, should not be transmitted to the Section of Customs Statistics; if part of an entry is admitted and part rejected, the rejected portion should be crossed out and clearly indicated on the statistical entry sent to the Section of Customs Statistics.

ART. 1299. *Import entries and warehouse withdrawals.*—(a) Statistical copies of entries and withdrawals must describe the merchandise in the detail required by the statistical import Schedule A of the Department of Commerce. Collectors will insert the code numbers of district, port, country, and flag in the proper columns and forward the entries to the Section of Customs Statistics at New York in accordance with the procedure outlined in the Treasury decisions.

(b) Collectors may insert the code numbers of commodities and units of quantities if they find it convenient to do so while examining entries for compliance with the commodity classification required by Schedule A.

(c) Entries for imported raw wool must show the class of wool, whether carpet, clothing, combing, mohair, alpaca, etc.; the condition, greasy, washed, scoured, or pulled; and

the quality or grade in English or American standards: 36's to 44's as coarse or low crossbred; 44's/46's to 56's as medium crossbred; 56's to 58's as fine crossbred; and 60's and over as fine.

ART. 1300. *Reports of corrections.*—Changes in classification and changes in quantities or values amounting to \$100 made in liquidating entries or withdrawals must be reported to the Section of Customs Statistics at New York on customs Form 7401, correction report of import entry or withdrawal. In order to minimize correction reports, collectors may hold entries until after examination and weighing of the goods, making any changes on the statistical copies forwarded to the New York statistical office, if that practice will not result in great delay in transmitting statistical copies of entries.

ART. 1301. *Immediate transportation entries returned by port of final destination.*—(a) Imported merchandise entered for immediate transportation without appraisement, and merchandise imported through frontier ports in cars secured by customs seals, will be excluded from the return of imports at the port of first arrival, but will be returned as imported at the port where entered for immediate consumption or for warehouse.

(b) The entries of such goods, made at the port of first arrival and the port of final destination, are required to show the country where the articles were invoiced and the nationality and motive power of the vessel in which they were brought to the United States, or to Canada, or Mexico, if the goods reach the United States through those countries.

ART. 1302. *Imports of crude ores or metals.*—(a) Imported crude ores or metals entered into bonded smelting warehouses will be reported statistically as imported at the port where entered into the bonded smelting or refining warehouse, in accordance with the instructions of T. D. 39828. Quantities and values of the different metal contents will be obtained from the consular invoice or estimated from previous similar importations in accordance with T. D. 39828. (Art. 341, par. (e).)

(b) Consular invoices of gold, silver, copper, lead, tin, and other metals in ore and base bullion are required by Department of State circular of August 22, 1925, to show separately the quantities and values of each of the metals contained therein. (Art. 341, par. (f).)

ART. 1303. *Coding and forwarding of export declarations.*—Export declarations will be numbered, coded, and forwarded to the Section of Customs Statistics at New York in accordance with the instructions in paragraphs 3, 4, and 8 of T. D. 37531, sections 19 (as amended by T. D. 47088) and 20 of T. D. 38410, and other special instructions.

ART. 1304. *Shipments in transit through the United States.*—(a) Export declarations, customs Form 7525, are not required for foreign merchandise shipped in transit through the United States from one foreign country to another. In lieu thereof "Statistical Export Declaration for In-Transit Goods", customs Form 7513, will be used as provided in article 906 (a) and (b).

(b) Any export declarations filed by shippers for in-transit goods in addition to customs Form 7513, under a misunderstanding of the regulations, should not be forwarded to the Section of Customs Statistics at New York. Collectors should make a careful check of the outward foreign vessel manifest and railroad car manifest for the purpose of detecting such duplication of declarations.

EXPORT PROCEDURE

ART. 1305. *Manifests of vessels—Shippers' declarations—Clearance.*—(a) Before clearance shall be granted to any vessel bound to a foreign place or noncontiguous territory of the United States the master shall file a manifest on commerce Form 1374 of all the cargo on board his vessel. There shall also be filed with the collector declarations of the owners, shippers, or consignors of the cargo shipped by them, specifying the kinds, quantities, values, and the places to which destined. These declarations will be made in duplicate on customs Form 7525 in accordance with the

instructions printed thereon, the original verified by oath before a customs officer, notary public, or other authorized person for shipments valued at over \$100. Collectors will number the declarations serially as received.

(b) Where the cargo is to be transshipped in another customs district, including Alaska, Hawaii, Puerto Rico, and the Virgin Islands of the United States, for transportation to a foreign country or noncontiguous territory of the United States, the shippers' export declarations (customs Form 7525) should be filed only with the collector of customs at the port where the merchandise is last laden for its final destination.

(c) The manifest of a vessel bound to a foreign country or to or from noncontiguous territory of the United States must show the customhouse number of the export declaration for each consignment, also the particulars required by section 4199, Revised Statutes, namely, the destination of the vessel, the marks and numbers of the packages, and a description of the articles, contents, quantities, and values, provided that a notation on the manifest that values are as stated on shipper's declaration, copies of which are attached to such manifest, will be accepted. Any short shipment must be noted on the duplicate export declarations presented with the manifest. (Art. 173.)

ART. 1306. *Clearance on incomplete manifest under bond.*—Clearance may be granted on incomplete cargo manifest and before all shipper's declarations have been filed, upon application to the collector on customs Form 7301, and the execution of the bond printed thereon. The condition of the bond is that a complete outward manifest be filed not later than the fourth business day after clearance of the vessel, together with all export declarations theretofore received. Delinquent declarations must be filed with the collector as soon as received and at the latest within 6 days after clearance, unless a further extension of time is granted by the collector in exceptional cases. If required by the collector, pro forma declarations on customs Form 7303 must be filed enumerating shipments for which declarations are missing.

ART. 1307. *Cargo of vessel laden in different customs districts, how returned.*—When a vessel is laden in different customs districts with commodities to be exported to foreign countries, shippers' export declarations must be filed in the respective districts where laden. The collector will report as exports only the merchandise laden in his district.

ART. 1308. *Declarations for exports by railways, ferryboats, and vehicles.*—(a) Any person who delivers merchandise to any transportation company for exportation from the United States to a foreign country by rail, ferryboat, or vehicle must deliver to the collector of customs at the port through which the merchandise passes into foreign territory export declarations in duplicate on customs Form 7525, showing the kinds, quantities, and values of all merchandise delivered by him or his agent to such carrier for exportation.

(b) The collector shall not permit any car or other vehicle laden with merchandise intended for exportation to any foreign country to depart from the United States until a declaration specifying the kinds, quantities, and values of the merchandise has been delivered to him by the shipper or his agent. Exportation may be permitted under bond to produce missing declarations within 15 days.

ART. 1309. *In transit shipments, customs Form 7525 not to be used for.*—The foregoing article applies only to merchandise exported by land carriage or ferryboat to or through adjacent foreign territory for a market. Export declarations on customs Form 7525 are not to be filed for shipments from one part of the United States to another part thereof across foreign territory, nor for merchandise passing through the United States in transit from one foreign country to another, or from one portion of a foreign country to another portion thereof, across the territory of the United States. (Art. 1304.)

ART. 1310. *In transit shipments through Canada diverted.*—When grain or other commodities shipped from northern border or lake ports by vessel or railroad in transit through Canada to other United States ports are diverted

for import into Canada or for export from a Canadian port to foreign countries and collectors at the port of shipment are informed to that effect, they will obtain export declaration on customs Form 7525 from the original shippers and forward them to the Section of Customs Statistics at New York, in order that such diverted shipments may be included in the statistics of exports from the United States.

ART. 1311. *Shipments from interior to seaboard.*—Declarations for merchandise shipped from an interior point in the United States partly in transit through Canada or Mexico for export from a seaboard port of the United States are not required to be delivered to the collector of customs at the first border port, but the statistics of exports will be secured from shippers' declarations filed at the seaboard port of exportation.

ART. 1312. *Reporting in transit shipments.*—Foreign merchandise entered for shipment in transit through the United States, or for transshipment in ports of the United States, will not be reported as importations when received, nor will export declarations be required therefor when shipped out. Such merchandise will be reported to the Section of Customs Statistics at New York on customs Form 7513, giving the aggregate quantity and value of each of the various classes of merchandise and the countries to which destined, as prescribed by the Bureau of Foreign and Domestic Commerce. (Arts. 1304, 1309.)

ART. 1313. *Car manifests.*—(a) Upon arrival of merchandise for exportation at a border port the carrier must deliver to the collector of customs a car manifest, giving marks and numbers, the name of the shipper or consignor, description of the goods, and the destination thereof. This manifest may be the waybill, or a copy thereof, or a copy of the manifest prepared for the foreign customs. The required shipper's export declarations in duplicate must be attached to the car manifest or waybill when delivered to the collector.

(b) Under the provisions of the act of March 3, 1893, no railway car containing commodities for export will be permitted to leave the United States until the car manifest and shipper's export declarations have been delivered to the collector of customs; but if any declarations are missing, immediate exportation may be permitted upon the filing of pro forma declarations therefor and the execution of a bond on customs Form 7303.

ART. 1314. *Exportation by ferry or vehicle.*—The shipper or his agent must deliver shipper's export declarations in duplicate to the customs officer covering all goods exported by ferry, wagon, or other vehicle. The customs officer will retain the original declaration and deliver the certified duplicate to the shipper, master, or driver as a permit for the exportation of the goods. The driver of a vehicle will deliver the certified duplicate to the customs officer when the goods are taken out of the country. The master of a ferry will deliver to the customs officer at the close of each day all duplicates received during that day, accompanied by a statement that such duplicate declarations cover all goods exported on such ferry during that day. If a declaration can not be produced, exportation may be permitted upon the filing of a pro forma declaration and bond on customs Form 7303.

ART. 1315. *Penalty.*—The agent or other employee of any railway or transportation company who shall transport any merchandise into a foreign country before the delivery of a declaration, as required by law, except under bond as provided for, shall be liable to a penalty of \$50 for each offense.

ART. 1316. *Report of violations of law.*—Collectors of customs shall report without delay to the nearest United States attorney all violations of the provisions of the statistical laws.

ART. 1317. *Shipments from the interior for export.*—(a) For goods shipped on a through export bill of lading from an interior point to a foreign country or to a noncontiguous territory of the United States, the shipper must prepare and deliver to the carrier the export declaration in duplicate to accompany the waybill to the seaport or border port of exportation.

(b) For shipments from the interior on domestic bills of lading consigned to the seaboard for exportation, the export declaration may be delivered to the carrier as prescribed above or mailed to the consignee at the port of exportation. (Pars. 3 and 4, T. D. 38410.)

ART. 1318. *Divided shipments.*—If a shipment is divided at the port of exit by accident or intention, part being exported in one vessel or car and part in another, the agent of the carrier will note the amount shipped on the duplicate declaration attached to the vessel or car manifest. A declaration and duplicate covering subsequent shipments must be prepared by the carrier's agent from records of the previous shipment and be presented to the collector when the remainder is shipped. The number of the original declaration must be noted on each of the copies and duplicates.

ART. 1319. *Exportations from Alaska, Hawaii, and Puerto Rico via the United States.*—Shipper's export declarations in duplicate must accompany merchandise shipped from Alaska, Hawaii, and Puerto Rico for transshipment and exportation from a port in the United States and be delivered by the shipping agent to the collector of customs at such port of exportation, with the name of the exporting vessel noted thereon.

ART. 1320. *Trade between the United States and its non-contiguous territory.*—The regulations contained in this chapter with respect to the collection of statistics of merchandise, gold, and silver exported from the United States to foreign countries by water and of clearances of vessels in such trade are extended to, and will govern, so far as applicable, in the collection of statistics of shipments between the United States and its noncontiguous territory and between the respective portions of said noncontiguous territory.

ART. 1321. *Government supplies shipped abroad.*—(a) No export declarations are required for shipments of furniture, stationery, and other office supplies to United States Government offices or employees in foreign countries or non-contiguous territories for their exclusive use, or for shipments of military and naval supplies and equipment from quartermaster stores or supply depots for use of United States military or naval forces abroad, or for equipment shipped to United States lighthouses.

(b) Export declarations are required for construction material, machinery, supplies, or other merchandise shipped on commercial vessels to the Panama Canal, Panama Railroad, the Government of Puerto Rico or of the Philippine Islands, or the Manila Railroad Co., which are not regarded as branch offices of United States Government departments or bureaus.

ART. 1322. *Personal effects.*—No export declarations are required for personal effects or baggage of travelers carried on passenger trains to Canada or Mexico.

REPORTS TO BUREAU OF CUSTOMS

ART. 1323. *Monthly reports of marine transactions.*—(a) Reports on customs Forms 3065 and 3065 (a) shall be prepared monthly in duplicate at each headquarters port and in triplicate at each marine port and station other than a headquarters port covering marine transactions at such ports. Two copies of the report for each marine port and station other than a headquarters port shall be forwarded to the headquarters port. Each headquarters port shall forward one copy of the report for each marine port and station in the district, including the headquarters port, to the Commissioner of Customs, Washington, D. C. (attention, Division of Statistics and Research), as soon as possible, and in no case later than 10 days after the close of the month. For the purpose of these reports, a marine port or station is understood to be one at which any entrance or clearance of vessels, issuing of documents, numbering of motorboats, etc., occurs.

(b) These reports will embrace all vessels entering and clearing through customs at the ports or stations for which the returns are rendered, distinguishing between American and foreign vessels, and vessels entering or clearing in ballast,

with bulk cargo, and with general cargo. Vessels having on board commodities other than ballast will be returned as with cargo, although only partially laden. The net tonnage of vessels is to be returned in all cases, and fractions of a ton are to be reported in whole numbers.

(c) Only those vessels for which an actual entrance or clearance is required shall be reported. Vessels exempt from entrance or clearance under section 441, Tariff Act of 1930, shall not be included on this report.

(d) A vessel shall be reported as entering direct from a foreign country at the first port in the United States where the whole or part of a vessel's cargo is unladen or where she enters in ballast. A vessel shall be reported as cleared direct to a foreign country at that port in the United States where her outward cargo is completed or when she clears foreign in ballast. In the case of vessels entering direct from or clearing direct to foreign ports, a supplemental report shall be made, distinguishing between the nationality of the vessel, the countries from which entered or to which cleared, sailing and steam vessels, tankers and other cargo vessels, and yachts and those engaged in trade.

(e) In tabulating entrances the tonnage shall be credited to the country in which is located the first foreign port from which the vessel sailed with cargo for the United States, or at which she received orders to proceed to the United States in ballast to load; in case of clearances the tonnage shall be credited to the country in which is located the first foreign port at which the vessel will enter for discharge of cargo, or the port to which she is ordered to proceed in ballast to load, as shown on the clearance papers.

(f) No duplication of vessels should appear, either on the original records or on customs Form 3065. In the case of simultaneous transactions or movements the predominating transaction (greatest fee) shall determine where the vessel is to be recorded. In relative importance they are:

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CHAPTER XXVI

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GENERAL PROVISIONS

ART. 1324. *General duties and powers.*—(a) The general duties and powers of customs officers consist of the execution of the laws and regulations pertaining to the entry, appraisement, and warehousing of imported merchandise and the collection of duties thereon, the payment of drawback, and the deposit of public moneys; the custody of seized merchandise and the custody of public property used for customs purposes.

(b) They are charged with the enforcement of laws for the detection and prevention of smuggling and other frauds against the customs revenue.

(c) Tariff Act of 1930, section 502 (c):

It shall be the duty of all officers of the customs to execute and carry into effect all instructions of the Secretary of the Treasury relative to the execution of the revenue laws; and in case any difficulty arises as to the true construction or meaning of any

part of the revenue laws, the decision of the Secretary shall be binding upon all officers of the customs.

(d) Their duties also consist of admeasuring and documenting of vessels of the United States, the collection of navigation fines and fees, and tonnage taxes; the compilation of statistics of commerce and navigation; the exclusion from the coastwise trade of foreign vessels and vessels registered under the Panama Canal act; aiding in the enforcement of the steamboat inspection and navigation laws, and the laws relating to the carriage of immigrant passengers; issuing to seamen, who apply for the same and produce the legal proof of citizenship, certificates of citizenship for their identification, and protection at sea and in foreign ports; and complying with the instructions of the Secretary of Commerce relating thereto.

(e) They are also required by law to carry into effect all instructions relative to the execution of all laws coming under the jurisdiction of the Department of Agriculture so far as they relate to imported merchandise.

(f) It is also their duty to collect and account for the head tax on immigrants and to collect and account for fines imposed under the immigration laws, and to comply with the instructions of the Secretary of Labor in relation thereto.

(g) It is also their duty to account for moneys received covering transactions handled for any other Government department, under instructions promulgated by the Secretary of the Treasury.

(h) Customs officers will be held responsible for the efficient discharge of the duties of their subordinates, and will report to their superior officer any misconduct or neglect of duty on the part of such subordinates.

(i) Each collector of customs shall be held responsible for a report to the Bureau of Customs of any irregularities occurring in his district which, in his opinion, resulted from intentional disregard of a law or regulation, or which is not promptly discontinued when unintentional and the pertinent law or regulation is brought to the attention of the person or persons concerned. This regulation shall apply to acts or omissions of the collector of customs, as well as those of subordinate officers, and if the act or omission is that of the collector, the provisions of this paragraph shall apply to, and such report shall be made by, the assistant collector of customs.

(j) United States Code, title 19, section 64:

All Acts and parts of Acts imposing fines, penalties, or other punishment for offenses committed by an internal-revenue officer or other officer of the Department of the Treasury of the United States, or under any bureau thereof, shall apply to all persons whomsoever, employed, appointed, or acting under the authority of any customs law, or any revenue provision of any law of the United States, when such persons are designated or acting as officers or deputies, or persons having the custody or disposition

ART. 1325. *Administration of oaths.*—(a) Tariff Act of 1930, sec. 486:

(a) *Customs officers.*—The following officers and employees may administer any oaths required or authorized by law or regulations promulgated thereunder in respect of any matter coming before such officers or employees in the performance of their official duties: (1) Any customs officer appointed by the President; (2) the chief assistant of any such officer, or any officer or employee of the customs field service designated for the purpose by such officer or by the Secretary of the Treasury; and (3) any officer or employee of the Bureau of Customs designated for the purpose by the Secretary of the Treasury.

(b) *Postmasters.*—The postmaster or assistant postmaster of the United States at any post office where customs officers are not stationed is hereby authorized to administer any oaths required to be made to statements in customs documents by importers of merchandise, not exceeding \$100 in value, through the mails.

(c) *No compensation.*—No compensation or fee shall be demanded or accepted for administering any oath under the provisions of this section.

(b) Postmasters may also administer oaths required by law or otherwise to accounts for travel or other expenses against the United States and oaths so administered have the same force and effect as those administered by an officer having a seal.

ART. 1326. Uniformed force.—(a) The following classes of officers and employees in all customs districts who have contact with the public, outside of customhouses and appraisers stores, are required to be uniformed when on duty and to wear customs badges conspicuously displayed: staff officers, inspectors (including station inspectors), boarding officers, customs guards, examiners of passengers' baggage, and customs patrol inspectors.

(b) The following employees are required to wear a regulation cap and badge only: samplers, storekeepers, and messengers.

(c) The uniform except that provided for customs patrol inspectors, shall consist of coat, vest, trousers, and cap. Except in the districts of San Antonio, El Paso, Arizona, San Diego, and Hawaii, the coat, vest, and trousers shall be made of dark blue serge cloth or dark blue tropical worsted cloth, the latter to be worn in warm climates and warm weather, where considered necessary. An overcoat shall be a part of the uniform in those districts where such a garment is necessary. In addition to the above there shall be worn a white shirt and white collar of a turndown pattern, semi-soft or stiff, a four-in-hand necktie of plain black material and black laced high or low shoes.

Overcoat.—The overcoat shall be double-breasted and easy-fitting, with full skirt, shaped at the waist, and held by means of a belt at the back; shall be of dark blue cloth (not serge), weighing 20 to 30 ounces, according to climate; shall have a large convertible collar with tabs and buttonholes on each end for use in closing collar when turned up; and four black bone buttons (45-ligne) shall appear on each side of the front of the coat. The coat shall extend approximately five inches below the knee of the wearer. It shall have two lower flap pockets with horizontal openings, a cash pocket inside of the right pocket, and one inside breast pocket on the right side of the coat. The back of the coat shall have a 20 to 25 inch center vent.

Coat.—The coat shall be single-breasted, three-button sack, with ends slightly rounded, two buttons on each sleeve, two lower outside pockets with flaps and one upper outside pocket on left side, one small pocket within the lower right-hand pocket, and one inside pocket on upper right-hand side, to be 5½ inches wide and 9 inches deep. A double-breasted coat, made in accordance with the specifications for the single-breasted coat except as to cut, may be worn in those districts where such a garment is considered necessary. In those districts where a double-breasted coat is used, however, all of the officers must use the double-breasted coat, so that all suit coats worn in the same district will be of the same cut. The coat may be worn with or without a vest, depending upon the weather. The coat must at all times be buttoned at all three buttonholes when the officer is on duty.

Vest.—The vest shall be single breasted, without collar, with five buttons, and four outside pockets, without flaps.

Trousers.—The trousers shall be plain, with cuffs, two side pockets, two hip pockets, and one watch pocket.

Cap.—The cap shall be of dark blue cloth (not serge), with moderate bell crown, deep-droop black visor, black mohair braid band, and a gilt strap, black silk cord, or black patent leather strap, fastened at sides of cap by brass United States customs buttons, as indicated below:

Gilt strap, one-half inch wide (superior gilt wire strap), sewed on sheepskin leather, sliding adjustable type, with brass eyelets on each end for insertion of cap buttons. These straps are to be worn by deputy surveyors, staff officers, station inspectors, chief inspectors, and captains of the customs guards.

Black silk twisted cap cord (three strand), three-sixteenths inch in diameter, the cord to be doubled and knotted approximately 2½ inches from each side button. These cords are to be worn by examiners, inspectors, lieutenants of customs guards, and roundsmen.

Black patent leather strap, one-half inch wide, sliding adjustable type, with holes punched at each end for insertion

of cap buttons. These straps are to be worn by customs guards, messengers, samplers, storekeepers, and watchmen.

The cap of examiners of passengers' baggage shall have a white crown. In warm weather officers may wear a cap of the same design as described above but with an open black cane band.

Buttons.—All coat and vest buttons shall be of bone, to be covered by shells when the wearer is on duty.

The uniform of officers in the districts of San Antonio, El Paso, Arizona, San Diego, and Hawaii shall be of the same specifications as that for officers in other districts, with the following exceptions:

The coat, vest, and trousers shall be of smooth-finish olive-drab serge (or whipcord in the district of Hawaii), and the overcoat shall be of a corresponding color.

The cap shall be olive drab and the trimming brown to harmonize with the coat, vest, and trousers.

In warm weather the coat and vest need not be worn provided that in such cases the shirt shall be of olive-drab flannel or tropical worsted material to harmonize with the trousers.

The belt and shoes shall be of russet leather.

(d) The insignia to be worn on the front of the cap, the badge to be worn on the coat, and bone buttons and shells therefor will all be furnished by the Commissioner of Customs, without cost to the wearer, who will be charged with each article issued to him, and will be required to account for the same.

(e) The uniform worn in warm climates and in the summertime in the northern districts may be made from lighter-weight material.

(f) Officers, when searching vessels, and inspectors when engaged in weighing, measuring, or gauging merchandise, may wear overalls or other suitable clothing when, in the judgment of the surveyor, or where there is no such officer, the collector, the conditions warrant such action.

(g) **Customs patrol inspectors.**—The uniform for customs patrol inspectors, except in the districts of San Antonio, El Paso, Arizona, and San Diego, shall be made in accordance with the following specifications:

Cap.—Dark gray whipcord, broad crown, officer's style, black droop visor, black chin strap fastened at sides with solid copperized United States customs buttons; 1½-inch black braid band around cap. A hat may be worn in warm weather. The hat shall conform to the following specification: Stetson or equal, Army service style; color, Oxford mix; smooth finish; crown 5¼ inch high, trimmed with 10-ligne black band, and with four eyelets, one in front, one in rear, and one on each side for ventilation purposes; brim 3-inch wide, semistiff and flat set, with raw edge. When desired the hat may have two eyelets in brim, one on either side of crown, to permit the wearing of a chin strap to hold hat on. The hat is to be worn with two indentations on each side of crown, bringing the crown to a peak (sometimes described as a Montana peak) as worn in the Army. Insignia should be worn on front of cap or hat.

Coat.—Dark-gray whipcord, 4-button coat; notch-lapel collar; 2 roomy breast pockets with buttoned flaps—pleat in these pockets. Two large lower patch pockets with buttoned flaps; these pockets to be 8 inches at top, 11 inches at bottom, and 9 inches deep. One inside pocket. One-half-inch black braid around sleeves, placed 3 inches from lower end of sleeve. All buttons to be solid copperized United States customs buttons. Shoulder straps of same material as coat.

Breeches.—Dark-gray whipcord riding breeches, 1-inch black braid on sides; 2 hip pockets, 2 side pockets, 1 watch pocket; 1 narrow pocket on right leg 8 inches deep, beginning at lower part of side pocket.

Shirt.—Dark-gray flannel to match coat and breeches; 2 roomy flap pockets with pleat in each; extra patch over elbows; 2 copperized pins, U. S. C., to pin shirt collar down.

Necktie.—Plain black four-in-hand.

Belt.—Black leather.

Puttees.—Black leather or high black leather sport boots.

Shoes.—Black leather.

Gun belt.—Sam Brown, black leather.

Cartridge holder.—Black leather.

Holster.—Black leather.

Handcuff case.—Black leather.

Lanyard.—Black leather.

Coats for winter.—Leather or cloth coats of the following descriptions:

Material: Leather coat—black leather, waterproof. Cloth coat—dark gray cloth of various weights to meet the needs of the officers.

Lining: Leather coat—sheepskin lining for colder climates; wool lining may be used where desired. Cloth coat—sheepskin lining for colder climates; wool lining may be used where desired, interlined with waterproof oilskin cloth.

Collar: Leather coat—large sheepskin collar, sometimes described as "Shawl beaver collar", for colder climates; plain collar where desired. Cloth coat—large sheepskin collar, sometimes described as "Shawl beaver collar", for colder climates; large convertible plain collar with tab and buttonhole each end for use in closing collar when turned up may be used where desired.

Pattern: Leather or cloth coat—full in size and body with large bottom sweep; double breasted; plain bone buttons of suitable color to conform with material; three or four buttons on each side, depending upon the style of coat; sleeves lined as is usual for type of coat; worsted storm wristlets; sleeves equipped with tabs for wind protection; reinforced sweat pads under arms; two upper slash pockets and two lower flap pockets; shield patch for badge; full belted.

Length: Leather or cloth coat—coat to extend about 4 to 6 inches above knee cap or 4 to 6 inches below knee cap, depending upon where and how the coat is to be used.

Shoulder straps: Leather or cloth coat—straps of same material as coat, sewed in shoulder seam and fastened under collar with button, may be worn where desired.

Vent: Leather or cloth coat—the back of the long coat shall have a 20- to 25-inch center vent; short coat to be plain in back.

Caps for winter.—Muskrat fur. Customs patrol inspector's insignia to be worn in front.

Badge.—Customs patrol inspector's badge to be worn on outside of coat.

Marks of rank—Patrol unit leader.—One chevron, navy blue, V-shaped, arms $2\frac{1}{2}$ inches in length, five-sixteenths inch in width, worn on outer half of right sleeve, center point up midway between elbow and top of sleeve.

Same—Assistant to chief customs patrol inspector.—One silver bar, $1\frac{1}{2}$ inches in length, five-eighths inch in width—worn across shoulder strap 1 inch above seam.

Same—Chief customs patrol inspector.—Two gold bars, $1\frac{1}{2}$ inches in length, three-eighths inch in width, with three-eighths inch space between—worn across shoulder strap 1 inch above seam.

The uniform for customs patrol inspectors in the districts of San Antonio, El Paso, Arizona, and San Diego shall be of the same specifications as that provided for customs patrol inspectors in other districts, with the following exceptions:

The coat, vest, and trousers shall be of smooth-finish olive-drab serge and the overcoat, if worn, shall be of a harmonizing color.

The cap or hat and shirt shall also be olive drab to harmonize with the coat, vest, and trousers.

The trimming on cap or hat shall be brown and all leather articles shall be russet color instead of black.

The coat and vest need not be worn in warm weather.

(h) Customs-patrol inspectors, during warm weather or when assigned to boat patrol exclusively, may wear long trousers of specified material instead of riding breeches and puttees.

(i) Customs-patrol inspectors in warm climates may wear uniforms of lighter-weight materials.

(j) Officers and employees at each port who are required to wear uniforms may make their own arrangements and

contracts for the same. At ports and stations where caps can not be purchased they will be furnished through the Bureau of Customs and sold to the wearer at the contract price. All uniforms shall be of the same pattern and of the same material and in exact compliance with these regulations. Superior officers will be held responsible for the neat appearance of the men under them. Habitual untidiness will be recorded against the efficiency record of the employees.

ART. 1327. *Customs seal.*—The customs seal of the United States, consisting of the national arms within a circle, according to the design furnished by the Treasury Department, shall be impressed upon all official documents requiring the impress of a seal.

ART. 1328. *Supervision of ports of entry.*—(a) Collectors of customs will occasionally, but not less than once a year, visit the various ports of entry in their districts and at least twice a year detail a competent officer from the headquarters port to visit such ports and to make an examination of the conditions found respecting the personnel, methods of transacting business, the keeping of records, and all other official procedure at such ports. Officers making such examinations will report in detail in writing to the collector the conditions found and any delinquencies or misconduct on the part of the customs officers.

(b) Collectors may, when deemed necessary, call conferences not oftener than once a year at headquarters ports of deputy collectors in charge of ports of entry and customs stations within their respective districts.

THE COLLECTOR

ART. 1329. *Duties generally.*—(a) Tariff Act 1930, 401 (h):

The word "collector" means the collector of customs, and includes assistant collector of customs, deputy collector of customs, and any person authorized by law or by regulation of the Secretary of the Treasury to perform the duties of a collector of customs.

(b) There is one collector of customs for each customs collection district, whose principal office is at the headquarters port of such district, except that the collectors for districts No. 14 (Virginia) and No. 36 (Duluth and Superior) maintain a principal office at both Newport News and Norfolk, and at Duluth and Superior, respectively.

(c) Collectors of customs are charged with the collection of the customs revenue and the enforcement of the customs revenue laws, the neutrality laws, and such other laws as they may be directed to enforce by the Secretary of the Treasury. The instructions, decisions, and regulations of the Secretary of the Treasury are binding on collectors. They are also charged with the administration of the laws relating to the documenting of vessels and to commerce and navigation, and with certain functions under the immigration laws; and the instructions and decisions of the Secretary of Commerce and the Secretary of Labor, respectively, in relation to the administration of such laws are binding upon collectors, as well as the instructions and decisions of the Secretary of Agriculture insofar as they relate to imported merchandise.

(d) United States Code, title 46, section 543:

In any port in which no shipping commissioner shall have been appointed, the whole or any part of the business of a shipping commissioner shall be conducted by the collector or deputy collector of customs of such port; and in respect of such business such customhouse shall be deemed a shipping office, and the collector or deputy collector of customs to whom such business shall be committed, shall, for all purposes, be deemed a shipping commissioner within the meaning of this chapter. (R. S., sec. 4503.)

(e) All moneys collected or received by collectors of customs in their official capacities, whether as duties, fees, storage, commissions, or from the sale of blank forms, or otherwise, shall be covered into the Treasury of the United States, except that duties collected in Puerto Rico shall be paid into the Treasury of Puerto Rico.

(f) In all cases, either civil or criminal, involving court action, a copy of the case report submitted to the United States Attorney shall be mailed, without letter of transmittal, to the Department of Justice, Criminal Division, Washington, D. C.

ART. 1330. *Assistant collectors.*—(a) The assistant collector shall be next to the collector the ranking officer in the district. In case of absence or sickness or inability of the collector to act, the assistant collector shall exercise the powers and perform the duties of collector.

(b) In the case of a vacancy in the office of the collector such assistant shall give bond, when required, act as such officer, and receive the compensation of such office until appointment thereto has been made and the person so appointed has duly qualified.

(c) Whenever a vacancy occurs in the position of assistant collector, it shall be filled by the promotion or transfer of a trained and qualified customs officer designated by the collector, with the approval of the Secretary of the Treasury. Such assistant collector shall continue in office and shall not be reduced or removed except for cause, and in accordance with the civil-service laws and regulations.

ART. 1331. *Deputy collectors.*—(a) Upon recommendation by the collector, the Secretary of the Treasury will appoint deputy collectors and prescribe their duties, when not otherwise defined by law.

(b) Deputy collectors are officers of the customs and will perform the functions prescribed by law for collectors subject to such regulations and restrictions as are prescribed by the Department.

(c) At ports at which it may be deemed necessary and upon the recommendation of the collector, the Secretary may designate one or more experienced customs officers as "acting deputy collectors." An officer so designated may act as a substitute for, and perform the duties of, a regular deputy collector who is temporarily absent from duty, but shall use the title "acting deputy collector" for no other purpose.

ART. 1332. *Deputy collectors in charge.*—(a) Deputy collectors in charge of ports of entry shall, under the general supervision and direction of the collectors, receive entries of merchandise, collect duties, fees, and other moneys, enter and clear vessels, issue documents to vessels, and perform all other services prescribed by law, the regulations of the Department, or the instructions of the collector.

(b) Each deputy collector of customs in charge shall give a bond to the United States in an amount to be recommended by the collector of customs and approved by the Secretary of the Treasury. When the nomination on customs Form 3021 for the appointment of such deputy collector is forwarded it should be accompanied by a letter containing the collector's recommendation as to the penalty of the bond which he believes sufficient. After the appointment has been approved, and the penalty of the bond fixed by the Department, a form of bond will be transmitted by the Division of Appointments, to the deputy collector for execution and return, through the collector of customs, to the Division of Appointments for Departmental action and approval.

(c) Deputy collectors in charge acting as shipping commissioners, under section 4503 of the Revised Statutes, will render reports of such transactions to the collectors, who will submit such reports to the Department of Commerce in the usual manner.

ART. 1333. *Subordinate employees.*—Subordinate employees shall perform such duties as may be required by law or regulations and such other duties of a ministerial character as may be assigned to them by the collector. When the performance of a ministerial duty involves the signing of a document other than a mere office report or communication, the employee performing the duty shall be designated in writing for that purpose by the collector and shall sign the collector's name with his own name immediately following. When the signing of a document requires the exercise of a discretion conferred upon the collector, such document shall not be signed by a subordinate employee but shall be signed in person by the collector, the assistant collector, a deputy collector, or an employee officially acting as such. The same principle should be followed with respect to subordinate employees of the appraiser, the surveyor, or the comptroller at ports having such officers.

THE COMPTROLLER OF CUSTOMS

ART. 1334. *Duties generally.*—(a) Tariff Act of 1930, section 401 (i):

The term "comptroller of customs" includes assistant comptroller of customs and any person authorized by law or by regulations of the Secretary of the Treasury to perform the duties of a comptroller of customs.

(b) Tariff Act of 1930, section 523:

Comptrollers of Customs shall examine the collector's accounts of receipts and disbursements of money and receipts and disposition of merchandise and certify the same to the Secretary of the Treasury for transmission to the General Accounting Office. They shall perform such other duties as the Secretary of the Treasury may from time to time prescribe, and their administrative examination shall extend to all customs districts assigned to them by the Secretary of the Treasury. * * *

(c) Tariff Act of 1930, section 523:

Comptrollers of Customs shall verify all assessments of duties and allowances of drawbacks made by collectors in connection with the liquidation thereof. In cases of disagreements between a collector and a Comptroller of Customs, the latter shall report the facts to the Secretary of the Treasury for instructions. * * *

(d) Ports where comptrollers of customs are located are known as comptroller ports, all others as subcomptroller ports.

ART. 1335. *Assistant and deputy comptrollers.*—(a) The assistant comptroller shall be next to the comptroller the ranking officer in the comptroller's district.

(b) In the case of absence or sickness or inability of the comptroller to act, the assistant comptroller shall exercise the powers and perform the duties of the comptroller.

(c) In the case of a vacancy in the office of the comptroller of customs such assistant shall give bond, when required, act as such officer, and receive the compensation of such office until appointment thereto has been made and the person so appointed has duly qualified.

(d) Whenever a vacancy occurs in the position of assistant comptroller it shall be filled by the promotion or transfer of a trained and qualified customs officer designated by the comptroller of customs, with the approval of the Secretary of the Treasury. Such assistant comptroller shall continue in office and shall not be reduced or removed except for cause and in accordance with the civil-service regulations.

(e) Upon recommendation by the comptroller, the Secretary of the Treasury will appoint deputy comptrollers of customs in districts when they may be needed.

THE SURVEYOR

ART. 1336. *Duties generally.*—(a) At the port of New York the surveyor is the outdoor executive officer of the port and, under the direction of the collector, is required to superintend and direct all inspectors, staff officers, measurers, guards, and such laborers and other employees as are placed under his direction by the collector. He shall report at least once in every week to the collector the name or names of any of the above-mentioned employees who are absent from or neglect to do their duty.

(b) The surveyor will direct the boarding and searching of vessels arriving from foreign ports either in ballast or with cargo, and will detail inspectors to supervise the unloading and inspection of merchandise and baggage imported by vessel or otherwise; the lading of all goods entered for exportation, under bond, or for benefit of drawback or allowance, and the forwarding of merchandise or baggage in bond. He will supervise the admeasurement of American vessels for registry, enrollment, or license and of foreign vessels for collection of tonnage dues; and the measurement of the accommodations for passengers other than cabin, of all vessels carrying such passengers.

(c) He shall determine whether the goods imported in any vessel and the deliveries thereof correspond, according to the inspector's returns, with the permits for landing the

same, and if any error or disagreement appears shall report the same to the collector.

(d) He shall examine from time to time and on the first Mondays of January and July in each year test the weights, measures, and other instruments used in ascertaining the duties on imports, with standards to be provided by the collector for that purpose, and where disagreements with the standards are discovered, shall report the same to the collector, and shall comply with such directions as he may receive for correcting the same.

(e) The surveyor shall perform such other duties as are required by law or regulations.

(f) The jurisdiction of the surveyor at New York includes only the territorial limits of the port of New York unless otherwise directed by the collector.

(g) At ports other than New York the duties above outlined for the surveyor at New York shall be performed by the collector or by a deputy collector or other officer designated by the collector.

ART. 1337. Assistant and deputy surveyors at New York.—

(a) The assistant surveyor at New York shall be next to the surveyor the ranking officer of the surveyor's office. In the case of absence or inability of the surveyor to act, the assistant surveyor shall exercise the powers and perform the duties of surveyor.

(b) In the case of a vacancy in the office of the surveyor of customs such assistant shall give bond, when required, act as such officer and receive the compensation of such office, until appointment thereto has been made and the person so appointed has duly qualified.

(c) Whenever a vacancy occurs in the position of assistant surveyor it shall be filled by the promotion or transfer of a trained and qualified customs officer, designated by the surveyor, with the approval of the Secretary of the Treasury. Such assistant surveyor shall continue in office and shall not be reduced or removed except for cause and in accordance with the civil-service regulations.

(d) Upon recommendation by the surveyor, the Secretary of the Treasury will appoint deputy surveyors and prescribe their duties, when not otherwise defined by law, and they are authorized to perform all of the duties that may be assigned to them by the surveyor.

ART. 1338. Staff officers at New York.—Under direction of the surveyor, staff officers at New York will board incoming passenger vessels from a revenue cutter; procure the passenger lists and passengers' declarations from the vessel's officers and compare same; examine declarations for completeness and for other customs purposes; mark the declarations of diplomats and others entitled to free entry; and explain proper procedure to passengers. After the vessel has docked, staff officers will assist the deputy surveyor in charge generally, and assign inspectors to specified tasks; also examine declarations for completeness as to actions taken by customs officers.

INSPECTORS OF CUSTOMS

ART. 1339. Duties generally.—(a) Upon recommendation by the collector, the Secretary of the Treasury will appoint inspectors of customs and prescribe their duties, when not otherwise defined by law.

(b) At the port of New York inspectors will be assigned to duty by the surveyor and at other ports by the collector. Inspectors have supervision of all vessels coming into their districts, and will report all discovered violations of the revenue or navigation laws or regulations coming to their attention to their superior officer; they shall board vessels arriving from foreign ports; inspect and search same; seal sea stores; superintend the discharge of cargoes and the disposition thereof; weigh, measure, and gauge merchandise; examine the baggage of arriving passengers; inspect and superintend the shipment of merchandise exported for the benefit of drawback, as well as shipments of goods for exportation or transportation in bond. They are also required to make examinations as often as necessary of vessels coming into their districts to ascertain whether American vessels

are properly documented; and perform such other duties as may be assigned to them by their superior officers.

(c) Inspectors shall not perform any private or unofficial duties or services on board vessels to which they may be assigned under penalty of dismissal from the service, and shall not leave their vessels or station without permission from their superior officers.

(d) Where practicable, experienced customs inspectors may be designated as acting examiners under the direction of the appraiser, for the purpose of passing bulky merchandise which is unconditionally free of duty, or subject to a specific rate of duty, or to a duty not dependent on value, provided chemical analysis or technical inspection is not required, and making report of their examination to the appraiser.

ART. 1340. Boarding vessels.—It is the duty of customs inspectors, when so directed, to board vessels arriving from foreign ports and every morning make a report of all such vessels arriving the previous day, specifying the name, class, and nationality, master's name, whence arrived, and whether laden or in ballast; certify the manifest of cargo and passengers (see arts. 105 and 158); examine crew list of American vessel (see art. 114); muster destitute American seamen (see arts. 114 and 116); receive preliminary entry when proper application has been made (see art. 112); seal certain sea stores (see arts. 119, 122, 126); ascertain whether any person has boarded or left vessel (see art. 106); seal or otherwise secure hatches or other openings, if deemed necessary, until the necessary permit for unlading is received. The duty of sealing sea stores may be assigned to customs officers other than boarding officers. Boarding officers should not board vessels until such vessels have passed quarantine inspection.

ART. 1341. Discharging cargo.—(a) Inspectors are assigned to vessels for the purpose of superintending the unlading and disposition of their cargo and the prevention of smuggling therefrom. (Art. 146.)

(b) They will send to the nearest post office all letters, packages, and bags containing mail matter, take an account thereof, superintend the delivery to the postmaster, and obtain a receipt therefor. (See art. 121.)

(c) Inspectors will obtain from the master lists of the articles reported at the customhouse as sea stores, compare the articles with the list and seal such stores as are not required for immediate use, issue a certificate therefor on customs Form 3203, and report the same, with any excess found, to the surveyor, or to the collector if there be no surveyor. Upon application of the master they will release from under seal such stores as are required for immediate use and issue a certificate therefor on customs Form 3203. (See arts. 119, 122, and 126.)

(d) Discharging inspectors must take possession of specie and valuables in charge of the pursers of vessels as soon as possible after they first go on board. The place or room where such specie and valuables are deposited and the safe or package containing the same must be locked or otherwise secured until receipt of a permit releasing the same.

ART. 1342. Samples.—Discharging inspectors will send to the appraiser's stores as soon as practicable all packages manifested or listed as samples, except that they will hold on the dock such packages addressed to other ports until the expiration of the general-order period, when, if no permit has been received, they will send the same to the appraiser's stores.

ART. 1343. Weighing, gauging, measuring.—In the absence of special authorization from the surveyor or collector, inspectors shall not permit any goods to be removed from the place of landing until they have been weighed, gauged, measured, sampled, or the proof ascertained, if so ordered, or until any merchandise subject to restrictions of any other Government agency has been released in writing by the restricting agency. Special authorization for the performance of the customs formalities mentioned elsewhere than at the place of landing will be granted by the surveyor or collector

only if such officer is assured that the interest of the Government will not be prejudiced thereby. Inspectors shall require persons unloading goods to separate, assort, and arrange the same properly for the convenience of customs officers.

ART. 1344. *Licenses of cartmen and lightermen.*—Inspectors are empowered to require customs cartmen or lightermen engaged in the transportation of goods to produce their licenses or authority to carry such goods, and will report to the surveyor or to the collector any disobedience of customs orders or regulations. (See ch. XIX.)

ART. 1345. *Lading of ballast, cargo, or coal while discharging.*—Inspectors will not allow ballast, cargo, or coal to be taken on board vessels while discharging except on a lading permit; and when such permits are granted, if the execution of the same will be attended with danger to the revenue, the inspector will so report and suspend action awaiting instructions.

ART. 1346. *Unloading at night.*—Inspectors will not permit the unloading of merchandise, baggage, or passengers on Sunday, a holiday, or before 8 a. m. or after 5 p. m., except upon the receipt of a special permit therefor.

ART. 1347. *Removal of seals.*—Inspectors will remove the customs seals from bonded merchandise before releasing the same and will report to the surveyor or collector all cases in which customs seals appear to have been tampered with.

ART. 1348. *Inspector's dock book.*—(a) Discharging inspectors will keep in a book to be known as the dock book, customs Forms 5969, 5971, 5973, 5975, and 5977, an alphabetical record of the various lots of merchandise on the vessel's manifest, identifying each by marks, numbers, and description, against which will be entered a record of the permits and releases thereunder, showing the disposition of the packages covered thereby, whether delivered to public store, to warehouse, to the carrier, or other place, and whether any special action was taken in regard thereto, such as weighing, gauging, sampling, etc. They will likewise indicate the disposition of any packages for which permits may not have been received. (See art. 145.) The use of the dock book will not be required if the information specified above can be legibly and conspicuously recorded on the manifest or another official document which, in the usual course of business, will come to the attention of the customs officers for whom such information is intended.

(b) The page number of the vessel's manifest upon which an item appears, as well as the number of the bill of lading, if any, covering it, will be indicated opposite each such item in additional columns.

ART. 1349. *Return of discharge of cargo.*—(a) After entry of a vessel at the customhouse the collector will retain the original manifest and send the certified duplicate manifest to the surveyor, or, if there be no surveyor, to the discharging inspector of such vessel. (See art. 105.) The inspectors will note in red ink on the right-hand margin of such manifest the disposition of the merchandise specified therein by stating the kinds of entries and their numbers and indicating packages sent or under general order, and will note all discrepancies between such manifest, the permits, and the merchandise found. (See art. 147.) They will also report on customs Form 5931 goods manifested but not landed and goods landed but not manifested. The certified duplicate manifest and such report, together with the permits, orders, receipts, and other vouchers covering the merchandise, will be forwarded to the surveyor, or to the collector if there be no surveyor, accompanied by customs Form 5933, signed by the discharging inspectors, and will constitute the return of the discharge of cargo.

(b) The surveyor, if any, will examine the return and certify to its correctness on customs Form 5933 and transmit the certified duplicate manifest with such certificate and the inspector's report on customs Form 5931 to the collector for post entry, if required.

(c) Thereafter the collector will transmit these papers with the post entry attached to the comptroller of customs

for comparison of the entries of merchandise with the quantities manifested and the quantities reported by the inspectors as covered by the permits.

ART. 1350. *Goods remaining on board.*—Discharging inspectors will take possession of and send to the general-order stores all merchandise for which no release permit has been received within 48 hours, exclusive of Sundays and holidays, after the vessel's entry, unless such time be specifically extended by the collector. If any vessel under their charge be not fully unladen within the time allowed therefor they will immediately report such fact. When all the cargo of the vessel is discharged they will report such fact to the surveyor, or to the collector if there be no surveyor, but before reporting they shall make an examination of all parts of the vessel to determine the fact that it is fully discharged. (See arts. 144 and 145.)

ART. 1351. *Inspection of baggage.*—(a) All persons coming into the United States from foreign countries are liable to detention and search by authorized officers or agents of the Government under the regulations prescribed by the Secretary of the Treasury.

(b) Customs inspectors are required to examine the baggage of persons arriving in the United States and to compare the articles found with the passengers' declarations, in accordance with the procedure outlined in articles 419 to 423, inclusive. (See arts. 223 and 416 to 423, inclusive.)

ART. 1352. *Inspectresses.*—Female inspectors are employed for the examination and search of persons of their own sex arriving from foreign countries.

ART. 1353. *Supervision of lading.*—Customs officers are required to supervise the lading of merchandise exported for the benefit of drawback, or merchandise entered or withdrawn for transportation in bond or for exportation, and in certain cases the transshipment of merchandise being transported in bond. Such officers will supervise the shipment of merchandise as directed in permits or entries received by them, and will make their returns thereof in the manner provided by the regulations.

ART. 1354. *Inspection districts.*—Whenever the business of a port is such as to render the same advisable, customs inspectors will be assigned to attend to all customs matters arising within certain districts which are not especially assigned to some particular officer. Such officers may perform the duties of boarding officer, supervise the discharging of the cargo, the shipping of merchandise in bond or for exportation, and when so directed perform the duties of weighing, gauging, measuring, or sampling. They will take charge of vessels or other conveyances arriving within their districts from foreign ports or places, and will perform such duties as may be assigned to them by their superior officers, and make their returns thereof in the manner required by the regulations.

ART. 1355. *Officers of the Coast Guard.*—(a) Officers of the Coast Guard, including keepers of Coast Guard stations and houses of refuge, have the power of inspectors of customs and will promptly notify the nearest collector or deputy collector of customs of any shipwreck or of any merchandise presumably of foreign origin cast ashore from wrecks or forming the cargo of vessels stranded or driven ashore by stress of weather. They will exercise supervision over such merchandise or cargo until a regular customs officer arrives to take the necessary action toward forwarding it to its destination or to the nearest port of entry that may be determined upon by the owner or underwriters.

(b) It is the duty of such officers and keepers, acting as inspectors of customs, to take such measures as may be within their power to prevent smuggling, and upon a detection of any violation of the customs revenue laws to forthwith report the same to the collector of the district and to seize merchandise in the act of being smuggled or which has been smuggled.

ART. 1356. *Measurers of vessels.*—(a) Admeasures, inspectors, or other customs officers acting as measurers of vessels shall be assigned to such duties by the surveyor, and at ports

where there is no surveyor by the collector or deputy collector in charge, and in every case when practicable two such officers shall be detailed.

(b) The original measurements and computations shall be entered in permanent record books, from which certificates of measurement may be issued.

(c) Inspectors or other officers designated to examine and measure vessels under the passenger act are required, upon each arrival of any such vessels, to go on board thereof and to examine all spaces affected by the provisions of the act and to make any measurements that may be necessary to conform to such provisions. (See art. 160.)

(d) The measurements of the spaces of every such vessel and the result of the examination will be properly recorded, and be certified by the inspectors making the same, and a detailed report submitted on commerce Form 1462, signed by the examining inspectors.

(e) Such report shall be made to the surveyor who will at the close of each month transmit it to the collector with a brief abstract of its contents. At ports having no surveyor the report shall be made direct to the collector.

(f) If it appears that any vessel has taken on board or brought an excess of passengers, a separate report in the form prescribed will be made and signed by the examining inspectors or other officers and be delivered to the surveyor, and if it be discovered by the examining inspectors that any provision of the passenger laws has been violated they are required to make a special written report thereof to the surveyor. At ports other than New York such reports shall be made to the collector.

WEIGHING

ART. 1357. *Duties generally.*—(a) Each inspector or officer exercising the functions of a weigher will inspect and take copies of all permits in the hands of the discharging inspectors whenever such permits designate articles to be weighed. They will weigh articles so designated, or such proportion thereof as may be required, and record and make return of such weights in the manner hereinafter provided. They will themselves actually do the weighing and record the weights, and will not permit unauthorized persons to handle the scales or other weighing appliances.

(b) Such officer will be held responsible for the return of Government weighing equipment or implements of a portable nature to the Government tool house or other designated depository upon the completion of his duties.

ART. 1358. *Tests of implements.*—Each weighing officer will have his weighing implements other than automatic scales tested as often as may be necessary to keep them in conformity with the United States standard. Whenever such weighing implements are found to be inaccurate, they shall be returned to the customhouse for repair. Defects in automatic scales should be reported to the Department's engineer through the automatic scale expert in accordance with the instructions printed with each scale.

ART. 1359. *Dock books.*—(a) Weighing officers will daily make a correct entry in dock books of goods weighed by them, specifying the date the weighing was performed. They will first note in the book the permit or order to weigh, and in cases where the merchandise is required to be weighed by numbers, will enter the number and weight of each separate package. They must total all the weights stated in each column of the dock book, and give the gross weight, the tare, and the net weight of each lot as returned by them. Each page of the dock book upon which the results of weighing appear must bear the signature of the weighing officer or officers who actually performed the work, together with the date upon which the same was done, and suitable marks or checks must be used to indicate clearly the packages or drafts weighed upon each date. The book must be indorsed on the outside with the name of the vessel, the date of arrival, and the date the return is filed in the surveyor's or collector's office. The use of the dock book will not be required if the information specified above can be legibly and conspicuously recorded on the manifest or

another official document which, in the usual course of business, will come to the attention of the customs officers for whom such information is intended.

(b) All dock books issued to weighing officers shall be serially numbered at the top of the outside cover and initialed with pen and ink by the surveyor or deputy surveyor, or by the collector or deputy collector. They shall be issued in four sizes, on customs Forms 5995, a, b, c, and d.

(c) The person to whom a dock book is issued shall receipt therefor and shall be held responsible for the return thereof. A similar receipt shall be given by each individual into whose custody a dock book passes, and this receipt shall be canceled upon the return of the book. A record showing to whom the books have been issued shall be kept. For measuring, weighers' books will be used.

(d) Whenever required by the collector or the comptroller of customs for the purposes of liquidation, the dock book shall be delivered to them for inspection and verification.

ART. 1360. *Return of weights—Special returns.*—(a) The return of weight of the articles embraced in each permit or order will be prepared on customs Form 5985 in the collector's office (in surveyor's office at New York), or by the weighing officer on such form or on the invoice if more practicable, immediately after such weight has been ascertained, or as soon thereafter as practicable. Weighing officers will file their completed books of weights in the surveyor's or collector's office as public records within 3 days after completion of weighing of the cargo. Not more than one vessel's cargo will be entered in a book.

(b) When a permit or order directs a special return to be made, the weighing officer will immediately weigh the goods designated and make a return thereof.

(c) Certificates or copies of weights will be furnished to parties in interest at their expense by the surveyor at ports where there is such an officer; elsewhere by the collector.

ART. 1361. *Ascertainment of weight.*—(a) Before weighing merchandise the weighing officer must see that the scale is accurately balanced at zero. An even beam indicates the weight and whenever found must be taken. If an even beam cannot be had, the weight will be taken on a rising beam; i. e., the highest indication at which the beam will rise.

(b) Wherever the duty on a commodity is in excess of one-tenth of 1 cent per pound, and such article is weighable, the weight is, wherever practicable, to be taken by a Government weigher and on a Government scale.

ART. 1362. *Increase of weight by moisture, etc.*—Officers weighing will not make an allowance for draft, impurities, or increase of weight caused by absorption of moisture on the voyage of importation or for any other cause, and the actual weight, as ascertained after landing, will be returned; but they will note in the dock book the condition of the package as found.

(See arts. 702 to 708, for instructions as to weighing sugar.)

ART. 1363. *Weighing of tobacco.*—(a) Each package of tobacco in bales, cases, or seroons must be weighed separately and returned by numbers and the weight distinctly marked thereon. All packages of tobacco must be weighed on beams graduated with one-eighth pound notches, and each weight must be taken to the eighth pound. In ascertaining the weight of such packages an even beam or the highest indication at which the beam will rise must be taken.

(b) Imported cigars, cheroots, and cigarettes will be weighed in the following manner:

An equal arm trip scale will be used, the fraction less than one-eighth ounce being disregarded.

The cigars, cheroots, and cigarettes must be weighed with an even beam, down weight not being given.

(c) A separate serial number must be applied to each importation of cigars, cheroots, and cigarettes made by individual importers or firms and not to each box.

ART. 1364. *Weighing by marks and numbers.*—All articles weighed, entered for consumption, warehouse, or under general order, if of such a character as to be weighed separately,

must have the letters "U. S. W.", with the initials of the weighing officer's name underneath and the weight plainly marked thereon with the marking liquid. When packages of the same mark vary materially in size and weight, they must be weighed and returned separately by their numbers. If not numbered, numbers must be placed thereon by the weigher, which must be designated in the return as "weighing officer's numbers."

ART. 1365. Amendment of returns.—When a return has been made by a weighing officer it must not be amended or changed, except by permission of the surveyor or collector. The amended return must state why the amendment is made and be checked or signed by the weighing officer before it is presented to the surveyor or collector for his approval. The original figures will be canceled by cross marks and the amendment added, so as to show both records. When an amendment to a return is allowed, the dock book must be corrected, if necessary, to accord with the amended return.

ART. 1366. Bulk merchandise.—(a) Bulk merchandise which is to be weighed upon test weights will be tallied by the discharging inspectors. If the inspector cannot personally keep account of the merchandise as landed, he will make request for an assistant. At least 1 receptacle in every 50 must be weighed, and such receptacle must be filled to capacity as evenly and uniformly as possible.

(b) As soon as the entire quantity of merchandise has been landed, the weighing officer will procure from the inspector a statement of the number of receptacles delivered, and will make up his return according to the average ascertained by his test weights.

(c) Railroad iron, barytes, china clay, gypsum, and other similar merchandise may be weighed upon truck or railroad track scales, if the expense of the weighing is not increased thereby. In such cases the scales must be carefully tested at each weighing with United States standard weights or with standard weights furnished by the owner of the scale.

(d) Standard tables of the weight of bar iron, steel, and structural iron which are recognized by the trade as correct, such as those prepared by various well-known steel manufacturers, should be used in lieu of actual weighing. However, occasional tests should be made to verify the accuracy of the tables.

(e) The waybill weights of bulk cargoes of hay, straw, earth, clays, turnips, cement, potatoes, sugar beets, beet pulp, ferrosilicon, ferromanganese, scrap iron, and scrap steel unladen directly from the importing vessel into cars, or imported in railroad cars, may be accepted as the official weights of said merchandise when the waybill shows that the commodity has been actually weighed. Should, however, such weight vary materially from the invoice weight, a special investigation should be made. When such weights are taken, the weighing officer should note that fact in his dock book and on his return of weight.

ART. 1367. Uniform packages or articles.—(a) From every invoice of merchandise in uniform packages or articles a sufficient number of packages or articles will be weighed in order to ascertain the average weight thereof. The whole number of packages or articles will be counted, and a return of the weight thereof must be made. If the weigher has reason to believe that the test weight thus ascertained does not correctly represent the weight of the merchandise he will weigh the entire importation.

(b) In the case of merchandise entered for warehouse where sizes of packages are fairly uniform and duties comparatively small average test weights may be taken, these weights to be marked on each package and the merchandise be withdrawn on such marked weights only.

ART. 1368. Expense of weighing, etc.—When borne by importer.—(a) In cases where the invoice or entry does not contain the weight, gauge, or measure of goods required to be weighed, gauged, or measured, in order to ascertain the duties thereon, the consignee shall be called upon to pay the expense of weighing, gauging, and measuring before it is released from customs custody.

(b) The fact that the merchandise is to be weighed, gauged, or measured at the expense of the importer must be stated on the permit, and the officer will state in his return the actual expense incurred in ascertaining such weight or quantity, including the compensation of the employees for the time employed.

ART. 1369. Tare.—(a) The net weight of merchandise dutiable by net weight, or upon a value dependent on net weight, will be determined by deducting the invoice tare, schedule tare, or actual tare from the gross weight.

(b) The Department from time to time will publish lists of tares which from experience have proved to be the average weight of coverings of certain classes of merchandise. Such tares will be known as schedule tares and may be accepted as the tare in ascertaining the net weight of such merchandise, unless the importer requests in writing at the time of entry that actual tare be taken.

(c) *Invoice tare.*—When the tare is specified in the invoice produced at the time of entry, the collector may, with the consent of the consignee, accept such invoice tare in ascertaining the net weight of the merchandise.

(d) *Schedule tare.*—The following schedule tares have been established:

Figs in skeleton cases: Actual tare of outer containers, to which add 13 percent of weight of inside wooden boxes and figs.

Ocher, dry, in casks, 8 percent; in oil, in casks, 12 percent.

Lemons and oranges: Allow 10 ounces per box and 5 ounces per half box for paper wrappings; actual tare of outer containers.

Tobacco: Tobacco, leaf, not stemmed, 13 pounds per bale; Sumatra, 4¼ pounds on the inside matting, weight of outside coverings to be ascertained; and in addition either 4 or 8 ounces to cover paper wrapping of Sumatra tobacco, according to the thickness of paper used, provided that an affidavit be attached to the consular invoice certifying that bales contain paper wrappings and specifying whether light or heavy paper has been used. Occasional tests should be made to verify such tare allowed.

Cuban sugar bags: Two and one-half pounds per bag, to be increased or diminished when the superficial area of the bags varies by more than 2 percent from the standard area of 1,392 square inches.

China clay in so-called half-ton casks, 72 pounds per cask.

Cheese known as Pecorino Romano Sardo and Pecorino Genuino Romano: Allow 2½ per centum from net weight of cheese for inedible protective covering in computing dutiable value and in computing duty at specific rate.

(c) *Actual tare.*—If the importer shall be dissatisfied with the invoice tare or with the schedule tare, or if the collector shall be of the opinion that the invoice or schedule tare would not correctly represent the tare of the merchandise, or if the weigher has reason to believe that the invoice or schedule tare is greater than the real tare, the actual tare will be ascertained and in so doing the weigher will empty and weigh as many casks, boxes, and other coverings as he may deem necessary. He will so note in his return at the head of the column of tares whenever the tare returned by him is actual tare.

(f) When it is impracticable to ascertain the actual tare, the weigher will state in his return what, in his judgment, constitutes a fair tare allowance.

ART. 1370. Measurement of marble, granite, and other stone, and lumber.—(a) The surveyor, and at ports where there is no surveyor, the collector or deputy collector in charge, may assign inspectors or other customs officers to measure marble, granite, and other stone and lumber.

(b) Such officers will measure all marble described in any order or permit and keep a correct record of each block or piece measured, which record or book will be indorsed with the name of the importing vessel, the name of the importer, and be filed in the surveyor's or collector's office. They will also make a return of such measurements, certifying the same, and promptly forward it to the surveyor or collector.

(c) In measuring marble blocks three-fourths of an inch on each surface may be allowed in accordance with the trade custom. When one or more of the surfaces have been sawed, and the surface is level and not injured or defaced, but one-half inch will be allowed. If injured, deductions in the measurements may be made for such defects. When corners are broken or there are other defects running deeper than three-fourths of an inch, a sufficient allowance will be made from one end of a block to level so as to make it equivalent to a parallelepiped. This allowance must not be made of the depth to the defect; but, on the contrary, 1, 2, or 3 inches will usually compensate for a broken corner a foot or more in depth. When the corner is off in such a manner that the defect extends the entire length of the block the allowance must be made from the side and not the end. The correctness of the measurer's estimate can be proved by dividing the block into two parts, measuring each separately, and adding together the results. The measuring rod should be applied to the middle of both sides to get the length and the middle of both ends to get the breadth. In taking the thickness the rod is to be applied to two, three, or four places on each side and twice to each end.

(d) These requirements will be applied to granite and other stone in blocks, subject to specific rates of duty.

(e) When the quantity of lumber is to be ascertained the procedure set forth in T. D. 31791 will be followed until amended or superseded.

GAUGING

ART. 1371. *Duties generally.*—(a) Each inspector or officer exercising the functions of a gauger will inspect and take copies of all permits in the hands of the discharging inspectors whenever such permits designate articles to be gauged. They will gauge articles so designated and record and make a return of such gauges in the manner hereinafter provided. They will themselves actually do the gauging and report the result.

(b) When gauged by the rod method, each package of wines, spirits, and liquors must be gauged and inspected separately without regard to marks and brands already on such package.

(c) The only fractional part of a gallon to be marked on casks and returned will be one-half gallon.

(d) Packages containing malt liquors may be gauged by outside measurement when necessary.

(e) Fractional parts of less than one-quarter gallon will be ignored, one-quarter gallon but not more than three-quarters gallon will be taken as one-half gallon; if three-quarters gallon or more, a gallon.

(f) Where practicable, packages of wines, spirits, and liquors may be gauged by the weight method when the packages are marked (by scoring (cutting) or dyeing in the wood) with the gross and net weights and the tare, and the collector of customs shall be satisfied that the liquors were gauged prior to exportation and the weights and tare marked on the packages under the supervision of the proper officials of the government of the country of exportation. Each package shall be weighed for verification of the marked gross weight, and if a material difference is found between the marked gross weight and the actual gross weight the capacity of the cask or package shall be ascertained by the rod method. A test shall be made of at least one in five packages for verification of the marked tare by dumping the contents and weighing the empty cask or package. If the test shows the marked tare to be inaccurate each package in the shipment shall be gauged separately by the weight or the rod method.

(g) Gauging must take place before goods are sent under general order. Liquors in bottles will not be gauged.

ART. 1372. *Instruments to be used.*—The instruments to be used for gauging purposes shall be known as the calipers, Gunther's sliding scale, bung-diameter rod, barrel rod, and wantage rod, and a marking or scoring iron for the purpose of marking or scoring barrels, casks, etc., when necessary.

ART. 1373. *Tests of instruments.*—Each gauger will have

his gauging instruments tested as often as may be necessary and keep them in conformity with the United States standard.

ART. 1374. *Dock books.*—(a) Gaugers will daily make a correct entry in dock books of goods gauged by them, specifying the date the gauging was done. The gauger should first note in the book the permit or order, the gauge, and in cases where the merchandise is required to be gauged by numbers, should enter the number and capacity and outage of each package gauged. When it can be done, the numbers should be stated in their order from lowest to highest; in other cases they may be entered as the packages are gauged. The gauger must add each column of figures in the book and give the capacity and outage and the net gauge of each lot as returned by him. Each page of the dock book upon which the results of gauging appear must bear the signature of the gauging officer or officers who actually performed the work, together with the date upon which the same was done, and suitable marks or checks must be used to indicate clearly the packages or lots gauged upon each date. The book must be indorsed on the outside with the name of the vessel and the date of filing in the surveyor's or collector's office. The use of the dock book will not be required if the information specified above can be legibly and conspicuously recorded on the manifest or another official document which, in the usual course of business, will come to the attention of the customs officers for whom such information is intended.

(b) All dock books issued to gaugers will be serially numbered on the left-hand side of the front cover, and be initialed with pen and ink by the surveyor or deputy surveyor, or by the collector or deputy collector. They will be issued in four sizes on customs Forms 5995, a, b, c, and d.

(c) The person to whom a dock book is issued shall receipt therefor and be held responsible for the return thereof, and, on request, shall furnish it to the collector or comptroller for inspection.

ART. 1375. *Amendment of returns.*—When a return has been made by a gauger it must not be amended or changed, except by permission of the surveyor or collector. The amended return must state why the amendment is made, and must be checked or signed by the gauger before it is presented to the surveyor or collector for his approval. The original figures will be canceled by cross marks and the amendment added so as to show both records. When an amendment to a return is made the dock book must be corrected, if necessary, to accord with the amended return.

ART. 1376. *Return of gauge—Special return.*—(a) The return of gauge of the articles embraced in each permit or order will be prepared on customs Form 5985 in the collector's office (in surveyor's office at New York), or by the gauger on such form, immediately after such gauge has been ascertained or as soon thereafter as practicable. Gaugers will file their completed books of gauge in the surveyor's or collector's office as public records within 3 days after the vessel has been completely discharged. Not more than one vessel's cargo will be entered in a book.

(b) When a permit or order directs a special return to be made the gauger will immediately gauge the goods designated and make a return thereof. Certificates or copies of gauge will be furnished the parties in interest at their expense by the surveyor at ports where there is such an officer; elsewhere by the collector.

ART. 1377. *Gauging by marks and numbers.*—All articles required to be gauged separately under warehouse permits and general orders shall be gauged and returned by marks and numbers. If numbers do not appear upon such packages when landed, it shall be the duty of the gauger to number the same either at or before the time of determining the quantity and to make return by such numbers. These numbers must be put on with marking liquid and not with chalk and must be designated in the return as "gauger's numbers."

ART. 1378. *Proof of distilled spirits.*—(a) The proof of distilled spirits shall be ascertained by the use of a United States hydrometer set which shall have been tested and approved by the National Bureau of Standards. Instructions

relative to proofing as found in the Treasury Department Manual shall be followed.

(b) The proof of distilled spirits containing saccharin or other nonvolatile substances, such as whiskey blended with sherry wine, brandy with prune juice, gin with glycerin, etc., and cordials, liqueurs, and other spirits containing saccharin or other nonvolatile substances, cannot be determined accurately by the use of hydrometers. In these cases, samples of such liquors shall be sent to a customs laboratory for a report which shall show the true proof or percentage of alcohol, as may be required.

AUTOMATIC SCALE EXPERTS

ART. 1379. *Status of automatic scale experts.*—The automatic scale experts will perform their duties in connection with automatic scales under the supervision and instructions of the Treasury Department engineer in charge of scales. They will submit daily reports of their attendance or absence to the collector or surveyor in order that personnel records may be kept as required for other employees.

CUSTOMS PATROL INSPECTORS

ART. 1380. *Duties generally.*—Such officers, under the general supervision of a customs patrol inspector of a higher rank, shall patrol the border, the seacoast, or the harbors of the United States, on foot or horseback, in automobiles, water craft, or airplane, for the purpose of detecting and preventing smuggling and other frauds against the revenue; cooperate with other Federal agencies in enforcing the various Federal laws which are particularly applicable to conditions in the assigned territory; and perform related work as assigned. As the duties of a customs patrol inspector involve considerable personal danger he is authorized to carry arms for his self-protection.

CUSTOMS GUARDS

ART. 1381. *Duties generally.*—(a) Customs guards are appointed to guard merchandise in customs custody and to prevent the illegal or irregular landing or delivery or imported merchandise. They are required to remain on duty until the arrival of the relief guard or until permitted to depart by a superior officer. They must keep a vigilant watch over the vessel, vehicle, stores, or pier to which assigned and prevent the landing or removal of merchandise in the absence of the customs officer in charge.

(b) Customs guards will not interfere with a vessel taking on coal, ballast, or cargo not in bond at night or at other times in the absence of an inspector, provided a permit therefor is exhibited.

(c) Customs guards in the performance of their duties are authorized to stop and search any person or vehicle leaving a vessel or pier to which they are assigned and to open and examine packages in the possession of such persons. Searches of persons should be made, if practicable, in the presence of another officer or person. They also have authority to arrest any person detected in the act of smuggling and to call for the assistance of the police or of any person to aid them in so doing. They are also authorized to make seizures of any merchandise which has been illegally landed from any vessel or vehicle or taken from a pier or warehouse without a permit therefor.

THE APPRAISER

ART. 1382. *Duties generally.*—(a) Tariff Act of 1930, section 401 (j):

The word "appraiser" means appraiser of merchandise and includes chief assistant appraiser and any person authorized by law or by regulations of the Secretary of the Treasury to perform the duties of an appraiser, * * *.

(b) The appraiser is responsible for the examination and appraisement of all imported merchandise; and for furnishing to the collector all information necessary for the assessment of duty on such merchandise in accordance with the terms of the tariff act, and for the defense of his appraisements and advisory classifications before the United States Customs Court, whenever an appeal therefrom has been

taken or a protest filed. He is responsible for the conduct of his office and the assignment and disposal of the work thereof. (See ch. XII.)

(c) The appraiser shall have the power to review, revise, and correct the reports of his subordinate officers.

ART. 1383. *Acting appraiser at ports where there is no appraiser.*—(a) Tariff Act of 1930, section 500 (f):

The Secretary of the Treasury is authorized to designate an officer of the customs as acting appraiser at a port where there is no appraiser. Such acting appraiser shall take the oath, perform all the duties, and possess all the powers of an appraiser. The Secretary of the Treasury may appoint an officer of the customs who shall perform the functions of acting appraiser during the absence or disability of such acting appraiser.

(b) Appraisements made by the acting appraiser will be final unless reviewed on appeal to reappraisal. The collector shall exercise general supervision with respect to the examination and appraisement of merchandise at such ports of entry.

ART. 1384. *Chief assistant appraiser at New York.*—(a) The chief assistant appraiser shall be next in rank to the appraiser. He shall assist the appraiser to perform his official duties in such manner as the appraiser at New York may direct, and shall perform such other duties in connection with the appraisement of merchandise as the appraiser may assign to him. During the absence or disability of the appraiser, or in the event that there is no appraiser, the chief assistant appraiser shall exercise the powers and perform the duties of the appraiser.

(b) In the case of a vacancy in the office of the appraiser such chief assistant shall give bond, when required, act as such officer, and receive the compensation of such office until appointment thereto has been made and the person so appointed has duly qualified.

(c) No person shall enter upon or discharge the duties of appraiser until he shall have taken the oath required by law for such office.

(d) Whenever a vacancy occurs in the position of chief assistant appraiser at New York, it shall be filled upon the recommendation of the appraiser and with the approval of the Secretary of the Treasury, by the promotion or transfer of a trained and qualified customs officer, who shall continue in office and shall not be reduced or removed except for cause and in accordance with the civil-service regulations.

ART. 1385. *Assistant appraisers at New York.*—(a) Upon recommendation by the appraiser, the Secretary of the Treasury will appoint assistant appraisers at New York and prescribe their duties when not otherwise defined by law.

(b) Tariff Act of 1930, section 500 (d):

It shall be the duty of an assistant appraiser—

(1) To examine and inspect such merchandise as the appraiser may direct, and to report to him the value thereof;

(2) To revise and correct the reports and to supervise and direct the work of such examiners and other employees as the appraiser may designate; and

(3) To assist the appraiser, under such regulations as the Secretary of the Treasury or the appraiser may prescribe.

ART. 1386. *Examiners.*—Tariff Act of 1930, section 500 (e):

It shall be the duty of an examiner to examine and inspect the merchandise and report the value and such other facts as the appraiser may require in his appraisement or report, and to perform such other duties as may be prescribed by rules and regulations of the Secretary of the Treasury or the appraiser.

ART. 1387. *Verifiers, openers, and packers.*—Verifiers, openers, and packers shall open cases or packages containing merchandise designated for examination, and when examination is completed shall carefully and securely repack the merchandise; and, when required so to do, shall count, measure, or otherwise verify the contents of packages, and perform such other duties as the appraiser, assistant appraiser, or examiner may direct.

ART. 1388. *Exclusion from rooms.*—Appraisers must exclude unauthorized persons from the rooms where goods are waiting appraisement or are undergoing examination.

ART. 1389. *Samplers, duties of.*—(a) Samplers shall take sufficient samples to enable the appraiser to appraise and advisably classify merchandise which is ordered for wharf

examination by the collector or as directed by the appraiser. (See arts. 718 to 734, inclusive, for sampling of sugar and molasses.)

(b) They shall also inspect and take copies of all permits in the hands of the discharging inspectors whenever such permits designate articles for wharf examination.

(c) When the merchandise agrees with permit description, they shall endorse on the permit "Sampled", with date and initials of the sampler.

(d) When unable to make this notation for the reason that the merchandise is not legally marked, or dutiable merchandise is found under a free entry, or any other reason, they shall make such notation on the permits as the facts warrant.

(e) They shall see that the law as to marking of country of origin is complied with. Infractions shall be noted on the permit, the importer notified, and the nature of the omission reported to the appraiser.

(f) Any extraordinary or suspicious situation shall be immediately reported to the appraiser and the inspectors advised as to the disposal of the merchandise.

(g) Customs inspectors, when so directed and with the approval of the appraiser, shall take samples.

DIVISION OF LABORATORIES

ART. 1390. *Organization.*—(a) The Division of Laboratories is established to provide uniform and efficient customs laboratory service. It operates under the direct supervision of the Chief, Division of Laboratories, who is under the direction of and responsible to the Commissioner of Customs. A chief chemist is in charge of each of the customs laboratories, which are located at Boston, New York, Philadelphia, Baltimore, Savannah, New Orleans, Los Angeles, San Francisco, and Chicago. (See art. 12.)

(b) *Submission of samples.*—(1) Except as may be covered by special instructions, samples of importations requiring analysis should be sent directly to the chief chemist of the assigned laboratory.

(2) Samples submitted to a laboratory for analysis should be accompanied by a memorandum on an attached label (customs Form 6479) except as provided in chapter XI, for sugar and molasses, setting forth the information desired from an analysis, such as identity, composition, percentage, grade, etc. In the case of samples of regular importations, the label should show, if obtainable, the invoice designation, trade name, manufacturer, entry number, origin, as well as other pertinent information which would assist the laboratory in rendering a prompt and satisfactory report of analysis.

(3) If customs Form 6431-A, forwarded to the Customs Information Exchange, covers merchandise a sample of which has been previously submitted to a district laboratory for analysis, the sending officer should attach a copy of the chemist's report in order that a second analysis, by the New York laboratory, will be unnecessary.

(c) *Function of customs laboratories.*—(1) It will be the function of customs laboratories to analyze all official samples of merchandise received from the United States Customs Court and from customs officers and, under special arrangement, from other Treasury Department officers. Such samples of merchandise to be analyzed will include sugar, wool, foods, oil, dyestuffs, ores, metals, coal-tar products, paper, textiles, narcotic drugs, chemicals, medicines, beverages, or any other articles susceptible to analysis in customs laboratories.

(2) Chief chemists of customs laboratories shall submit promptly to the requesting officer reports of analysis on samples received by them. One copy of the report of analysis shall be attached to the invoice or other entry documents transmitted by appraising officers to the collector. The report shall cover the particular information desired in each case, such as the identity, grade, composition, percentage, or character of the samples analyzed. All reports of analysis shall be complete and comprehensive and sufficiently in detail to enable customs officers to classify or

ascertain value, rate of duty, drawback, or admissibility.

(3) Chemists and analysts will consult with and advise customs officers on technical or scientific questions which will include those affecting entry, appraisement, and tariff classification of imported merchandise, and claims for drawback.

(4) In cases where no method of obtaining representative samples of merchandise intended for laboratory analysis is provided for in existing regulations, officers requesting laboratory analysis shall follow the recommendation of the chief chemist with respect to the method of obtaining such representative samples, unless the requesting officer deems such method impracticable, in which event he shall submit the matter to the Commissioner of Customs for determination.

(5) Chemists will assist customs agents or enforcement officers by application of scientific methods of testing and detection in cases of fraud, smuggling, or other violations of customs laws.

UNITED STATES CUSTOMS COURT

ART. 1391. *Publishing of decisions.*—(a) The United States Customs Court consists of nine judges, one of whom acts as presiding judge, and is divided into three divisions of three judges each. The office is located at 201 Varick Street, New York.

(b) Decisions of the court will be forwarded to the collector of customs for the district in which the merchandise affected thereby was imported. Copies of all decisions will be sent to the Secretary of the Treasury, who shall cause such decisions as he or the court shall deem sufficiently important to be published in full. Abstracts of all other decisions will be made by the court. Such decisions and abstracts will be published at least once each week for the information of customs officers and the public.

ASSISTANT ATTORNEY GENERAL IN CHARGE OF CUSTOMS

ART. 1392. *Duties.*—The Assistant Attorney General, whose office is at 201 Varick Street, New York, N. Y., is in charge of the interests of the Government in the preparation and trial of all protests and appeals in classification, reappraisal, and other cases in which the United States Customs Court and Court of Customs and Patent Appeals have jurisdiction. Collectors and appraisers and other customs officers should correspond directly with him in matters relating to the trial of cases.

CUSTOMS AGENCY SERVICE

ART. 1393. *Organization.*—The customs agency service is the investigative branch of the customs service and as such is required to make all investigations involving fraud or violations of the customs laws. It is a mobile force and the officers thereof are subject to transfer whenever the interests of the service require. It operates under the direct supervision of the deputy commissioner of customs in charge of investigations, and under the general supervision of the Commissioner of Customs. The assistant deputy commissioner of customs assists in the supervision of the customs agency service and directs its activities in the absence of the deputy commissioner.

ART. 1394. *Customs agency districts.*—(a) The United States and territory in foreign countries where officers of the customs agency service operate shall be divided from time to time into customs agency districts. A customs agent in each district in the United States shall be designated as "supervising customs agent", and such agent shall be held responsible for the operation of the service within his district. Treasury attachés shall be designated to take charge of districts in foreign countries.

(b) Each customs agency district shall have a headquarters, which shall be the office of the supervising customs agent or Treasury attaché in charge of the district. Other offices may be established within customs agency districts, under the direct supervision of a customs agent in charge or under a Treasury representative abroad, and under the

general supervision of the supervising customs agent or Treasury attaché.

ART. 1395. *Officers.*—(a) The customs agency domestic field force is composed of customs agents and assistant customs agents who may, for special reasons, be designated as supervising customs agents, customs agents at large, and customs agents in charge. The customs agency foreign service consists of Treasury attachés, assistant Treasury attachés, and Treasury representatives. Such officers are assigned to the several customs agency districts. With the exception of customs agents at large (who are under the direct supervision of the deputy commissioner in charge of investigations), they shall work under the supervision of the officer in charge of the office to which they are assigned, and be subordinate to such officer.

(b) The Secretary of the Treasury is authorized by law to assign not to exceed 10 persons detailed from the field force of the customs for service in the District of Columbia. Officers of the customs agency service may be assigned to duties in the Bureau of Customs under this authority.

(c) Each customs agent shall be furnished with a badge for identification purposes, as well as with credentials bearing the signature of the Commissioner of Customs and the Secretary of the Treasury, and the signed photograph of the agent.

ART. 1396. *Duties—Investigations.*—(a) Customs agents shall be employed generally in the prevention and detection of frauds on the customs revenue and all matters involving such frauds requiring investigation shall be referred to them. They shall investigate and report upon all matters brought to their attention by the Commissioner of Customs, collectors, appraisers, surveyors, comptrollers, and others, relating to drawback, undervaluation, smuggling, dumping, personnel, customs procedure, and any other customs matter.

(b) (1) There shall be no differentiation in the treatment of chief administrative officers of customs and their subordinates in the matter of investigating accusations of alleged official misconduct. All rules, regulations and instructions in conflict with this expressed policy are hereby revoked.

(2) Undivided responsibility for the investigation and reporting to proper authority of all irregularities concerning any phase of customs administration or misconduct on the part of customs employees, by whatever means brought to its attention, rests with the customs agency service. This injunction, however, is not to be construed as abridging or modifying the responsibility of Presidential appointees acting in administrative capacities in the various customs collection districts of maintaining discipline and efficiency in the customs personnel.

(3) Collectors and other chief officers of the customs are directed to cooperate in making effective this order.

(c) Violations of the customs laws and seizures by customs officers shall be reported immediately by collectors, appraisers, and surveyors to supervising customs agents, and customs agents in charge. Minor violations and minor seizures need not be so reported, under agreement between customs agents and collectors, appraisers, and surveyors.

(d) Each report of investigation shall be signed by the agent or agents making the investigation. It shall be approved by the agent or representative in charge of the office, before being forwarded to its destination. Routine correspondence shall be signed only by the agent in charge, except in special cases, when it may be more advantageous to have some other agent sign.

(e) Correspondence and reports of investigations or other matters requiring the attention of the Bureau of Customs should be addressed to the Commissioner of Customs (investigative unit), Treasury Department, Washington, D. C., with carbon copies attached. Carbon copies of all other reports made and important letters written, should be forwarded to the Commissioner of Customs, through the customs agency service, weekly. Carbon copies of written

correspondence of minor importance need not be submitted to the Bureau.

(f) In the performance of their duties they are authorized to administer oaths to witnesses, to make searches, arrests of persons, and seizures of merchandise.

ART. 1397. *Inspection of records.*—(a) The examination of the books, papers, and accounts of collectors and other officers of customs and general conditions in the various collection districts is a function imposed on the customs agency service. To perform this technical work a commission, composed of qualified customs agents, has been organized. The agents assigned to said commission are appointed by the Commissioner of Customs upon the nomination of the deputy commissioner in charge of investigations. Periodical examinations of customs districts are made by the commission, who must report deviations from customs law and procedure, make recommendations as to personnel and organization, and offer suggestions for the establishment of uniformity of practice and procedure to the Commissioner of Customs. The report of the commission will be submitted by the Bureau of Customs to the administrative officer of the district examined for comment, after which the Commissioner of Customs will issue suitable instructions.

(b) Customs agents shall have access at any time to all official books, papers, records, accounts, and correspondence of collectors, appraisers, surveyors, comptrollers, and all other officers of customs.

(c) In addition to the general examination made by the commission, local agents shall, from time to time, and at least once every 6 months, make a thorough check of the financial accounts of collectors and all books, records, and papers pertaining thereto.

ART. 1398. *Questioning customs employees.*—(a) Customs agents may, at any time during an investigation, question any customs officer or employee. When it is desired to question a customs employee the official superior of such employee will be notified by the customs agent in charge of this desire, and the time when, and the place where, such employee is to report for questioning, whereupon the official superior shall direct such employee to report for questioning, as desired.

(b) Customs officers and employees shall disclose any information in their possession pertaining to customs matters when requested to do so by a customs agent, and shall answer any questions put to them by customs agents.

ART. 1399. *Reports to collectors.*—Officers of the customs agency service, upon the detection of any violation of the customs revenue laws, shall immediately report the same through the customs agent in charge, to the collector of the district in which the violation occurred, and forward to the Bureau a copy of such report. Reports on criminal cases that must go to the United States attorney may be addressed to that official and given to the collector, to be forwarded by him with his approval and a copy shall be forwarded to the Bureau.

ART. 1400. *Investigations abroad.*—(a) Customs officers desiring investigations in foreign countries (other than Canada, Mexico, Cuba, and the British West Indies) shall submit their requests for such investigations to the Customs Information Exchange, 201 Varick Street, New York, N. Y.

(b) Investigations in foreign countries (other than Canada, Mexico, Cuba, and the British West Indies) shall be made under the supervision of Treasury attachés accredited to such countries, or, if there be no Treasury attaché in a country, by representatives of the State Department.

(c) Investigations in Canada, Mexico, Cuba, and the British West Indies shall be conducted by the supervising customs agents in charge of districts nearest to the territory in which such investigations are made. Customs officers desiring such investigations shall submit the request to the proper supervising customs agent. A copy of each such request shall be forwarded to the Customs Information Exchange and a copy shall also be sent to the Commissioner of

Customs (investigative unit). If the desired information is available in New York, the supervising customs agent of the Customs Information Exchange shall immediately forward it to the officer submitting the request, sending a copy of his communication to the supervising customs agent upon whom the request was made and a copy to the Commissioner of Customs (investigative unit).

ART. 1401. *Cooperation with other customs officers.*—Customs agents will cooperate fully with the local customs officers. They will not interfere with the administration or regular transactions of the customs business. Irregularities discovered by customs agents capable of being dealt with by the local customs officers will be brought to the notice of such officers immediately and a report made to the Bureau of Customs. Other irregularities that may be discovered will be reported promptly to the Bureau.

ART. 1402. *Customs Information Exchange.*—(a) The Customs Information Exchange, located at 201 Varick Street, New York City, will be used by the customs service as a medium to disseminate information. Decisions rendered by the Bureau and Department and circulated by the Customs Information Exchange will be binding upon customs officials. Other information that may be circulated will be considered as advisory only and not as controlling the actions of customs officials.

(b) Information relative to values and classification shall be sent to the Customs Information Exchange from time to time, as provided by T. D. 43246 as amended by T. D. 43434.

ART. 1403. *Reports of transactions.*—(a) Each supervising customs agent and Treasury attaché shall make a report to the Commissioner of Customs at the close of each fiscal year, showing in detail the work performed in his district during such year.

(b) Other reports may be called for from time to time by the deputy commissioner in charge of investigations.

ART. 1404. *Restrictions.*—(a) Officers of the customs agency service will confine their activities within the limits of the district to which they are assigned. They will not go beyond such limits without authority from the Bureau of Customs, except in cases of emergency when it is impracticable to obtain such authority. The facts in such cases will be reported to the Bureau immediately.

(b) The time of officers and employees of the customs agency service during business hours will be devoted entirely to the public service. Private employment inconsistent with or interfering with the performance of official duties will not be sanctioned.

(c) Officers and employees are not permitted to disclose information relating to official business unless authorized by the Bureau of Customs.

CHAPTER XXVII CUSTOMHOUSE BROKERS

- Art.
1405. Licenses for brokers required—Qualifications—Regulations authorized.
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ART. 1405. *Licenses for brokers required—Qualifications—Regulations authorized.*—(a) Tariff Act of 1930, section 641 (a), as amended:

* * * Except as provided in subdivision (c) of this section, no person shall transact business as a customhouse broker without a license granted in accordance with the provisions of this subdivision, but nothing in this section shall be construed to authorize the requiring of a license in the case of any person transacting at a customhouse business pertaining to his own importations. (Aug. 26, 1935, ch. 689, sec. 3, 49 Stat. 864.)

(b) No representative of the Treasury Department shall recognize or deal with any person transacting the business of a customhouse broker, or any employee, officer, or agent thereof, unless such person is licensed as a customhouse broker in accordance with the provisions of these regulations.

(c) Tariff Act of 1930, section 641 (a):

The Secretary of the Treasury may prescribe rules and regulations governing the licensing as customhouse brokers of citizens of the United States of good moral character, and of corporations, associations, and partnerships, and may require as a condition to the granting of any license, the showing of such facts as he may deem advisable as to the qualifications of the applicant to render valuable service to importers and exporters. No such license shall be granted to any corporation, association, or partnership unless licenses as customhouse brokers have been issued to at least two of the officers of such corporation or association, or two of the members of such partnership, and such licenses are in force. * * *

(d) Tariff Act of 1930, section 641 (d), as amended:

The Secretary of the Treasury shall prescribe such rules and regulations as he may deem necessary to protect importers and the revenue of the United States, and to carry out the provisions of this section. * * * (Aug. 26, 1935, ch. 689, sec. 4, 49 Stat. 865.)

ART. 1406. *Definitions.*—When used in these regulations—

(a) *Customhouse broker.*—The term "customhouse broker" includes any person who, acting on behalf of others, transacts customs business not limited to a kind described in article 1411 of these regulations.

(b) *Treasury Department or any representative thereof.*—The term "Treasury Department or any representative thereof" includes any division, branch, bureau, office, or unit of the Treasury Department, whether in Washington or in the field, and any officer or employee of any such division, branch, bureau, office, or unit.

(c) *Committee.*—The word "Committee" means the Committee on Enrollment and Disbarment of the Treasury Department (see sec. 1 of Treasury Department Circular 230, revised).

(d) *Person.*—The word "person" includes corporations, associations, and partnerships.

(e) *Books and papers.*—The term "books and papers" includes all books, accounts, records, papers, documents, and correspondence of a customhouse broker relating to his customs business.

ART. 1407. *Application for license and investigation of application.*—(a) A person desiring to engage in the business of a customhouse broker shall submit an application to the Committee, stating his qualifications for a license. The application shall be under oath and in such standard form as the Committee, with the approval of the Secretary, shall have prescribed.

(b) The Committee shall make an investigation in connection with each such application, and to this end may utilize any investigative facility of the Treasury Department. The investigation shall cover, but need not be limited to, (1) the correctness of the statements made in the application, (2) the business integrity of the applicant, and (3) when the applicant is an individual (including an officer of a corporation or association or a member of a partnership), the character and reputation of the applicant and his experience in customs matters.

(c) As soon as possible after the application has been filed, the name and address of each applicant shall be posted conspicuously in the customhouse at the port where the applicant proposes to maintain his principal office. In the case of a corporation, association, or partnership, the name of the licensed officers or members shall be stated.

(d) The causes sufficient to justify rejection of an application for a license shall include, but shall not be limited to, (1) any conduct which would be ground for the suspension or revocation of the license of a licensed customhouse broker under the provisions of article 1414 of these regulations; (2) any conduct which would be deemed grossly unfair in commercial transactions by accepted standards; (3) a bad reputation imputing to an applicant conduct of any of the foregoing types or of a criminal, dishonest, or unethical kind; and (4) the minority of the applicant. In the case

of a corporation, association, or partnership, the application will be rejected by the Committee unless it appears that the officers or members who are licensed customhouse brokers are to exercise responsible supervision and control of the transaction of the customs business of such corporation, association, or partnership. An individual who is unable for any reason to take the oath of allegiance and to support the Constitution of the United States shall not be licensed. An alien undergoing naturalization is ineligible to receive a license until he has received his final naturalization certificate. An officer or employee of the United States is ineligible to receive a license.

(e) Upon the conclusion of the investigation, the Committee shall notify the applicant to appear before a subcommittee of examiners at a specified time and place in the customs district in which the applicant proposes to do business, unless facts already established by the investigation satisfy the Committee that the application should be rejected. Such subcommittee of examiners shall consist of not less than three nor more than five members designated as such by the Committee.

(f) The Committee shall from time to time prescribe lists of suggestions for the guidance of subcommittees of examiners in conducting such examinations. The examinations shall have for their purpose a determination of the applicant's knowledge of customs law and procedure and his fitness to render valuable service to importers and exporters. The examination may at the option of the subcommittee be oral or written, but if oral shall be stenographically reported and transcribed, and in either case shall be forthwith transmitted to the Committee with the report and recommendation of the subcommittee of examiners.

(g) The Committee shall endeavor to ascertain all the facts deemed necessary by it to pass upon any application without expense or undue inconvenience to the applicant. In the event, however, that the Committee is not satisfied by the information received, it may require the applicant (or, in the case of a corporation, association, or partnership, one or more of its officers or members) to appear in person before the Committee or before one or more representatives of the Committee, for the purpose of undergoing additional written or oral examination into the applicant's qualifications for a license.

(h) If the applicant is an individual who proposes to operate under a trade or fictitious name, evidence of the applicant's authority so to conduct business must accompany his application. A licensed individual who proposes to operate under a trade or fictitious name shall submit evidence of his authority to do so to, and receive the approval of, the Committee before he uses such name.

ART. 1408. *Issuance or denial of license.*—(a) If the Committee finds that the applicant is qualified, the Committee will issue a license in such standard form as the Committee, with the approval of the Secretary of the Treasury, shall have prescribed. The license shall be forwarded to the appropriate collector of customs, who shall deliver it to the licensee after making a record thereof in a roster of licensed brokers which shall be maintained in the customhouse in such manner that it will be readily accessible to the proper customs officers and employees.

(b) A license for an individual who is an officer of a corporation or association or a member of a partnership will be issued in the name of the individual licensee, and not in his capacity as officer or member of the organization with which he is connected.

(c) If the Committee finds that the application should be rejected for any reason, it shall so report and recommend to the Secretary of the Treasury. Such report and recommendation shall be signed by all members of the Committee agreeing thereto. Any member of the Committee dissenting therefrom shall submit a statement of his reasons for such dissent. The Committee may grant a hearing on an application at the applicant's request.

(d) If the Secretary of the Treasury, in the exercise of his discretion, approves such recommendation, notice of rejection

of the application shall be given by the Committee to the applicant and to the collector of the district in which the applicant proposed to do business. If the Secretary does not approve such recommendation, he will return it to the Committee with such instructions as to the issuance of a license or further investigation as in his judgment the circumstances may require.

ART. 1409. *Other representation by customhouse brokers.*—A licensed customhouse broker requires no further enrollment under these regulations for the transaction, within the customs districts in which he is licensed, of any business relating specifically to the importation or exportation of merchandise under customs or internal-revenue laws. He is also entitled, without further license or enrollment, to represent claimants or other persons before the Treasury Department in Washington in any matter in which he acted as a customhouse broker in any district in which he is licensed. When serving in such capacity, a licensed customhouse broker shall, in addition to being subject to the provisions of section 641 of the Tariff Act of 1930, as amended, and the rules and regulations thereunder, be subject also to all the provisions of the laws and regulations set forth in Treasury Department Circular 230, as revised from time to time, and shall be responsible as specified in article 1411 (d) of these regulations for violations of any such laws or regulations committed by his or its officers, employees, or authorized attorneys or agents, in connection with the prosecution on behalf of the principal of any business before the Treasury Department in Washington.

ART. 1410. *Licenses for more than one customs district.*—Separate licenses shall be required if the licensee desires to transact customs business in more than one customs district. However, a licensee having a license in force in one district may on application to the Committee be granted a license to transact business in another district without further examination, provided it appears on investigation that the licensee is authorized to do business in the State or States in which such other district is situated, and is prepared and qualified to render efficient service in such other district. Licenses may be granted to partnerships with two licensed members, and to corporations and associations with two licensed officers, whether or not such members or officers are licensed in the district for which the partnership, corporation, or association license is granted.

ART. 1411. *License, when not required.*—(a) An importer or exporter transacting customs business solely on his own account and in no sense on behalf of another is not required to be licensed, nor are his authorized regular employees or officers who act only for him in the transaction of such business.

(b) A common carrier transporting merchandise for another may make entry for such merchandise for transportation in bond without being licensed as a customhouse broker.

(c) A resident agent employed by one or more vessels or lines of vessels is not required to be licensed as a customhouse broker in order merely to enter or clear vessels consigned to him by a principal. Proof of the agency must be filed with the collector.

(d) An employee of a licensed customhouse broker is not required to be licensed in order to act solely for his employer, but in order that such employee may sign customs documents on behalf of his employer the broker must file with the collector a power of attorney for that purpose. Each broker shall file with the collector at each port where the business is to be transacted an authorization specifically naming each employee who may properly act for him. A broker must promptly give notice of any change in the authority of such employees and must exercise such supervision of them as will insure proper conduct on the part of the employees in the transaction of customs business. Each broker will be held strictly responsible for the acts or omissions of his employees within the scope of their employment, and for acts or omissions of such employees which, in the exercise of reasonable care and diligence, the broker should have foreseen. Every attorney in fact acting for a licensed

customhouse broker must be a resident of the United States.

ART. 1412. *Books and papers.*—(a) Tariff Act of 1930, section 641 (d), as amended:

The Secretary of the Treasury shall prescribe such rules and regulations as he may deem necessary to protect importers and the revenue of the United States, and to carry out the provisions of this section, including rules and regulations requiring the keeping of books, accounts, and records by customhouse brokers, and the inspection thereof, and of their papers, documents, and correspondence by, and the furnishing by them of information relating to their business to, any duly accredited agent of the United States. (Aug. 26, 1935, ch. 689, sec. 4, 49 Stat. 865.)

(b) Each licensed customhouse broker shall maintain correctly and in orderly, itemized manner, and keep current, records of account reflecting all his financial transactions as a customhouse broker. He shall keep and maintain on file a copy of each entry made by him, and copies of all his correspondence and other papers relating to his customs business.

(c) Except as provided in paragraph (d) of this article, each licensed customhouse broker shall, after 90 days after the effective date of these regulations, keep on customs Form 3079 (Record of Transactions of Licensed Customhouse Broker) in accordance with the instructions printed thereon, records of all customs business transacted by him in behalf of his clients. If a transaction has been handled only in part by the broker, he need fill in only the appropriate part of his customs Form 3079. Records on customs Form 3079, shall be in addition to, and not in lieu of, the regular records of account required by paragraph (b) of this article to be kept and maintained.

(d) If the data prescribed to be recorded on customs Form 3079 are disclosed in other records regularly kept and maintained by a licensed broker in a systematic, convenient, and readily available form which will permit an effective inspection thereof by duly accredited agents of the United States, such broker may, by notice in writing from the collector of customs for the district, be exempted from the requirements of paragraph (c) of this article. Such notice of exemption shall be issued only if (1) a broker makes written application therefor to the collector, setting forth the facts as to the records he keeps and agreeing that if the exemption is granted he will not change his system of records or his manner of keeping and maintaining them without notification to and prior approval by the said collector, and (2) the collector and the supervising customs agent for the district are satisfied that the records are and will be kept and maintained by the broker in conformity with the conditions above stated.

(e) A broker having a license on the effective date of these regulations, who makes application for exemption within 90 days after such date, will be relieved of the requirement of keeping records on customs Form 3079 pending consideration of his application by the collector and supervising customs agent; but if such application shall be denied, the broker shall forthwith, upon written notification of the denial, keep and maintain records on customs Form 3079 as above provided.

(f) Whenever it shall appear to the satisfaction of the collector, upon investigation by a duly accredited agent of the United States, that a broker to whom an exemption has been granted as provided in paragraph (d) of this article is not keeping and maintaining records in conformity with the requirements of the said paragraph (d), the exemption of such broker shall be revoked by notice in writing from the collector and such broker shall thereafter keep and maintain records on customs Form 3079 as above provided.

(g) All of the books and papers required by the foregoing provisions of this article shall be kept on file for at least 5 years and maintained in such manner that they may readily be examined. Any or all of such books and papers shall be made available to duly accredited agents of the United States on demand therefor within 5 years after their preparation or receipt by the broker, or within such longer period of time during which they remain in the possession of the broker. The broker shall also furnish such addi-

tional information regarding his activities as a licensed customhouse broker as such agents may require.

(h) The supervising customs agent in charge of the agency district, or a customs agent designated by him, shall make such inspection of the books and papers required by these regulations to be kept and maintained by a licensed customhouse broker as may be necessary to enable the supervising customs agent, the collector of customs, and other proper officials of the Treasury Department to determine whether or not the broker is complying with the requirements of this article. Furthermore, the supervising customs agent or any duly accredited agent of the United States designated by him may at any time, for the purpose of protecting importers or the revenue of the United States, inspect such books and papers to obtain information regarding specific customs transactions.

(i) The agent making any investigation contemplated by the preceding paragraph shall report his findings in full to the Committee, the Commissioner of Customs, and the collector of customs.

ART. 1413. *Other duties and obligations of licensed customhouse brokers.*—(a) The duties and obligations specified in this article and elsewhere in these regulations relating to customhouse brokers are not to be construed as exclusive, since the Secretary of the Treasury may deem conduct not within the purview of any specification in these regulations to be such as would also warrant the suspension or revocation of a license under the authority conferred upon him by section 641 of the Tariff Act of 1930, as amended.

(b) No licensed customhouse broker shall permit his license or his name to be used by or for any unlicensed person, or by or for any broker whose license is under suspension, in the solicitation, promotion, or performance of any customs business or transaction.

(c) No licensed customhouse broker shall accept or retain employment from or with an unlicensed employer to transact customs business for others than the employer in such manner that the fees or other benefits resulting from the services rendered by the licensed broker for others inure to the benefit of the unlicensed employer.

(d) No licensed customhouse broker shall knowingly and directly or indirectly (1) accept employment to effect a customs transaction as associate, correspondent, officer, employee, agent, or subagent, from any person whose application for a license as a customhouse broker shall at any time have been denied for a cause involving moral turpitude, or whose license shall have been revoked for any such cause, or whose license is under suspension, or who is notoriously disreputable; or (2) assist the furtherance of any customs business or transaction of such person; or (3) employ, or accept such assistance from, any such person; or (4) share fees with any such person; or (5) permit any such person directly or indirectly to participate, whether through ownership or otherwise, in the promotion, control, or direction of the business of the licensed broker: *Provided*, That nothing herein shall be deemed to prohibit any licensed customhouse broker from acting as a customhouse broker for any bona fide importer or exporter, notwithstanding such importer or exporter may have been denied a license as a customhouse broker or had his license revoked or suspended, or may be disreputable.

(e) No licensed customhouse broker shall act in behalf of any person, or attempt to represent any person, in respect of any protest or appeal to reappraisal, unless he shall previously have been specifically or generally authorized to do so by such person.

(f) No licensed customhouse broker shall knowingly use false and misleading representations to procure employment in any customs matter, nor shall he represent to a client or prospective client that he can obtain extraordinary favors from the Treasury Department or any representative thereof.

(g) No licensed customhouse broker shall represent a client before the Treasury Department or any representative thereof in any matter to which the broker, as officer or em-

ployee, gave personal consideration, or as to the facts of which he gained knowledge, while in the Government service.

(h) No licensed customhouse broker shall knowingly (1) assist a person who has been employed by a client in a matter pending before the Treasury Department or any representative thereof to which matter such person gave personal consideration or gained personal knowledge of the facts or issues thereof while in the Government service, or (2) accept assistance in any such matter from any such person, or (3) share fees in any such matter with any such person.

(i) No licensed customhouse broker shall suggest to a client or a prospective client a plan known to be illegal for evading payment of any duty, tax, or other debt or obligation owing to the Government.

(j) Each licensed customhouse broker who knows that a client has not complied with the law or has made any error in, or omission from, any document, affidavit, or other paper which the law required such client to execute, shall advise his client promptly of the fact of such noncompliance, error, or omission.

(k) Each licensed customhouse broker shall exercise due diligence to ascertain the correctness of any information which he imparts to a client with reference to any customs business; and no licensed customhouse broker shall knowingly impart to a client false information relative to any such business when such false information is or might be detrimental to the interest of the Government, the client, or any other person.

(l) No licensed customhouse broker shall withhold information relative to any customs business from a client who is entitled to the information.

(m) Each licensed customhouse broker shall promptly pay over to the Government when due all sums received for the payment of any duty, tax, or other debt or obligation owing to the Government, and shall promptly account to clients for funds received for them from the Government, or received from a client in excess of the governmental or other charges properly payable in respect of the client's customs business.

(n) No licensed customhouse broker shall without authority of his client endorse or accept any Government draft, check, or warrant drawn to the order of such client.

(o) No licensed customhouse broker who has recommended to his client an attorney shall demand of, or accept from, such attorney any fee or remuneration by reason of such recommendation without the knowledge and consent of the client.

(p) No licensed customhouse broker shall file or procure or assist in the filing of any claim, or of any document, affidavit, or other paper, known by such broker to be false, nor shall knowingly give, or solicit or procure the giving of, any false or misleading information or testimony in any matter pending before the Treasury Department or any representative thereof.

(q) Each licensed customhouse broker shall exercise due diligence in answering correspondence, in making financial settlements, and in preparing, or assisting in the preparation of, and filing documents, affidavits, and other papers relating to any matter handled by him as a customhouse broker.

(r) No licensed customhouse broker shall procure, or attempt to procure, directly or indirectly, information from Government records or other Government sources of any kind to which access is not granted by proper authority.

(s) No licensed customhouse broker shall attempt to influence the conduct of any representative of the Treasury Department in any matter pending before the Treasury Department or any representative thereof, by the use of a threat, false accusation, duress, or the offer of any special inducement or promise of advantage or by the bestowing of any gift or favor or other thing of value.

(t) No licensed customhouse broker shall refuse access to, conceal, remove, or destroy the whole or any part of any book, paper, or other record relating to his transactions as a customhouse broker, which is being sought, or which the broker has reasonable grounds to believe may be sought, by the Treasury Department or any representative thereof, or shall otherwise interfere, or attempt to interfere, with any proper and lawful efforts by such Department or representative, to procure such information.

(u) Every licensed officer or member of a corporation, association, or partnership, which is licensed as a customhouse broker, shall exercise responsible supervision and control over the transaction of the customhouse business of such corporation, association, or partnership.

(v) A licensed broker who is authorized by State law to transact business under a fictitious or trade name shall, when signing customs documents, affix his own name in conjunction with each signature of the fictitious or trade name.

ART. 1414. *Revocation or suspension of licenses.*—(a) Tariff Act of 1930, section 641 (b), as amended:

The collector or chief officer of the customs may at any time, for good and sufficient reasons, serve notice in writing upon any customhouse broker so licensed to show cause why said license shall not be revoked or suspended, which notice shall be in the form of a statement specifically setting forth the ground of complaint. The collector or chief officer of customs shall within 10 days thereafter notify the customhouse broker in writing of a hearing to be held before him within 5 days upon said charges. At such hearing the customhouse broker may be represented by counsel, and all proceedings including the proof of the charges and the answer thereto, shall be presented, with the right of cross-examination to both parties, and a stenographic record of the same shall be made and a copy thereof shall be delivered to the customhouse broker. At the conclusion of such hearing the collector or chief officer of customs shall forthwith transmit all papers and the stenographic report of the hearing, which shall constitute the record of the case, to the Secretary of the Treasury for his action. Thereupon the said Secretary of the Treasury shall have the right to revoke or suspend the license of any customhouse broker shown to be incompetent, disreputable, or who has refused to comply with the rules and regulations issued under this section, or who has, with intent to defraud, in any manner willfully and knowingly deceived, misled, or threatened any importer, exporter, claimant, or client, or prospective importer, exporter, claimant, or client, by word, circular, letter, or by advertisement. (Aug. 26, 1935, ch. 689, sec. 4, 49 Stat. 864.)

(b) All complaints or charges against customhouse brokers filed with collectors or other customs officers shall forthwith be forwarded for investigation to the supervising customs agent in charge of the district in which the broker is located. The supervising customs agent shall make his report and transmit it, with recommendation, to the collector of the appropriate district, for such action as may be necessary, and shall also transmit copies thereof to the Committee and to the Commissioner of Customs.

(c) If the collector determines that there is not sufficient evidence to prefer charges, he shall report all the facts to the Committee and to the Commissioner of Customs. If the collector determines that there is sufficient evidence to prefer charges, he shall proceed in accordance with paragraph (a) of this article. The collector may call upon the attorney for the Government before the Committee on Enrollment and Disbarment to aid him in preparing the notice to show cause to be served upon the accused broker.

(d) Notice of the charges, signed by the collector, shall be served upon such customhouse broker in the following manner:

1. If an individual—
 - (a) By delivery to the accused broker personally, or
 - (b) By registered mail, with demand for a return card signed solely by the addressee;
2. If a corporation, association, or partnership—
 - (a) By delivery to any officer of such a corporation or association, or member of such partnership, or
 - (b) By registered mail addressed to any such officer or member, with demand for a return card signed solely by the addressee;

Provided, That, if a customhouse broker shall have signed and filed with the Committee his written consent to be served in some other manner, it shall be sufficient if service is made in that manner. Where the service is by registered mail, the receipt of the return card duly signed shall be satisfactory evidence of service.

(e) The notice shall state the place where and time within which the accused may file in duplicate his verified answer, and shall contain or be accompanied by a statement of charges, which statement shall be signed by the collector, giving a plain and concise, but not necessarily detailed, description of the facts which it is claimed constitute grounds for suspension or revocation of license. A statement of charges which fairly informs the accused of the charges against him so that he is able to prepare his defense shall be deemed sufficient. Different means by which a purpose might have been accomplished or different intents with which acts might have been done so as to constitute ground for suspension or revocation of license, may be alleged in the statement of charges in a single count in the alternative. If, in order to prepare his defense, the accused desires additional information as to the time and place of the alleged misconduct, or the means by which it was committed, or any other more specific information concerning the alleged misconduct, he may present a motion in writing to the collector asking that the statement of charges be made more specific, setting forth in such motion in what specific respect the statement of charges leaves him in doubt and describing the particular language of the statement of charges as to which additional information is needed. If in the opinion of the collector such information is reasonably necessary to enable the accused to prepare his defense, the collector shall furnish the accused with an amended statement of charges giving the needed information.

(f) After notice of the charges has been duly served, all other papers in the case, including notice of the time and place of the hearing, shall be served as follows:

(1) By delivering the same to the accused personally if an individual; or if a corporation, association, or partnership, to any officer or member thereof; or

(2) By leaving them at the office of the accused, or of such officer or member, with his clerk or with a person in charge thereof; or

(3) By depositing them in a United States post office or post-office box, enclosed in a sealed envelope, plainly addressed to such accused, or to such member or officer, at the address under which the accused is licensed or at the last known address of the accused, or such member or officer.

(4) When the accused, whether an individual, corporation, association, or partnership, is represented by attorney, by service upon the attorney in the same manner as provided for in paragraph (1), (2), or (3) for service on the accused personally.

(g) Copies of all papers in the case, including the notice of charges, and notice of the time and place of all hearings, shall be sent promptly by the collector to the Committee.

(h) The hearing shall be before the Collector. The collector shall designate an officer of his staff to represent the Government at the hearing and shall provide a stenographer to make the stenographic record. The attorney for the Government before the Committee on Enrollment and Disbarment, or another attorney designated by the Committee, shall be present and participate in the presentation of testimony. A member or members of the Committee may be present at the hearing. A member or representative of the Committee may act for the collector in taking depositions when necessary. Upon conclusion of the hearing, the collector shall forthwith transmit all papers and three copies of the transcript of the hearing to the Secretary of the Treasury (attention of the Committee on Enrollment and Disbarment).

(i) Promptly after the record in a case has been received by the Committee, a copy of a transcript of the evidence, accompanied by proposed findings of fact based upon all the evidence in the case, prepared by the attorney for the Government, shall be delivered to the accused or his attorney. The accused shall have 10 days thereafter in which to submit in writing to the Committee his objections, if any, to such findings. The accused or his attorney shall have the right to examine all exhibits introduced at the hearing. The Committee shall promptly after the receipt of such objections, or after the expiration of 10 days if no such objections are filed, make its findings of fact. The Committee shall recommend to the Secretary the dismissal of the charges when in its opinion such charges have not been proved.

(j) If the evidence at the hearing indicates that a proper disposition of the case cannot be made on the basis of the charges preferred, the Committee may recommend to the Secretary that the charges be dismissed and the collector be instructed to file appropriate charges as a basis for new proceedings.

(k) The Committee shall disregard an immaterial misnomer of a third person, an immaterial mistake in the description of any person, thing, or place or the ownership of any property, a failure to prove immaterial allegations in the description of the accused's conduct, or any other immaterial mistake in the statement of charges.

(l) If the Committee or a majority thereof finds that a part of the charges in the statement of charges is not sufficiently proved but that the remainder of the charges is so proved, it may recommend a finding that the accused is guilty upon any ground for suspension or revocation of license which is substantially charged by the remainder of the statement of charges.

(m) No recommendations shall be made by the Committee as to findings of fact in cases of default by the accused except upon evidence submitted on behalf of the Government.

(n) If, in the opinion of the Committee, suspension or revocation of license should be recommended, it shall so report and recommend to the Secretary of the Treasury. Such report and recommendation shall be signed by all members of the Committee agreeing thereto. Any member of the Committee dissenting therefrom shall submit a statement of his reasons for such dissent.

(o) If the Secretary of the Treasury in the exercise of his discretion issues his order of suspension or revocation of the license of the accused, notice thereof shall be given by the Committee to the heads of all interested bureaus, offices, and divisions of the Treasury Department and to other interested departments and agencies of the Government in such manner as the Committee may determine. Except as provided in article 1417 of these regulations, such person will not thereafter be recognized as a customhouse broker during the period of suspension or revocation of his license.

(p) Any customhouse broker who has been suspended or whose license has been revoked may make written application to the Committee to have the order of suspension or revocation set aside or modified upon the ground (1) of newly discovered evidence, or (2) that important evidence is now available which the applicant was unable to produce at the original hearing by the exercise of due diligence. Every such application shall be filed with the Committee in duplicate. Such application must set forth specifically the precise character of the evidence to be relied upon in its support and shall state the reasons why the applicant was unable to produce it when the original charges were heard. If the Committee after due consideration of the application shall deem it sufficiently meritorious to warrant a hearing, it shall so recommend to the Secretary, who may order the taking of additional testimony before the collector. The collector shall set a time and place for such hearing, and

give due notice thereof to the applicant. The hearing shall be conducted as set forth in paragraph (h) of this article. Upon the conclusion of the hearing the collector shall submit three copies of the transcript of the hearing to the Committee. The Committee shall then make its recommendations to the Secretary in the manner heretofore prescribed in connection with revocation and suspension proceedings.

(q) In the event that the Secretary shall issue an order vacating or modifying the prior order of suspension or revocation, notice thereof shall be given to all those to whom notice of the original order of suspension or revocation was sent.

(r) In the case of sickness or necessary absence of the collector which prevents him from acting as provided in this article, the assistant collector shall be deemed the chief officer of the customs referred to in paragraph (a) of this article, and shall perform the duties of the collector herein prescribed.

ART. 1415. *Cancellation of licenses.*—(a) Tariff Act of 1930, section 641 (a):

* * * Any license granted to any such corporation, association, or partnership shall be deemed revoked if for any continuous period of more than 60 days after the issuance of such license there are not at least two officers of such corporation or association or two members of such partnership who are qualified to transact business as customhouse brokers. * * *

(b) Any corporation, association, or partnership which is licensed as a customhouse broker shall immediately notify the collector of each district in which it is licensed to transact business in the event it ceases to have at least two officers or members who are licensed individually as customhouse brokers and who exercise responsible supervision and control of the transaction of the customs business of the licensed organization. Collectors shall report to the Committee all cases wherein the required number of officers or members of any licensed corporation, association, or partnership have ceased to be qualified as licensed customhouse brokers and the deficiency has continued for more than 60 days. The Committee shall, in such cases, notify the corporation, association, or partnership that its license has been revoked in accordance with the requirement of section 641 (a) of the Tariff Act of 1930. A copy of such notice shall be sent by the Committee to the collector.

(c) A customhouse broker's license may be canceled upon written application to the Committee and surrender of the license certificate, but before granting the request, inquiry shall be made by the Committee to ascertain whether it has been made in order to evade proceedings for revocation or suspension of the license, in which event the request shall be denied, unless the Secretary of the Treasury shall otherwise order.

ART. 1416. *Licenses issued under prior acts of Congress.*—Tariff Act of 1930, section 641 (c), as amended:

Licenses issued under the act of June 10, 1910 (36 Stat. 454; U. S. C., title 19, sec. 415), or under the provisions of subdivision (a) of this section prior to the effective date of this amendment, shall continue in force and effect, subject to suspension and revocation as provided in subdivision (b) of this section. (Aug. 26, 1935, ch. 689, sec. 4, 49 Stat. 865.)

ART. 1417. *Appeal from the Secretary's decision.*—Tariff Act of 1930, section 641 (b), as amended:

* * * An appeal may be taken by any licensed customhouse broker from any order of the Secretary of the Treasury suspending or revoking a license. Such appeal shall be taken by filing, in the circuit court of appeals of the United States within any circuit wherein such person resides or has his principal place of business or in the United States Court of Appeals for the District of Columbia, within 60 days after the entry of such order, a written petition praying that the order of the Secretary of the Treasury be modified or set aside in whole or in part. A copy of such petition shall be forthwith served upon the Secretary of the Treasury, or upon any officer designated by him for that purpose, and thereupon the Secretary of the Treasury shall certify and file in the court a transcript of the record upon which the order complained of was entered. Upon the filing of such transcript such court shall have exclusive jurisdiction to affirm, modify, or set aside such order, in whole or in part. No objection to the order of the Secretary of the Treasury shall be considered by the court unless such objection shall have been urged before the collector or chief officer of customs or unless there

were reasonable grounds for failure so to do. The finding of the Secretary of the Treasury as to the facts, if supported by substantial evidence, shall be conclusive. If any party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the proceeding before the collector or chief officer of customs, the court may order such additional evidence to be taken before the collector or chief officer of customs and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The Secretary of the Treasury may modify his findings as to the facts by reason of the additional evidence so taken, and he shall file with the court such modified or new findings, which, if supported by substantial evidence, shall be conclusive, and his recommendation, if any, for the modification or setting aside of the original order. The judgment and decree of the court affirming, modifying, or setting aside, in whole or in part, any such order of the Secretary of the Treasury shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in sections 239 and 240 of the Judicial Code, as amended (U. S. C., title 28, secs. 346 and 347). The commencement of proceedings under this subsection shall, unless specifically ordered by the court, operate as a stay of the Secretary of the Treasury's order. (Aug. 26, 1935, ch. 689, sec. 4, 49 Stat. 864.)

ART. 1418. *Records of the Committee.*—The Committee shall keep such rosters and other records as may be necessary to perform its functions under these regulations, and is authorized to require the permanent transfer to the Committee of any records in any office of the Treasury Department which pertain solely to the functions of the Committee in connection with the licensing and revocation of license of customhouse brokers. Copies of rosters shall be furnished to bureaus, offices, and divisions of the Treasury Department upon sufficient showing of need thereof. The Committee shall, on request, furnish information to any person as to whether any specified person is a licensed customhouse broker.

NOTE.—Regulations governing the recognition of agents, attorneys, and other persons representing claimants before the Treasury Department and offices thereof are contained in T. D. 48616.

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1461. Hours of business.
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OFFICE RULES

1463. Reading, smoking, etc.
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PRESIDENTIAL APPOINTMENTS

ART. 1419. *Oaths—Bonds.*—(a) Appointments of collectors of customs (with the exception of the collectors of customs at San Juan, Puerto Rico, and St. Thomas, Virgin Islands), comptrollers of customs, the surveyor of customs at New York, and the appraiser of merchandise at New York are made by the President, by and with the advice and consent of the Senate of the United States, and such officers may be removed at any time by the President.

(b) Upon the appointment of a person to any such office, notice thereof will be forwarded to him by the Secretary of the Treasury, accompanied by a blank form of bond, if a bond is required, with instructions for the preparation and execution of the same.

(c) Such bond after execution must be forwarded to the Secretary of the Treasury who, upon receipt and approval of the bond, will transmit a commission and blank oath of office with instructions and authority to enter upon duty on execution of the oath. The oath must be taken in the district to which appointed and, in order to avoid accounting complications, should be taken on the first day of the month, if practicable, or on the 16th. Bonds must be renewed every 4 years and oftener if necessary; and evidence of the continued solvency of individual sureties will be required each year.

(d) Subordinate officers, or employees of bonded officers, are not eligible as sureties on the bonds of their directing or employing officers.

SUBORDINATE APPOINTMENTS IN THE CUSTOMS SERVICE

ART. 1420. *Classified civil-service positions.*—Positions in the Customs Service, other than presidential appointees, stitch counters at the port of New York, navigation season employees in Alaska, unclassified laborers, and those the compensation of which is \$540 per annum or less, are in the classified civil service and appointments thereto can be made only in accordance with civil-service rules. Unclassified laborers must be appointed in accordance with the labor regulations established by the Civil Service Commission (see art. 1427).

ART. 1421. *Assistant collectors, etc.*—(a) (1) United States Code, title 19, section 7:

The collectors of customs, comptrollers of customs, surveyors of customs, and appraisers of merchandise shall each, with the approval of the Secretary of the Treasury, appoint a customs officer familiar with the customs laws and procedure, to act and be known as the assistant collector, the assistant comptroller, the assistant surveyor, and the chief assistant appraiser (in lieu of the special deputies), and the Secretary of the Treasury shall fix their compensation. The collector of customs at the port of New York shall also, with the approval of the Secretary of the Treasury, appoint a customs officer qualified in the law and familiar with customs procedure, to act and be known as solicitor to the collector, whose compensation shall likewise be fixed by the Secretary of the Treasury. (Mar. 4, 1923, c. 251, sec. 3, 43 Stat. 1453.)

(2) Before approving the nomination of a customs officer for the position of assistant collector, assistant comptroller, assistant surveyor, chief assistant appraiser, or solicitor to the col-

lector at New York the Department will order an investigation and await the receipt of a report regarding the qualifications of the nominee to fill the position for which nominated.

(b) United States Code, title 19, section 8:

In case of a vacancy in the office of a collector of customs, comptroller of customs, surveyor of customs, or appraiser of merchandise, such assistant collector, assistant comptroller, assistant surveyor, or chief assistant appraiser shall give bond when required, act as such officer, and receive the compensation of such office until an appointment thereto has been made and the person so appointed has duly qualified. Whenever a vacancy occurs in the position of such assistants, chief assistant, and solicitor to the collector, herein provided for, it shall be filled with the approval of the Secretary of the Treasury, by the promotion or transfer of a trained and qualified customs officer, and the assistant, chief assistant, and solicitor to the collector so appointed shall continue in office and shall not be reduced or removed except for cause and in accordance with the civil-service laws and regulations. (R. S. sec. 2629; Mar. 3, 1905, c. 1413, sec. 1, 33 Stat. 983; Mar. 4, 1923, c. 251, sec. 4, 42 Stat. 1453.)

(c) When a vacancy occurs in the office of collector of customs, comptroller of customs, surveyor of customs at New York, or appraiser of merchandise at New York, the assistant collector, assistant comptroller, assistant surveyor, or chief assistant appraiser shall immediately assume the duties of the vacant office, giving bond when required, after necessary forms and instructions have been received from the Secretary of the Treasury.

(d) An assistant collector so assuming the duties of a vacant position of collector must close the collector's accounts as of the day the position became vacant. New accounts must be opened in his own name as acting collector. (See art. 1184.)

(e) When an assistant collector assumes, as acting collector, the duties of a vacant position of collector, he should at once nominate an officer on his force for designation as acting assistant collector. There is no provision of law, however, which will permit the officer so designated to receive the compensation of the position of assistant collector.

(f) When an assistant collector, an assistant comptroller, an assistant surveyor at New York, or a chief assistant appraiser at New York has been appointed, he retains that position regardless of changes in the position of collector, comptroller, surveyor, or appraiser until separation from the service or demotion for cause, in accordance with the civil-service laws and regulations. It is not necessary that the foregoing officers be renominated by newly appointed collectors, comptrollers, surveyors, or appraisers.

ART. 1422. *Other subordinate officers.*—At the port of New York, deputy collectors, clerks, storekeepers, inspectors, customs guards, and other employees in the collector's office, are appointed by the Secretary of the Treasury upon the nomination of the collector, when approved by the Commissioner of Customs; assistant appraisers, examiners, clerks, verifiers-openers-packers, laborers, and other employees in the appraiser's stores at the port of New York, upon the nomination of the appraiser through the Commissioner of Customs; and deputy surveyors, clerks, and other employees in the office of the surveyor at the port of New York, upon the nomination of the surveyor through the Commissioner of Customs. In districts other than New York, and at ports other than New York in the district of New York, all nominations, except for positions in the office of the comptroller where there is one, shall be made by the collector unless special instructions to the contrary have been issued. Deputy comptrollers, clerks, and other employees in the comptroller's office, in all districts where there is such an officer, are appointed by the Secretary of the Treasury upon the nomination of the comptroller through the Commissioner of Customs.

ART. 1423. *Nominations—Examination-required positions.*—(a) When appointments are to be made to positions in the examination-required class, the nominating officer shall request the civil-service district manager for a certification of eligibles, and upon receipt of the certification accompanied by the papers of the eligibles certified, will make a selection from the names certified, with sole reference to merit and fitness.

(b) A nomination on customs Form 3021 shall be forwarded to the Commissioner of Customs in quintuplicate through the civil-service manager for the district, when his approval is necessary, accompanied by the civil-service certificate when one has been issued; in quadruplicate direct to the Commissioner of Customs when civil-service approval is not necessary. If approved, one copy of this form will be returned to the nominating officer.

(c) The nomination must contain the following information: The Christian name and surname of the nominee with middle name, if any; date of birth; kind of appointment (permanent, probational, reinstatement, transfer, excepted, or temporary); the proposed compensation; the proposed pay-roll title; official station; effective date; the name, designation, and salary of previous incumbent; and whether the vacancy occurred by promotion, demotion, transfer, death, resignation, or removal.

ART. 1424. *Probationary.*—(a) If the Secretary of the Treasury approves the recommendation of the nominating officer, he will appoint the persons so recommended for a probationary period of 6 months. Upon receipt of the letter of appointment, the nominating officer will notify the appointee to report for duty and take the prescribed oath (customs Form 3003). After execution of the oath of office, a certificate of appointment (customs Form 3005) will be delivered to the appointee. The above oath and the personal history (standard Form 6) shall be in triplicate, two copies of each to be forwarded to the Commissioner of Customs; the remaining copies to be filed with the nominating officer.

(b) At the end of the fifth month of the probationary period a report in duplicate must be made on standard Form 17 to the Commissioner of Customs.

(c) Civil Service Rule XI, section 3, provides that no employee shall be promoted during the probationary period except upon approval of the Civil Service Commission, previously obtained.)

ART. 1425. *Permanent.*—(a) If at the end of 6 months the services of the appointee are satisfactory he will be retained in the service and the appointment will become absolute. No additional oath is required.

(b) If the services of the probationer be not satisfactory to the nominating officer, that officer will notify such probationer in writing with a full statement of the reasons, and report his action on customs Form 3021, to the Secretary of the Treasury through the Commissioner of Customs, transmitting a copy of the notice. Such notice shall terminate the services of the probationer, and shall state the date on which the services will end.

ART. 1426. *Nominations—Excepted from examination positions—Appointment.*—(a) When vacancies are to be filled in positions excepted by the civil-service rules from examinations the nominating officer shall make a nomination on customs Form 3021, in quadruplicate, to the Secretary of the Treasury through the Commissioner of Customs, stating the Christian name and surname of the nominee, with middle name, if any; date of birth; kind of appointment (permanent or temporary); the proposed compensation; the proposed pay-roll title; official station; effective date; the name, designation, and salary of previous incumbent; and whether the vacancy occurred by death, resignation, or removal. The occupation of the nominee, also his or her character for sobriety, industry, and fitness for the position to which nominated, and whether the person nominated is a relative, dependent, or private employee of the nominating officer must also be reported.

(b) Appointments to such positions will be made in the same manner as to examination-required positions except that the nomination on customs Form 3021 is forwarded direct to the Commissioner of Customs and not through the civil-service district manager, and that the appointment will be absolute, no probationary period being required. When the appointment is made, oath of office on customs Form 3003 will be taken in triplicate and two copies forwarded to

the Commissioner of Customs, accompanied by the information as to personal history on standard Form 6 in duplicate.

ART. 1427. *Laborers—Appointment of.*—(a) Laborers in the Customs Service are divided into three classes—classified, unclassified, and temporary.

(b) Classified laborers are in the examination-required class, and nominations and appointments must be made to such positions in accordance with the regulations governing appointments to examination-required positions.

(c) Unclassified laborers are those who may be appointed to positions which do not require educational qualifications, do not pertain to the mechanical trades or similar skilled occupations, and in which the employee is not required to exercise any supervision, or dexterity, or skill not likely to be possessed by the ordinary day laborer, but which require services which may be performed by an unskilled workman or laborer, such as the trucking or handling of merchandise in the public stores or on the docks or railway stations. Nominations for the appointment of unclassified laborers must be made in the same manner as nominations for appointment to the examination-required class.

(d) Temporary laborers, the employment of whom is rendered necessary by unforeseen emergency, may be employed by the collector of customs for periods of not more than 15 days in any one calendar month without nomination and appointment being made, provided that appointments shall be made from eligible lists, if immediately available, and if they can be so made without delaying the unloading of vessels or other work to be performed. The collector shall report in duplicate to the appropriate civil-service district manager, monthly, the names of all persons so employed, the character of the labor performed by them, the rate of compensation, and the aggregate compensation paid each.

ART. 1428. *Temporary appointments.*—(a) When a temporary appointment, either to fill a vacancy or a new position, has been authorized by the Commissioner of Customs, with the approval of the Secretary of the Treasury, the nominating officer will call upon the manager of the civil-service district for a register of eligibles; and if there be such register of eligibles who will accept temporary appointment, nomination shall be made in the manner indicated in article 1423. If there be no register of eligibles, or if no eligible will accept the appointment, the nomination shall be made in the same manner as nominations to positions in the excepted-from-examination class (see art. 1426), except that the nomination must be submitted through the civil-service district manager for his approval.

(b) Temporary appointments for job employment under section 4, Rule VIII, Civil Service Rules, may not be made for a period exceeding three months but may be extended by the Secretary of the Treasury for a further period of three months upon the recommendation of the nominating officer, if approved by the civil-service district manager.

ART. 1429. *Veteran preference.*—(a) United States Code, title 5, section 35:

Persons honorably discharged from the military or naval service by reason of disability resulting from wounds or sickness incurred in the line of duty, shall be preferred for appointments to civil offices, provided they are found to possess the business capacity necessary for the proper discharge of the duties of such offices. In making appointments to clerical and other positions in the executive branch of the Government in the District of Columbia or elsewhere preference shall be given to honorably discharged soldiers, sailors, and marines, and widows of such and to the wives of injured soldiers, sailors, and marines who themselves are not qualified, but whose wives are qualified to hold such positions. (R. S. sec. 1754; July 11, 1919, c. 6, sec. 1, 41 Stat. 37; June 18, 1929, c. 28, secs. 3, 21, 46 Stat. 21, 26.)

(b) Copies of the civil-service rules showing the manner in which such preference is applied may be secured from the manager in each civil service district.

ART. 1430. *Ineligibles.*—Persons who have been guilty of grave offenses against the revenue laws, or who have been dismissed for fault or delinquency from any branch of the public service, are not eligible for nomination to positions

in the Customs Service, nor should any person be nominated for appointment in such service, who can not produce satisfactory proof of good conduct in his or her previous employment.

ART. 1431. *Retired employees—Reemployment prohibited.*—Persons separated from the service who are receiving an annuity under the provisions of the retirement act by reason of age, can not be reemployed by the Government in any position within the purview of the retirement act.

ART. 1432. *Positions—How created.*—(a) Positions in the Customs Service other than Presidential appointments may be created or abolished by the Commissioner of Customs, with the approval of the Secretary of the Treasury. Nominations should not be made for appointments to positions not in existence. If the nominating officer shall be of the opinion that necessity exists for the creation of a new position, he may so report to the Commissioner of Customs, with a statement of facts rendering the creation of such position necessary, and if such position is authorized, nomination to fill the same by original appointment, by promotion or otherwise, should be made in the same manner as nominations are made to fill vacancies.

(b) The person appointed pursuant to such authority should not be placed on duty, however, until his appointment by name, showing designation and salary, has been approved by the Bureau.

PROMOTIONS

ART. 1433. *Promotions, basis of.*—Promotions in the Customs Service shall be based solely on good conduct, efficiency, and length of service. Nominating officers may before making nominations for promotion take into consideration the recommendations of the immediate superior officers of the persons considered for promotion, and the recommendations of the committee or board of personnel, if there be any. Recommendations of persons not in the Customs Service will not be considered.

ART. 1434. *Nominations for.*—Nominations for promotions shall be made on customs Form 3021, in quadruplicate, to the Secretary of the Treasury through the Commissioner of Customs, and shall state the Christian name and surname of the nominee, with middle name, if any; date of birth; nature of action to be taken; the present and proposed compensation; the present and proposed pay-roll title; official station; effective date; the name, designation, and salary of previous incumbent; whether the vacancy occurred by promotion, demotion, transfer, retirement, death, resignation, or removal; the length of service of the nominee in present position; and his record for industry, efficiency, and good conduct, with any particular incidents of merit or demerit during his period of service.

VACANCIES, DEMOTIONS, AND TRANSFERS

ART. 1435. *Vacancies.*—Vacancies in the Customs Service may result from promotion, resignation, retirement, death, demotion, removal, or transfer, or from the authorization of new positions.

ART. 1436. *Resignations.*—Resignations must be in writing, in triplicate, signed by the person resigning, and state the reasons for such resignation. Upon a resignation being received by a nominating officer he shall immediately forward the same, in duplicate, to the Secretary of the Treasury through the Commissioner of Customs, with his recommendation on customs Form 3021, in quadruplicate. If the resignation be accepted, the nominating officer will be so informed. The recommendation shall state, in all cases, whether or not the separation from the service is without delinquency or misconduct. Where delinquency or misconduct exists its nature should be stated.

ART. 1437. *Deaths.*—All deaths of persons in the Customs Service should be immediately reported by the nominating officer to the Commissioner of Customs, on customs Form 3021, in triplicate, stating the name, designation, compensation, and date of death.

ART. 1438. *Demotions.*—(a) Demotions are of two classes: demotions in salary without change in duties, and demotions to other and lower grade duties.

(b) Recommendations by nominating officers for demotions in the classified service shall be made only for negligence, delinquency, inefficiency, or other just cause. Recommendations for demotions must be made in quadruplicate on customs Form 3021, showing the name, age, designation, and compensation of the person to be affected and be accompanied by a letter, in duplicate, containing a statement of the reasons therefor. Where a demotion is to other and lower grade duties, the designation and compensation of the position to which it is proposed to demote the employee, the name of the former incumbent, and the manner in which the vacancy occurred must be shown. The order of demotion, together with the recommendation and statement of reasons therefor, shall be a part of the records of the customhouse and furnished upon request to the person affected.

ART. 1439. *Transfers.*—(a) Transfers consist of the change of a person from one position to another having a different designation under the same nominating officer, or from a position under one nominating officer to a position under another nominating officer, or from a position in one customs district to a position in another customs district, or from another branch of the Government service to the Customs Service, or from the Customs Service to another branch of the Government service. Such transfers must be submitted to the Commissioner of Customs for approval by the Secretary of the Treasury.

(b) Mere changes in station within a district of persons in the Customs Service carrying no change in designation or compensation, if travel expenses are not to be allowed (see par. (c)), may be made by a nominating officer, provided that such changes must be immediately reported to the Commissioner of Customs, in duplicate, by letter, if from one port or customs station to another in the district. Care should be taken to show the effective date.

(c) Transfers of employees from one station to another must be approved by the Secretary of the Treasury prior to the transfer if traveling expenses incurred in connection therewith are to be reimbursed by the Government. Such reimbursement may be made only in cases where the change of station or transfer is effected in the interest of the public service and not for the convenience of the officer or employee.

(d) If a transfer is to be made from one position to another under the same nominating officer, recommendation therefor, on customs Form 3021, in triplicate, must be made to the Secretary of the Treasury through the Commissioner of Customs. If the transfer is to be made from a position under one nominating officer to a position under another nominating officer, or from a position in one customs district to another customs district, or from one branch of the Government service to another branch of the service, the written consent of the nominating officer or head of the service from which the transfer is to be made must be forwarded with the recommendation. The recommendation for transfer must be in quadruplicate, on customs Form 3021, and state the name, age, and designation of the nominee, the compensation to be paid, the vacancy to which the transfer is to be made and how the vacancy occurred, the present compensation of the nominee, whether or not he desires the transfer, and the reasons why such transfer should be made.

SUSPENSIONS AND REMOVALS

ART. 1440. *General provisions.*—(a) When any nominating officer is convinced that the interests of the service require it, he may, subject to the limitations contained in article 1441 (a), (c), and (d), suspend any officer or employee from duty and pay for any period not to exceed 90 days, subject to the subsequent approval of the Secretary of the Treasury, and shall file charges against the accused in writing as soon

as possible. Notice of such suspension should be forwarded immediately to the Commissioner of Customs, showing the reasons for the suspension and the date on which it begins.

(b) The suspension may be disallowed by the Secretary of the Treasury if he finds, upon examination of the evidence presented, that it was not justified.

(c) Whenever it is impracticable to present to the accused in person a copy of the charges on which a suspension is based, or removal is recommended, such copy will be sent by registered mail and the receipt forwarded to the Commissioner of Customs. (See arts. 1441 (d) and 1443 (a).)

(d) If the accused fails to file his answer with the nominating officer within 5 days from the date of receipt by him, or to request an extension of time, it will be assumed that he does not desire to file an answer, and the charges and nominating officer's recommendation will be forwarded to the Commissioner of Customs for action.

(e) The answer to the charges should be delivered by the accused in person, when practicable, or should be forwarded by registered mail.

(f) Suspensions are of two classes: (1) Disciplinary suspensions for minor delinquencies not believed to be sufficient to justify removal (see art. 1441); (2) suspensions pending investigations or hearings on charges brought with a view to removal (see art. 1442).

ART. 1441. *Disciplinary suspension.*—(a) United States Code, title 19, section 62:

The several collectors, comptrollers, surveyors, and appraisers shall have power, with the approval of the Secretary of the Treasury, as punishment for any neglect or minor delinquency the punishment whereof is not prescribed by law, to suspend from duty with loss of pay for a period not to exceed 30 days for any one cause, any customs officer or employee nominated or appointed and subordinate to such collector, comptroller, surveyor, or appraiser: *Provided, however,* That the Secretary of the Treasury may, on application by the suspended person within 1 year from the expiration of the suspension, in his discretion pay the whole or any part of the pay forfeited by reason of said suspension. (Dec. 18, 1890, c. 22, 26 Stat. 690; June 17, 1930, c. 497, Title IV, sec. 523, 46 Stat. 740.)

(b) Applications for payment of salary forfeited by reason of such suspensions can be considered by the Secretary of the Treasury only in cases where the employee is suspended for minor delinquencies or misconduct, and not in cases where the employee has been suspended looking to his removal from the service. (See art. 1442.)

(c) Such suspensions may be extended by the Secretary of the Treasury, either with or without the recommendation of the nominating officer.

(d) The person suspended shall be furnished with a copy of the charges and notified in writing that written answer to such charges must be made within 5 days from the receipt thereof by him, showing cause why the suspension should not be approved or continued. (See art. 1440, pars. (c), (d), and (e).) Upon request of the person under charges, the time for answer may be extended by the nominating officer for such reasonable period as he may deem just. Such answer, with a copy of the charges, must be forwarded to the Commissioner of Customs with the nominating officer's recommendation.

ART. 1442. *Suspensions looking to removal.*—Whenever it shall appear to any nominating officer, either by reason of his personal observation or by reports made to him by supervising officers, that any officer or employee in the Customs Service has been guilty of such delinquencies or misconduct or has proven so inefficient that removal is justified, and the nominating officer is convinced of the guilt of the accused and that the interests of the service require immediate suspension pending action by the department, he may suspend such accused person for a period not to exceed 90 days and shall file charges. (See art. 1443 (a).)

ART. 1443. *Charges looking to removal.*—(a) When a nominating officer is of the opinion that charges looking to removal should be filed against an officer or employee, whether or not he is immediately suspended, the accused

shall be furnished with a written statement specifying the delinquencies, misconduct, or inefficiency with which he is charged, and shall be notified in writing that written answer to such charges must be made within 5 days of the receipt thereof by him, showing cause why he should not be removed from the service. (See art. 1440, pars. (c), (d), and (e).) Such time to answer may, upon request of the person so charged, be extended by the nominating officer for such reasonable period as he may deem just. No examination of witnesses, nor any trial or hearing, shall be held except at the discretion of the nominating officer. If a hearing is held the accused shall be notified in writing of the time and place of hearing.

(b) A copy of the charges, of the answer, of the recommendation in the case, and of the testimony if a hearing is held, shall be forwarded to the Commissioner of Customs, with the recommendation of the nominating officer, all in duplicate. Copies of the charges, of the notice of hearing, if held, of the reasons for removal, and of the order of removal shall be furnished upon request to the person affected.

IMMUNITIES AND PRIVILEGES OF CUSTOMS OFFICERS AND EMPLOYEES

ART. 1444. *Collector not personally liable.*—(a) Tariff Act of 1930, section 513:

No collector or other customs officer shall be in any way liable to any owner, importer, consignee, or agent, or any other person for or on account of any rulings or decisions as to the appraisal or the classification of any imported merchandise, or the duties charged thereon, or the collection of any dues, charges, or duties on or on account of said merchandise, or any other matter or thing as to which said owner, importer, consignee, or agent might under this Act be entitled to protest or appeal from the decision of such collector or other officer.

(b) Tariff Act of 1930, section 484 (j):

* * * The collector shall not be liable to any person in respect of the delivery of merchandise released from customs custody in accordance with the provisions of this section. Where a recovery is had in any suit or proceeding against a collector on account of the release of merchandise from customs custody, in the performance of his official duty, and the court certifies that there was probable cause for such release by the collector, or that he acted under the directions of the Secretary of the Treasury, or other proper officer of the Government, no execution shall issue against such collector, but the amounts so recovered shall, upon final judgment, be paid out of moneys appropriated from the Treasury for that purpose.

(c) United States Code, title 28, section 842:

When a recovery is had in any suit or proceeding against a collector or other officer of the revenue for any act done by him, or for the recovery of any money exacted by or paid to him and by him paid into the Treasury, in the performance of his official duty, and the court certifies that there was probable cause for the act done by the collector or other officer, or that he acted under the directions of the Secretary of the Treasury, or other proper officer of the Government, no execution shall issue against such collector or other officer, but the amount so recovered shall, upon final judgment, be provided for and paid out of the proper appropriation from the Treasury. (R. S., sec. 989.)

ART. 1445. *Militia service—Jury duty.*—Customs officers and customhouse clerks are exempt from service in the enrolled and equipped militia, but are not exempt from jury duty. When serving as jurors, absence will be charged to annual leave. If no leave is due an employee, leave without pay will be granted.

ART. 1446. *Leave of absence.*—(a) *Annual leave.*—United States Code, title 5, sections 30b, 30c, and 30e:

SEC. 30b. * * * all civilian officers and employees of the United States wherever stationed and * * *, regardless of their tenure, in addition to any accrued leave, shall be entitled to twenty-six days' annual leave with pay each calendar year, exclusive of Sundays and holidays: *Provided,* That the part unused in any year shall be accumulated for succeeding years until it totals not exceeding sixty days. * * * Temporary employees * * * shall be entitled to two and one-half days' leave for each month of service. The annual leave herein authorized shall be granted at such times as the heads of the various departments and independent establishments may prescribe. * * * (Mar. 14, 1936, c. 140, sec. 1, 49 Stat.)

SEC. 30c. Nothing in sections 30b * * * and 30e of this title shall be construed to prevent the continuance of any existing

leave differential now obtaining for the benefit of employees of the Federal Government stationed outside the continental limits of the United States. (Mar. 14, 1936, c. 140, sec. 5, 49 Stat.)

SEC. 30e. The leave of absence in sections 30b (and) 30c * * * of this title * * * shall be administered under such regulations as the President may prescribe * * *. (Mar. 14, 1936, c. 140, sec. 7, 49 Stat.)

(b) *Sick leave.*—United States Code, title 5, sections 30f–30h and 30k:

SEC. 30f. * * * civilian officers and employees of the United States wherever stationed * * * shall be entitled to sick leave with pay regardless of their tenure, as described herein. (Mar. 14, 1936, c. 141, sec. 1, 49 Stat.)

SEC. 30g. * * * cumulative sick leave with pay, at the rate of one and one-quarter days per month, shall be granted to all civilian officers and employees, the total accumulation not to exceed ninety days. Temporary employees * * * shall be entitled to one and one-quarter days sick leave for each month of service; *Provided*, That all such employees shall furnish certificates satisfactory to the head of the appropriate department or independent establishment. (Mar. 14, 1936, c. 141, sec. 2, 49 Stat.)

SEC. 30h. Administrative officers may advance thirty days sick leave with pay beyond accrued sick leave in cases of serious disability or ailments and when required by the exigencies of the situation. (Mar. 14, 1936, c. 141, sec. 3, 49 Stat.)

SEC. 30k. The leave of absence provided for in section 30f to 30j of this title shall be administered under such regulations as the President may prescribe * * *. (Mar. 14, 1936, c. 141, sec. 7, 49 Stat.)

(c) *Presidential appointees.*—Leave of absence may be taken by presidential appointees at times and for periods permitted by the public interests provided that, when such leave of absence embraces more than one official working day, application therefor must be made to the Secretary of the Treasury through the Commissioner of Customs.

(d) For detailed instructions as to the granting of the various kinds of leave authorized by law, see Department Circular No. 202 (Revised) dated July 27, 1936, which contains the applicable presidential and departmental regulations.

ART. 1447. *Record of absence.*—(a) At each headquarters port, port of entry, and station an employee shall be designated to act as time clerk. The said clerk shall report each day to the head of his office on the "Daily list of absentees" (departmental stock Form 2242) all officers and employees absent on account of annual leave, sick leave, or leave without pay for the whole or any part of the day. After the list of absentees has been approved by the head of the office, the time so charged shall be recorded by the time clerk on the individual card record of absence (departmental stock Form 2152). At subports and stations departmental stock Form 2242 should be prepared in duplicate and the originals forwarded daily to the headquarters port to be entered on the headquarters port copy of departmental stock Form 2152. All of the leave taken by each employee in the calendar year should be entered on one card. The total leave granted to each officer and employee in each calendar year should be entered at the end of the year on departmental stock Form 2240 which shall be maintained as the permanent record at the headquarters port. Thereafter, the yearly record on departmental stock Form 2152 may be disposed of.

(b) Applications for leave of absence for less than 1 day will be made to the head of the office or division on customs Form 3019, and for 1 day or more on departmental stock Form 2217.

(c) When partial-day absences aggregate a day, a day's absence will be charged against annual leave.

ART. 1448. *Report of absence.*—Each nominating officer shall make, immediately after the close of each calendar year, a report to the Commissioner of Customs on departmental stock Form 2243, showing the absence from duty for such calendar year of each officer, clerk, and employee under such nominating officer, as follows:

The name, designation, number of days annual leave taken, number of days sick leave, number of days without pay, and number of days military leave, with such remarks as may be deemed proper.

ART. 1449. *Report of injuries.*—Whenever an injury, however slight, is sustained by an employee due to an accident

occurring in the course of his employment, notice on Form C. A. 1 should be submitted to his immediate superior within 48 hours. If absence from duty continues beyond the day on which injury occurred, or if expense has been incurred for medical treatment, Form C. A. 1, accompanied by Form C. A. 2, Report of Injury, should be forwarded to the Bureau as soon as practicable, Form C. A. 3, Report of Termination of Disability, should be forwarded when the employee returns to work or when death ensues. When disability continues beyond three days and claim for compensation is to be made, it should be submitted on Form C. A. 4, within 60 days after the injury. Claim on account of death should be submitted on Form C. A. 5 within 1 month after death occurs.

ART. 1450. *Retirement.*—(a) Classified customs employees, including laborers of all kinds, becoming disabled or upon reaching the required age are eligible for retirement on annuities as provided in the civil service retirement act approved May 29, 1930. The retirement age for customs employees, except as indicated in pars. (b) and (c), is 70 years, with the privilege of retirement at 68 after 30 years' service, at the option of the employee.

(b) Verifiers-openers-packers, sugar samplers, and laborers, both classified and unclassified, are eligible for retirement at 65, or at 63 after 30 years' service, at the option of the employee.

(c) Employees whose terms of service include 15 years or more in the Tropics (Puerto Rico, Hawaiian Islands, and the Virgin Islands) are retireable at 62, or at 60 after 30 years' service, at the option of the employee.

ART. 1451. *Reinstatement.*—Former classified customs employees who are not receiving an annuity by reason of age under the provisions of the retirement act and who were not separated from the service for delinquency or misconduct may be reinstated to positions in the Customs Service, subject to the limitations contained in Civil Service Rules IX.

DISABILITIES OF CUSTOMS OFFICERS

ART. 1452. *Customs employees prohibited from importing merchandise.*—(a) Tariff Act of 1930, section 599:

No person employed under the authority of the United States, in the collection of duties on imports or tonnage, shall own, either in whole or in part, any vessel, or act as agent, attorney, or consignee for the owner or owners of any vessel or of any cargo or lading on board the same; nor shall any such person import, or be concerned directly or indirectly in the importation of any merchandise for sale into the United States. Every person who violates this section shall be liable to a penalty of \$500.

(b) Tariff Act of 1930, section 560:

* * * No collector or other officer of the customs shall own, in whole or in part, any bonded warehouse or enter into any contract or agreement for the lease or use of any building to be thereafter erected as a public store or warehouse. * * *

ART. 1453. *Customs officers not to act as agents or prepare entries.*—Customs officers and employees cannot act as consignees or agents or prepare entries for importers, but may advise persons inexperienced in customs matters relative to the entry of their goods. Any merchandise imported by customs officers or employees or consigned to them directly or indirectly for sale in the United States with their knowledge and consent will be seized. Merchandise consigned to them without their authority and refused by them should be treated as unclaimed.

ART. 1454. *Customs officers not to attend or bid at customs sales.*—Customs officers and employees will not be permitted to attend any public sale of goods forfeited to the United States under the revenue laws (except those who may be regularly detailed officially at such sales), nor to bid for themselves or on behalf of other persons upon the goods offered at such sales.

ART. 1455. *Employees of the New York appraiser not to engage in commercial business.*—United States Code, title 19, section 17:

No appraiser, assistant appraiser, examiner, clerk, verifier, sampler, messenger, or other person employed in the departments of appraisal at the port of New York, or any of them, shall en-

gage or be employed in any commercial or mercantile business, or act as agent for any person engaged in such business, during the term of his appointment. (R. S., sec. 2941.)

ART. 1456. Holding other office prohibited.—(a) United States Code, title 5, section 58:

Unless otherwise specifically authorized by law, no money appropriated by any act shall be available for payment to any person receiving more than one salary when the combined amount of said salaries exceeds the sum of \$2,000 per annum. (May 10, 1916, c. 117, sec. 6, 39 Stat. 120; Aug. 29, 1916, c. 417, 39 Stat. 582.)

(b) United States Code, title 5, section 69:

No allowance or compensation shall be made to any officer or clerk, by reason of the discharge of duties which belong to any other officer or clerk in the same or any other department; and no allowance or compensation shall be made for any extra services, whatever, which any officer or clerk may be required to perform, unless expressly authorized by law. (R. S., sec. 1764.)

(c) United States Code, title 5, section 70:

No officer in any branch of the public service, or any other person whose salary, pay, or emoluments are fixed by law or regulations, shall receive any additional pay, extra allowance, or compensation, in any form whatever, for the disbursement of public money, or for any other service or duty whatever, unless the same is authorized by law, and the appropriation therefor explicitly states that it is for such additional pay, extra allowance, or compensation. (R. S., sec. 1765.)

(d) Persons holding civil office under Federal authority may not hold any office under any State or Territorial government, or under the charter or ordinances of any city, town, or village government, whether elective or by appointment and whether with or without compensation, with the following exceptions: Justices of the peace, notaries public, commissioners to take acknowledgment of deeds or of bail, or to administer oaths; positions on boards of education, school committees, public libraries, religious or eleemosynary institutions incorporated or established or sustained by State or municipal authority, professorships in colleges, and municipal offices in certain places in Maryland and in Virginia adjacent to Washington specified in the footnote to Civil Service Rule I, section 2.

ART. 1457. Instructing for civil-service examinations prohibited.—No customs officer or employee shall directly or indirectly instruct or be concerned in any manner in the instruction of any person or class of persons with a view to their special preparation for the examinations of the United States Civil Service Commission. Any violation of this regulation shall be considered sufficient cause for removal from the service.

ART. 1458. Political and other contributions.—(a) United States Code, title 18, section 208:

It is unlawful for any * * * officer or employee of the United States, or any person receiving any salary or compensation for services from money derived from the Treasury of the United States, to directly or indirectly solicit, receive, or be in any manner concerned in soliciting or receiving, any assessment, subscription, or contribution for any political purpose whatever, from any other such officer, employee, or person. (Jan. 16, 1883, c. 27, sec. 11, 22 Stat. 406; Mar. 4, 1909, c. 321, sec. 118, 35 Stat. 1110; Feb. 28, 1925, c. 368, sec. 312, 43 Stat. 1073.)

(b) United States Code, title 18, section 209:

No person shall, in any room or building occupied in the discharge of official duties by any officer or employee of the United States mentioned in section 208 of this title or in any navy yard, fort, or arsenal, solicit in any manner whatever or receive any contribution of money or other thing of value for any political purpose whatever. (Jan. 16, 1883, c. 27, sec. 12, 22 Stat. 407; Mar. 4, 1909, c. 321, sec. 119, 35 Stat. 1110.)

(c) United States Code, title 18, section 210:

No officer or employee of the United States mentioned in section 208 of this title shall discharge, or promote, or degrade, or in any manner change the official rank or compensation of any other officer or employee, or promise or threaten so to do, for giving or withholding or neglecting to make any contribution of money or other valuable thing for any political purpose. (Jan. 16, 1883, c. 27, sec. 13, 22 Stat. 407; Mar. 4, 1909, c. 321, sec. 120, 35 Stat. 1110.)

(d) United States Code, title 18, section 211:

No officer, clerk, or other person in the service of the United States shall, directly or indirectly, give or hand over to any other

officer, clerk, or person in the service of the United States, or to any Senator or Member of or Delegate to Congress, or Resident Commissioner, any money or other valuable thing on account of or to be applied to the promotion of any political object whatever. (Jan. 16, 1883, c. 27, sec. 14, 22 Stat. 407; Mar. 4, 1909, c. 321, sec. 121, 35 Stat. 1110.)

(e) United States Code, title 18, section 212:

Whoever shall violate any provision of sections 208 to 211 of this title shall be fined not more than \$5,000, or imprisoned not more than 3 years, or both. (Jan. 16, 1883, c. 27, sec. 15, 22 Stat. 407; Mar. 4, 1909, c. 321, sec. 122, 35 Stat. 1110.)

(f) United States Code, title 18, section 213:

Any executive officer or employee of the United States not appointed by the President, with the advice and consent of the Senate, who shall request, give to, or receive from, any other officer or employee of the Government any money or property or other thing of value for political purposes shall be at once discharged from the service of the United States. (Aug. 15, 1876, c. 287, sec. 6, 19 Stat. 169.)

(g) No person in the public service shall use his official authority or influence either to coerce the political action of any person or body, or to interfere with any election.

(h) No person in the public service shall for that reason be under any obligation to contribute to any political fund, or to render any political service, and he will not be removed or otherwise prejudiced for refusing to do so.

(i) Solicitation, directly or indirectly, by employees for advertisements in program souvenirs, or other publications, from importers, steamship companies, customhouse brokers, or any other person or persons whose business is in any manner conducted with the Customs Service or its employees, or for personal gifts to other employees, is also prohibited.

ART. 1459. Political activity.—Employees in the competitive classified service shall take no active part in political management or in political campaigns. This rule is also applicable to unclassified laborers.

ART. 1460. Rewards and gratuities.—(a) Tariff Act of 1930, section 600:

Any officer or employee of the United States who, except in payment of the duties or exactions fixed by law, solicits, demands, exacts, or receives from any person, directly or indirectly, any gratuity, money, or thing of value, for any service performed under the customs laws, or in consideration of any official act to be performed by him, or of the omission of performance of any such act, in connection with or pertaining to the importation, entry, inspection or examination, or appraisement of merchandise or baggage, shall be guilty of a misdemeanor and on conviction thereof shall be punished by a fine not exceeding \$5,000, or by imprisonment for not more than 2 years, or both, and evidence, satisfactory to the court in which the trial is had, of such soliciting, demanding, exacting, or receiving shall be prima facie evidence that the same was contrary to law.

HOURS OF BUSINESS AND SERVICE

ART. 1461. Hours of business.—(a) Customs offices shall be open between the hours of 9 a. m. and 4:30 p. m. on all days of the year, except Saturdays, Sundays, and national holidays, and on Saturdays, except national holidays, from 9 a. m. to 1 p. m., unless a variation in these hours is necessitated by local conditions and is approved by the Commissioner of Customs. So far as the transaction of public business will permit, customs employees may be excused on State holidays: *Provided, however,* That no such employee shall be excused from performing 4 hours' work, exclusive of time for luncheon, on Saturdays, without being charged the time absent, because of any State law granting part holidays on Saturdays. (See art. 1462 (e).)

(b) The national holidays are January 1, February 22, May 30, July 4, the first Monday in September, Thanksgiving Day (when designated by the President), and December 25. If a holiday falls on Sunday the following day will be observed.

ART. 1462. Hours of service.—(a) The official hours of officers, clerks, examiners, and employees, except those herein-after specified, will be from 9 a. m. to 4:30 p. m., with a half hour for lunch.

(b) The official hours of the following employees will be: Staff officers, station inspectors, and inspectors to whatever duty assigned, sugar samplers, samplers, laborers, storekeep-

ers, and outside messengers, from 8 a. m. to 5 p. m., 1 hour for lunch; verifiers-openers-packers and openers and packers, 8 a. m. to 4:30 p. m., one-half hour for lunch; customs guards not less than 8 hours.

(c) The above hours may be extended as the needs of the service demand, and such extension shall be without additional compensation, except as provided for in the act of February 13, 1911, as amended by the act of February 7, 1920.

(d) The act of February 7, 1920, also provides that in those ports where customary working hours are other than those above mentioned, the collector of customs is vested with authority to regulate the hours of customs employees so as to agree with prevailing working hours in said port, but nothing contained in this proviso shall be construed in any manner to affect or alter the length of a working-day for customs employees or the overtime pay fixed for such employees.

(e) United States Code, title 5, section 26a:

On and after March 3, 1931, 4 hours, exclusive of time for luncheon, shall constitute a day's work on Saturdays throughout the year, with pay or earnings for the day the same as on other days when full time is worked, for all civil employees of the Federal Government and the District of Columbia, exclusive of employees of the Postal Service, employees of the Panama Canal on the Isthmus, and employees of the Interior Department in the field, whether on the hourly, per diem, per annum, piecework, or other basis: *Provided*, That in all cases where for special public reasons, to be determined by the head of the department or establishment having supervision or control of such employees, the services of such employees cannot be spared, such employees shall be entitled to an equal shortening of the workday on some other day: *Provided further*, That the provisions of this section shall not deprive employees of any leave or holidays with pay to which they may now be entitled under existing laws. (Mar. 3, 1931, c. 396, 46 Stat. 1482.)

OFFICE RULES

ART. 1463. *Reading, smoking, etc.*—(a) The reading of newspapers, loud conversation, or other conduct interfering with the orderly dispatch of public business, or the congregating of idle persons or loungers in the corridors or elsewhere in public buildings will not be permitted.

(b) Smoking is prohibited in file rooms, in elevators, and in such other places as may be deemed advisable in the judgment of the head of the office, as a precaution against fire.

ART. 1464. *Admission out of business hours.*—No person not connected officially with the Customs Service shall be admitted to a customs office except during business hours, unless by special authority of the head of such office.

ART. 1465. *Confidential information.*—(a) Collectors, appraisers, customs agents, and other customs officers and employees are hereby instructed not to disclose details of their official activities for publication, except under special authority from the Bureau. It is the desire of the Department that collectors and other principal officers of the customs refrain from disclosing facts concerning seizures, investigations, and other pending cases of public interest until the matter is completed.

(b) The right of the press to be advised of administrative action concerning certain customs activities is fully recognized. It is, however, necessary in many cases to avoid publicity in order to protect both the Government's interests and those of persons involved.

(c) In applying the above paragraphs to offenses against customs laws, the collector may give the press information of the details in any given case after he has completed his investigation and the case has been closed with a finding against the offender.

(d) Insofar as administrative matters in Washington are concerned, statements will be issued only through the office of the Secretary or the Assistant Secretary in charge of the Customs Service; and field officers are expected to conform to this policy by exercising proper restraint and judgment in disclosing local transactions.

(e) (1) The information contained in invoices, entries, manifests, export declarations, official reports of investigat-

ing officers and other papers or documents, filed with customs officers for any official purpose, must be treated as confidential, except for the purpose for which such documents are required to be filed. All officers and employees of the customs service are prohibited, unless specially authorized to do so by the Bureau or by these regulations, from giving out information contained in such papers and documents except to the importer or exporter (in the case of export documents) or other party directly in interest or to his authorized agent.

(2) In answer to a legal process or demand from a court issued in behalf of the United States or an officer thereof, customs officers or employees shall produce in court in customs custody, and may testify with respect to, any official customs papers or documents demanded. When any such process or demand is issued in behalf of a party other than the United States it shall be complied with only to the extent that the party in whose behalf the papers or documents are demanded is permitted under these regulations to inspect such papers or documents at the customhouse.

(3) Except as provided in subdivision (5) hereof, nothing herein shall preclude customs officers or employees from producing in the United States Customs Court in customs custody any customs papers or documents requested by the court or from testifying or otherwise rendering all proper assistance to the court in proceedings before it; nor from furnishing to counsel for the United States information contained in, and permitting him to inspect, customs papers or documents requested by him, nor from testifying on behalf of the United States or otherwise assisting him in the performance of his official duties.

(4) In all cases where copies of customs documents or records are desired by, or on behalf of, parties to a suit, whether in a court of the United States or any other, such copies shall be furnished to the court only and on a rule of the court upon the Secretary of the Treasury requesting same, provided, however, that copies of such documents or records may be furnished to importers or exporters or other parties directly in interest or to their authorized agents without obtaining prior departmental approval. Exceptions to this rule will be made only on the written order of the Secretary, the Under Secretary, an Assistant Secretary, or the Administrative Assistant to the Secretary. When requested, such copies may be authenticated pursuant to the provisions of section 882 of the Revised Statutes, as amended (U. S. C., title 28, sec. 661).

(5) The authority granted in subdivisions 2, 3, and 4 of this paragraph is subject to the restriction that no matters, the disclosure of which would be prejudicial to the public interest, shall be disclosed to any person without prior authority from the Department.

(6) Upon being served with a subpoena or subpoena duces tecum from a court or officer thereof calling for testimony or the production of papers or documents in cases not covered by (2) or (3) above, or in cases where the testimony or documents desired would disclose matters of a confidential nature or the disclosure of which would be prejudicial to the public interest, the matter shall be referred to the Bureau for instructions. In the event instructions are not received prior to the date set for appearance or production of documents, or if the Bureau declines to permit their production or the disclosure of the information contained therein or otherwise within the knowledge of the customs officer or employee whose testimony is requested the customs officer or employee should appear in court, or before the officer concerned, in answer to the subpoena and respectfully decline to produce the documents called for, or to testify, except to the extent specifically authorized elsewhere in this article, citing this regulation as authority for his refusal. If the matter has not already been referred to the Bureau for instructions, the customs officer or employee will advise the court or officer that it will be so referred.

(f) Accredited representatives of the press, including newspapers, commercial magazines, trade journals, and similar publications, may be permitted to examine vessels' manifests

and to copy therefrom for publication information and data not of a confidential nature, subject to the following rules:

- (1) Of the information and data appearing on outward manifests, only the general character, destination, and quantity (or value) of the commodity, name of vessel, and country of destination, may be copied and published. Where the manifests show both quantity and value, either may be copied and published, but not both in any instance.
- (2) Confidential information such as the names of the shippers and consignees, marks and numbers, and both quantities and values of commodities shall not be copied from outward manifests.
- (3) Of the information shown on inward manifests, only the name of the consignee, the general character of the commodity, and the quantity (or value), name of vessel, and the country of dispatch shall be copied and published. Where an inward manifest shows both quantity and value of the commodity, either may be copied and published, but not both in any instance.
- (g) Accredited representatives of regularly established associations, whether incorporated or not, shall be permitted to examine vessels' manifests for the purpose of securing data relative to merchandise of the kind or class in the importation of which the association is interested, subject to the foregoing rules; but this authority does not extend to attorneys or customs brokers representing individual importers.
- (h) Importers and exporters or their duly authorized brokers, attorneys, or agents may be permitted to examine manifests with respect to any consignment of goods in which they have a proper and legal interest as principal or agent, but shall not be permitted to make any general examination of manifests or to make any copies or notations from the same except with reference to the particular importation or exportation in which they have a proper and legal interest.
- (i) All copies and notations from inward and outward manifests shall be submitted for examination by the customs officers designated for that purpose.
- (j) Persons other than representatives of the press and associations provided for above, who have no proper and legal interest in any of the merchandise covered by a manifest, shall not be permitted access to the same.
- (k) Upon written application of any importer or exporter, the collector of customs shall refuse to permit any person, except as provided in paragraph (h), to copy from manifests any information or data concerning the merchandise imported or exported by the applicant. Upon written application of the master or owner of any vessel or line of vessels, the collector of customs shall refuse to permit any person, except as provided in paragraph (h), to copy any information or data contained in outward manifests of merchandise carried by the vessel or vessels controlled by the applicant, if the collector is satisfied, upon evidence presented to him, that the publication of the information or data has been or will be detrimental or prejudicial to the applicant.
- (l) In case any individual shall abuse the privilege granted him of examining inward and outward manifests or shall make any improper use of any information or data obtained from such manifests filed in the customhouse, both he and the party or publication which he represents shall thereafter be denied access to such documents.
- (m) Information regarding import and export statistics covering specific commodities may be furnished to trade papers, trade organizations, and commercial concerns upon request therefor. This information should conform as nearly as possible to the statistics forwarded to the Department of Commerce and should not disclose confidential information, such as names of shippers or consignees, marks and numbers, vessels' names, etc.
- (n) The disclosure of the information contained in customs documents (with the exception of statistical data, and data contained in vessels' manifests as heretofore provided for), or the disclosure to one importer or exporter or exporter of information relative to the business of another importer or exporter acquired by the officer or employee by

reason of his official employment, will constitute grounds for dismissal from the service; and if done for a valuable consideration will subject such person to criminal prosecution.

ART. 1466. *Travel regulations.*—(a) Only necessary expenses for transportation and subsistence should be incurred by persons absent on official business. Such expenses actually incurred and paid by persons traveling under proper authorization will be reimbursed, within statutory limitations, upon presentation of proper vouchers. An allowance not to exceed \$5 per diem in lieu of subsistence expenses may be authorized.

(b) Inspectors of customs may accept passes or free transportation for interstate and intrastate travel, while other customs officers may accept passes or free transportation for intrastate travel only. The use of such passes or free transportation shall be limited to traveling on official business in the interest of the transportation company or for the purpose of examining baggage and similar routine duties. Requests for free transportation may be issued only by the collector or assistant collector. Such requests shall state specifically the name of the customs officer, the particular customs matter that necessitates the use of the transportation, and the points between which the transportation is desired.

(c) Collectors of customs shall forward to the Department, between June 30 and July 15 of each year, a list of all passes and free transportation requested and issued to customs inspectors in his district during the preceding fiscal year, giving the names of the transportation companies, the names of the officers receiving the passes, the points covered by the transportation, and the customs business which necessitated the traveling.

(d) Collectors and other officers of the customs, before calling at the Department on official business, must write or telegraph and obtain specific authority therefor before coming to Washington, stating the business concerning which they desire to call and the necessity for presenting the matter personally.

ART. 1467. *Indebtedness of employees.*—(a) Customs officers will not act as agents for the collection of debts contracted by customs employees, but employees will not be retained in the service who persistently refuse or habitually neglect to pay their necessary personal and family expenses.

(b) The payment of loans for which usurious interest has been paid or contracted will not be enforced, but employees who habitually borrow at excessive rates of interest will not be kept in the service.

(c) Customs officers or employees are prohibited from lending to their fellow officers or employees at usurious rates.

(d) The presentation by the creditor of a judgment of a court of law will be accepted as conclusive evidence in cases of indebtedness for necessary personal and family expenses incurred while in the Customs Service.

(e) Bills or claims presented by professional collectors or attorneys acting as collectors will not be recognized, nor will debts contracted by persons at a time when they were not in the Customs Service.

(f) Any violation of this regulation should be reported to the Bureau.

CHAPTER XXIX

PUBLIC PROPERTY—RENTED PREMISES—SUPPLIES

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PUBLIC BUILDINGS

ART. 1468. *Custodians*.—Collectors or other customs officers appointed as custodians of customhouses and other public buildings under control of the Secretary of the Treasury will have charge and supervision of the buildings intrusted to them, and will be governed by the regulations and instructions concerning the duties of custodians furnished by the Department through the office of the Director of Procurement.

RENTED PREMISES

ART. 1469. *Use and care*.—(a) Collectors or other customs officers having charge of rented buildings or rented quarters for the use of the Customs Service will be governed by the following regulations, when janitor service, heat, and light are not included in the lease:

(b) They shall have exclusive control of the force used by the Government for janitor service therein and for heating and lighting the premises.

(c) They will cause the halls, stairs, vestibules, passages, and rooms to be kept neat and clean at all times, and such measures must be taken as may be necessary to protect the walls and woodwork from defacement and prevent the committing of nuisances in or about the building and grounds. Advertisements or public notices, except such as relate to Government business, must not be posted on the walls or in the corridors or public lobbies of such portions of the building as are used by the Government. The labor incident to cleaning the several portions of the building, whitewashing, taking up and laying carpets, and putting up and taking down awnings, when practicable, must be performed by the janitor or his assistants, and no expenses for these services will be allowed unless some special reasons exist therefor and authority has been granted. Application for such authority should state the reasons explicitly.

(d) Collectors or other customs officers shall allow no quarters or space to be occupied or used for other than official purposes.

ART. 1470. *Repairs and alterations*.—(a) Any necessity for repairs or alterations of the furniture or other articles must be promptly reported, with recommendation for action, to the Bureau of Customs, together with an estimate of the cost of making the same.

(b) Customs officers having authority and jurisdiction will not make expenditures for repairs, alterations of the furniture, or for other necessities without the previous written authority of the Bureau of Customs, and when an amount authorized for any specific purpose proves insufficient authority must first be obtained for any additional expense required before incurring it.

ART. 1471. *Flag*.—(a) The flag of the United States shall be displayed over all customhouses occupying rented quarters during the hours of business on working days, provided such hours do not extend beyond sunset, and on holidays, not including Sundays, except when stormy weather prevents its display. It should, however, be displayed on the second Sunday in May, designated as Mother's Day; and on Memorial Day it should be half-staff until noon, then full staff. It is always to be lowered at sunset, taken in, folded, and stored for the night. If it is wet, it should be carefully dried before storing. Flags are to be neatly hemmed by the janitor

force when they become torn by the wind until further repairs are impracticable, after which they are to be burned on the premises either in the furnace or some other available place.

(b) The revenue ensign of the United States shall also be displayed during the hours of business over all buildings in which customs business is transacted.

(c) When stormy weather or high winds prevent the flying of the larger-sized flags, the small storm flag (No. 9) should be hoisted, unless the velocity of the wind is such that it is considered inadvisable to do so.

(d) Flags will be supplied by the Department on requisition as follows:

1. National ensigns for public buildings through the Director of Procurement.

2. National ensigns for rented buildings or offices and revenue ensigns for public and rented buildings or offices, through the Bureau of Customs.

PUBLIC PROPERTY

ART. 1472. *Marking—Preservation*.—All articles of public property purchased out of the appropriation "Collecting the revenue from customs", and in use in the Customs Service, will, so far as practicable, be stamped, marked, or branded with the words "U. S. Customs", in letters one-half inch high.

ART. 1473. *Purchases for other departments or offices*.—The incurring of expense for, or the use of, articles purchased out of the appropriation for the collection of the revenue from customs by officials of other departments or offices will not be permitted.

ART. 1474. *Returns*.—(a) Collectors and other customs officers having custody of public property purchased out of the appropriation "Collecting the revenue from customs" are accountable therefor to the Bureau of Customs.

(b) A complete record in detail of all public property in the custody of collectors should be kept in proper form for reference, specifying the office or building in which the articles are located, together with the cost and date of purchase and condition of the same as shown by the receipts to their predecessors or their latest inventory, and all authorizations to purchase, transfer, sell, or otherwise dispose of articles should be entered upon this record.

(c) Returns of furniture and fixtures and miscellaneous public property will be rendered to the Bureau annually on the 30th of June, and will embrace only such articles as have been acquired, transferred, sold, or otherwise disposed of during the period covered by the returns submitted.

(d) The returns should specify the office or building in which the articles are or were located, and the number and description of the articles, care being taken to give the date of authority to purchase, sell, or transfer, and the cost of the articles.

(e) Articles should not be entered upon the records of the office nor included in the semiannual returns until they have been received, whatever the date of authority for their purchase; but when received the date of the authority should be entered in its proper column and under the head of "Remarks" the date of their receipt.

(f) Furniture and fixtures embraces carpets, matting, rugs, and mats, window shades, awnings, cuspidors, water coolers, platforms, screens, counters, railings, gates, and other furniture unenumerated herein.

(g) All items should be continued upon the records of the office until authority has been obtained from the Bureau to drop them.

(h) When articles are sent from the Bureau the date of the letter of transmittal should be given in the column headed "Date of authority for purchase."

(i) In requesting authority to make transfers, sell, or drop articles, the items should be designated as they are entered upon the record.

(j) When old articles of furniture are converted into other articles, the old articles should, after authority has been obtained, be omitted from the record and the new articles

entered thereon under the date of the authority to make such change.

(k) On retiring from office the officer will forward to the Bureau the receipt, in detail, of his successor for all property transferred to him, which will be compared, and should agree with the record as kept by the Bureau.

(l) All property for which returns are required will be charged to and accounted for by the collector or customs officer in charge, who, on retiring from office, will forward receipts in duplicate of his successor for the property so transferred.

(m) The records, returns, and disposition of public property in custody of collectors or other customs officials who are custodians of Federal buildings are covered by the "Instructions to custodians", issued through the Director of Procurement.

ART. 1475. *Contracts—Solicitation for, and brokerage or contingent fees prohibited.*—All formal contracts except leases to which the Treasury Department or any branch thereof is a party shall contain the following provision:

The contractor expressly warrants that he has employed no third person to solicit or obtain this contract in his behalf, or to cause or procure the same to be obtained upon compensation in any way contingent, in whole or in part, upon such procurement; and that he has not paid or promised or agreed to pay, to any third person, in consideration of such procurement, or in compensation for services in connection therewith, any brokerage, commission, or percentage upon the amount receivable by him hereunder; and that he has not, in estimating the contract price demanded by him, included any sum by reason of any such brokerage, commission, or percentage; and that all moneys payable to him hereunder are free from obligation to any other person for services rendered, or supposed to have been rendered, in the procurement of this contract. He further agrees that any breach of this warranty shall constitute adequate cause for the annulment of this contract by the United States, and that the United States may retain to its own use from any sums due or to become due thereunder an amount equal to any brokerage, commission, or percentage so paid, or agreed to be paid: *Provided, however,* It is understood that this covenant does not apply to the selling of goods through a bona fide commercial representative employed by the contractor in the regular course of his business in dealing with customers other than the Government and whose compensation is paid, in whole or in part, by commissions on sales made, nor to the selling of goods through established commercial or selling agents or agencies regularly engaged in selling such goods.

STATIONERY

ART. 1476. *Stationery to be furnished or authorized by Department.*—No ink, typewriter ribbon, paper, or other article of stationery, except such as is furnished or authorized by the Department, shall be used officially by any official clerk, or other employee of any branch of the Treasury Department.

ART. 1477. *Standard ink.*—The "Government Standard" ink is to be used exclusively in all branches of the Treasury Department. Copying ink should not be used on book records.

ART. 1478. *Fading inks—Aniline colors.*—Customs officials will in no case accept for official purposes bonds, vouchers, or other documents on which money is to be paid, or other important action taken, if prepared and signed with inks which are liable to fade. Documents or papers written or signed with aniline colors—blue, purple, violet, red, etc.—must not be accepted.

ART. 1479. *Requisitions.*—(a) Stationery supplies needed for the transaction of customs business will be furnished upon requisitions from the head of each office on departmental stock Form 2162 for the regular and on departmental stock Form 2163 for supplementary requisitions. Customs officers are charged with the responsibility of making requisitions in time to have the supplies on hand when required.

(b) Officers will order periodically as follows:

Weekly: Customs officers at New York.

Monthly: Customs officers at comptroller ports (except New York).

Semiannually: Collectors of customs at subcomptroller office ports (Apr. 1 and Oct. 1).

(c) The practice of making supplementary requisitions should be avoided as far as possible, and when made they should include all forms that may be needed before making the next regular requisition.

(d) Plain thin linen for carbon copies of letters should be requested on stationery requisitions. Thin printed letterheads will be furnished to headquarters ports only, and to them only when it is necessary to use the carbon copy as an original letter, and should be included on requisitions for books and blanks.

(e) All blanks which are to be sold by customs officers are listed in the catalogue under the 7500 series, and requisitions therefor should be made on separate sheets of customs Form 4909-A-B-C and should not be included in requisitions for other books and blanks. Collectors are responsible for all blanks for sale shipped into their respective districts and for all blanks sold, and in order to give the collector's office direct control it is the desire of the Bureau that these blanks be ordered only by collectors and by then distributed to deputy collectors.

(f) All requests for loose-leaf binders and transfer binders must be made on requisition of stationery, giving the name of the binder and the customs form number. Loose-leaf binders and transfer binders should be used in the manner set forth in paragraphs 26 to 30 of T. D. 33311.

(g) Division sheets for loose-leaf binders are furnished with or without celluloid tabs and requests therefor must be made in the same manner as for loose-leaf binders, giving the customs form number of the binder, the size of the sheet, and the edge on which the sheet is to be bound.

BLANK FORMS

ART. 1480. *Requisitions.*—(a) All blank forms and blank books needed for the transaction of customs business are supplied by the Department upon requisition of the head of each office, and such requisitions should be made on customs Form 3039 and be forwarded to the Bureau for check and transmission to the Chief of the Section of Books and Blanks, Division of Printing, Treasury Department.

(b) Officers will order periodically as follows:

Weekly: The collector at New York.

Monthly: Collectors at comptroller of customs ports (except New York).

Semiannually (Apr. 1 and Oct. 1): Collectors at subcomptroller ports.

(c) Nothing should be asked for in requisitions except the forms enumerated in the catalog of customs forms and letterheads, noteheads, continuation sheets, and memorandum pads.

(d) Requisitions for blanks kept for sale should be made on customs Form 4909 A-B-C and not be included in requisitions for other books and blanks.

(e) The catalog number, quantity on hand, quantity desired, and a brief title should be given, and sizes should be omitted. The catalog numbers should be arranged consecutively and be given in figures.

(f) Only the forms actually needed and the probable quantities of each form required during the period covered by the requisition should be requested. Requisitions for books and blanks are revised on the basis of previous issues of each form, and a request for an unusual quantity of any form must be explained, otherwise it will not be allowed. The quantity of any blank ordered should be based upon the number of transactions during the year. The collector's annual report of transactions should be the basis of the order.

(g) Officers must, in the transaction of customs business, confine themselves as far as possible to the approved forms which are supplied by the Department upon requisition of the head of each office. Such requisitions should be made on customs Form 3039 and be forwarded to the Bureau for check and transmission to the Chief of the Section of Books and Blanks, Division of Printing, Treasury Department.

(h) Requisitions for forms other than those enumerated in the catalog should be made by letter addressed to the Bureau, and should be accompanied in every case with a copy of the form desired, together with a full statement of the necessity for a special form. Ample time should be allowed for departmental consideration of the request and for printing, which in most cases will be from 2 to 3 months.

(i) Letterheads and noteheads with printed location will be furnished only for headquarters ports, and at least 6 weeks' time must be allowed for delivery. Stock letterheads and noteheads with location blank will be furnished for ports of entry and for emergency use at headquarters ports.

(j) Continuation sheets to letterheads are kept in stock and should be included in requisitions for books and blanks.

(k) Memorandum pads are furnished in six sizes, viz: 2½ by 4, 3 by 5, 4 by 5½, 3½ by 8, 5¼ by 8, and 8 by 10½ inches, and should be included in requisitions for books and blanks.

(l) Supplementary requisitions should be avoided as far as possible, but when made should contain an explanatory note. Such requisitions should never be made, however, until a careful inventory of all the stock on hand has been taken, and should include all forms that may be needed before the time for making the next regular requisition.

(m) Articles of stationery must not be included in requisitions for blank forms, but should be made on departmental stock Form 2162 or 2163, and sent to the Division of Printing, Treasury Department.

(n) Officers who receive blank forms for which they have made no requisition should promptly notify the Division of Printing, Treasury Department, of the fact.

ART. 1481. *Special books and blanks—Regular sizes of paper.*—(a) When a book or blank not in the catalogue is desired, a full statement as to the necessity that exists therefor should be submitted to the Bureau of Customs, in every case with the requisition. A specimen leaf, if a book, should be marked with the number of leaves (not pages) desired, if to be paged, indexed, or tagged with ordinary or special schedule, and if the latter, the schedule should be given in full. The paper should be made to conform to the following regular sizes:

	Inches
Cap ¹	14 by 17
Double cap ¹	17 by 28
Demy ¹	16 by 21
Double demy ¹	21 by 32
Folio ²	17 by 22
Double folio ²	22 by 34
Medium.....	18 by 23
Double medium.....	23 by 36
Royal.....	19 by 24
Double royal.....	24 by 38

(b) The above sizes of paper are not only commercial sizes and therefore the most economical to use, but they are symmetrical in shape and most convenient to handle and file.

ART. 1482. *Approved forms.*—(a) Officers must, in the transaction of public business, confine themselves, as far as possible, to the approved catalogue forms, and no material change shall be made in any such form, nor shall any record book be replaced by a card index or loose-leaf system without the written approval of the Bureau.

(b) The specification in these regulations of forms to be used in various transactions shall not be construed to preclude the use at the port of New York of such special forms as have been prescribed for such port.

(c) A copy of the catalogue of books and blanks, customs Form 3037, to be known as the "Standard" copy, shall be kept in each chief customs office, in which shall be noted from time to time, as they occur, all changes in the way of the abolition or addition of forms, etc., made by Treasury Decision, or otherwise.

ART. 1483. *Index cards, guide cards, and folders.*—(a) Index cards, light, medium, or heavy weight, of sizes 3 by

5 inches, 4 by 6 inches, and 5 by 8 inches, also the metric sizes approximating these sizes, are supplied either plain or with stock rulings (the stock rulings consist of horizontal, horizontal and vertical, or horizontal and double vertical), such as are carried by the Section of Books and Blanks, Division of Printing. These cards may be obtained in white, buff, blue, or salmon, but the use of white only is recommended. Guide cards of sizes 3 by 5 inches, 4 by 6 inches, and 5 by 8 inches, also those for use in cabinets requiring letter, cap, bill, report, and check sizes, are supplied in various cuts, as follows: Blank, numbered, States, daily, weekly, alphabetical of various subdivisions, and with names of counties, towns, and cities. The three first-named sizes may be obtained in either white, buff, blue, or salmon, and the larger sizes in manila or pressboard. Folders of various cuts, both blank and indexed A to Z of various subdivisions, are supplied for use in cabinets requiring letter, cap, bill, and report sizes, and may be obtained with or without expansion bottoms in medium or heavy weight.

(b) The punching of holes in index cards and guide cards of sizes 3 by 5, 4 by 6, and 5 by 8 inches will be omitted whenever practicable. Letter, cap, bill, report, and check size guide cards are equipped with lower projection for rod connection unless otherwise ordered.

(c) Where a system requires index cards, guide cards, or folders of other sizes, rulings, or printing than those classed above as stationery, the requisition therefor should be made on customs Form 3039.

(d) Samples or full description as to ruling, printing, etc., should accompany all requisitions.

IMPORT STAMPS

ART. 1484. *Requisitions.*—Collectors are supplied by the Department, upon requisition, customs Form 3045, with stamps to be placed on packages of imported cigars, cheroots, cigarettes, and spirituous and malt liquors and wines.

PREPARATION OF OFFICIAL COMMUNICATIONS

ART. 1485. *General instructions.*—(a) The following instructions in regard to the preparation of official communications are to be strictly observed:

1. The standard letter sheet shall be 8 by 10½ inches in size. The standard legal cap or foolscap sheet shall be 8 by 12½ inches in size.

2. The standard authority for the spelling of the names of post offices in the United States shall be the United States Official Postal Guide; and of all other words, Webster's, Century, or the Standard dictionary.

3. Every communication prepared shall be paged and shall be formulated in the following manner:

The department or office where written.
The place where written.
The date when written.
The name of the person or title of the officer addressed.
The title, if any, of the person addressed.
The residence of the person or officer addressed.
SIR (or MADAM):
The subject matter.
Respectfully,
The signature of the writer.
His official title, if any.

(b) There shall be placed on every communication, in the lower left-hand corner, the initials of the principal clerk in charge of the subject matter to which the communication pertains, or the number of the case in the upper right-hand corner, and on the lower right-hand corner, below the title of the official signing the communication, the initials of the principal officer of the division, bureau, or office in which such communication is written. The initials in the lower left-hand corner or the case number shall be referred to in the answer. In acknowledging or referring to Department letters, the date and file number must be quoted.

(c) All papers shall be so folded from the bottom to the top of the page as to conform as nearly as possible to the standard size, which is 3½ inches in width by 8 inches in length.

¹ Cap and demy, or their multiples, have been adopted as standard sizes for blank forms and should be used as far as practicable.

² Not suitable for record books.

(d) In forwarding reports, accounts, certificates of deposits, or papers of like character no letter of transmittal shall be sent unless it contains additional information or explanation.

(e) Official communications will be addressed after the following styles:

The Secretary of the Treasury.
The Comptroller General of the United States.
The Commissioner of Customs.
The Surgeon General, Public Health Service.
The Commandant, Coast Guard.
The Director of Procurement, Treasury Department.
The Collector of Customs, New York, N. Y.
The Postmaster, Washington, D. C.

(f) Such communications sent to other departments, bureaus, or offices at Washington should be addressed (through the Bureau of Customs).

ART. 1486. *Form and substance.*—(a) Each official communication should relate to one subject only, or, if it be necessary to embrace several subjects in one communication, each subject should be treated in a separate paragraph.

(b) Officers forwarding letters, reports, or other official matter to superior authority, where remarks or statements are necessary, must write a letter of transmittal to that effect, inclosing the official matter, but where no remarks or statements are necessary official matter may be transmitted by endorsement.

(c) Official correspondence relating to the duties of collectors and other officers of the customs, to appointments, to the personnel, and to all matters concerning customs must be addressed and forwarded by mail to the Commissioner of Customs and not through other than official channels or to the care or consideration of other persons not in the service of the Department.

ART. 1487. *Filing.*—(a) All correspondence, both incoming and copies of outgoing, shall be filed flat in vertical files by subjects, where possible, and arranged as nearly as may be on a self-indexing basis. So far as practicable carbon copies will constitute the record of outgoing correspondence. The sequence of letters in a file of correspondence shall be chronological, the most recent letter being on top.

(b) All book registers of correspondence received and sent shall be discontinued, and no such record kept except where absolutely essential.

ART. 1488. *Official envelopes.*—(a) Collectors and other officers of the customs in transmitting official mail matter will use the official envelopes bearing the Government frank. Their use, however, is limited to official business within the territory of the United States, Canada, and Mexico. Postage stamps, in the sums required by law, shall be placed upon all correspondence relating to official business with persons residing in foreign countries other than Canada and Mexico.

(b) It is permissible under the law for an executive department or an officer of the Government to send in the mails free of postage, under Government frank, official matter not exceeding 4 pounds in weight.

RECORDS

ART. 1489. *Disposition of unnecessary records.*—(a) Collectors of customs, comptrollers of customs, the appraiser of merchandise at New York, the surveyor of customs at New York, supervising customs agents and chief chemists, will submit a report in quintuple to the Bureau of Customs not later than the 1st day of September of each year, listing all official documents and records which are no longer required for official purposes for authority to make disposition thereof.

(b) The report in quintuple should be prepared in the following form:

Bureau _____ Date _____
Office _____
Location _____

List of Papers and Records Which Have No Permanent Value or Historical Interest, and Which Are Not Used in the Transaction of Current Business

Item No.	Description or title of papers	Date		Kind of copy ¹	Estimated weight	Linear feet
		From—	To—			

¹ Original, carbon, etc.
(Give specific dates.)

(Signed) _____
(Designation) _____

(c) A separate report should be made for the papers located in each separate office. Items in each report should be numbered serially and described with enough detail for identification. The inclusive dates of the papers in each item, together with an indication of the type of copy, such as original, duplicate, triplicate, should be added, as well as the estimated weight and the linear feet of space occupied, not including folders and guides. A sample of the papers described in each item shall be attached to the report when submitted.

(d) Official documents and records should not be destroyed, or otherwise disposed of without authority from the Bureau.

(e) All consumption, warehouse, rewarehouse, and drawback entries and accompanying papers (including warehouse withdrawals) shall be retained for a period not less than 5 full fiscal years before authority for their disposition is requested. The same rule shall apply to official papers and documents relating to collections other than duties or to disbursements.

(f) Consumption, warehouse, rewarehouse, and drawback entries which have not been liquidated, or which have been liquidated or reliquidated less than 2 years (exclusive of any time during which a protest was pending) shall not be included in the list of entries reported for disposition.

(g) Liquidated entries on which increased duty has been collected, or refund has been made, shall not be included in the list reported for disposition until after the collection or refund account has been finally settled.

[F. R. Doc. 37-2602; Filed, August 23, 1937; 3:17 p. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

WR-B-101-Oregon, Supplement 3 Issued Aug. 25, 1937

1937 AGRICULTURAL CONSERVATION PROGRAM—WESTERN REGION

[Amendment to WR-B-101—Oregon as Amended]

PART III, SECTION 1, FOOTNOTE 3: MEANING OF THE TERM "WESTERN OREGON" AMENDED TO INCLUDE POLK COUNTY

Pursuant to the authority vested in the Secretary of Agriculture under Section 8 of the Soil Conservation and Domestic Allotment Act, Western Region Bulletin No. 101¹—Oregon, as amended by Supplement 1 and Supplement 2, is further amended by this supplement as follows:

Part III, Section 1, Footnote 3 is amended by inserting the word "Polk" after the word "include" in the first line of such footnote.

Done at Washington, D. C., this 25th day of August 1937.
Witness my hand and the seal of the Department of Agriculture.

[SEAL]

H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 37-2628; Filed, August 25, 1937; 12:39 p. m.]

¹ 2 F. R. 497, 1154, 1565 (DI).

FEDERAL COMMUNICATIONS COMMISSION.

The Telegraph Division at its regular meeting on August 17, 1937, adopted the following Order:

[Docket No. 4743]

IN RE APPLICATION OF A. H. BULL & COMPANY FOR THE EXEMPTION OF THE VESSEL S. S. "CATHERINE" PURSUANT TO THE PROVISIONS OF ARTICLE 28 OF THE SAFETY OF LIFE AT SEA CONVENTION AND SECTION 352 (1) OF TITLE III, PART 2, OF THE COMMUNICATIONS ACT OF 1934, AS AMENDED

ORDER

Whereas, The Division having under consideration an application by A. H. Bull and Company for exemption pursuant to the provisions of Article 28 of the Safety of Life at Sea Convention and Section 352 (b) (1) of the Communications Act of 1934, as amended, for the vessel S. S. *Catherine* on voyages between St. Thomas, St. Croix, Virgin Islands, and San Juan, Puerto Rico; and

Whereas, The Commission is unable to determine from the application that the route or the conditions of the voyage, or other circumstances, are such as to render a radio installation unreasonable or unnecessary:

It is ordered, That a hearing shall be held before an Examiner in the Offices of the Commission, at Washington, D. C., September 30, 1937, upon the issues and in accordance with the procedure set forth in the attached Bill of Particulars.

By the Commission, Telegraph Division.

[SEAL]

T. J. SLOWIE, Secretary.

BILL OF PARTICULARS

NATURE OF APPLICATION—EXEMPTION UNDER ARTICLE 28 OF THE SAFETY CONVENTION AND SECTION 352 (B) (1), TITLE III, PART 2, OF THE COMMUNICATIONS ACT OF 1934, AS AMENDED

You are hereby notified that the Federal Communications Commission has examined the above-described application and has designated the matter for hearing for the following reasons:

1. To determine whether the vessel S. S. *Catherine*, on voyages between St. Thomas, St. Croix, Virgin Islands, and San Juan, Puerto Rico, is within the class of vessels for which an exemption may be granted under Section 352 (b) (1) of the Communications Act of 1934, as amended;

2. To determine whether the route or conditions of the voyages in question are such as to render navigation in the waters concerned hazardous;

3. To determine the cost to the applicant of complying with the radiotelegraph provisions of the Safety Convention and Title III, Part 2 of the Communications Act of 1934, as amended;

4. To determine the value of radiotelegraph communication to the vessel on the voyages in question as a means of enhancing the safety of life and property at sea, both as a matter of protection to persons and property on board the S. S. *Catherine* and as a protection to other shipping in such waters;

5. To determine whether the route or conditions of the voyage, or other circumstances, are such as to render a radio installation unreasonable or unnecessary for the purposes of the Safety Convention or of Title III, Part 2 of the Communications Act of 1934, as amended.

Attention is invited to Paragraph 104.6, subparagraphs b, c, and e, of the Rules and Regulations of the Federal Communications Commission, which are as follows:

104.6 b. In order to avail himself of the opportunity to be heard, the applicant shall, within 15 days of the mailing of the notice by the secretary, file with the Commission a written appearance and statement of his desire to be heard, in accordance with Rule 105.25.

No. 166—16

Within 25 days of the mailing of the notice of hearing as aforesaid, any respondent who desires to participate in the hearing, shall file with the Commission his answer to any such appearance in accordance with Rule 105.26.

c. In case no appearance or statement in writing of the facts to be proved upon such hearing is filed by the applicant within the time so specified, the hearing will be cancelled, the applicant deemed in default, his application denied, and the secretary shall so notify the applicant and other parties to the hearing.

e. If at the date set for hearing, the applicant does not appear and offer evidence in support of his said application, a default will be entered, and the Commission will deny the application.

Attention is also called to the following: Rules and Regulations of the Federal Communications Commission, Paragraphs 105.25, 105.26, 105.34, 105.35, 106.22, 106.24, 106.26, 103.2, 103.3, 103.5, 103.8, 106.5, 106.8, 106.9, 106.10, 106.11, 106.12, 106.13, 106.15, 100.12 and such other said rules as may be applicable.

A copy of Practice and Procedure of the Federal Communications Commission may be obtained from the Superintendent of Documents, Government Printing Office, Washington, D. C., for a charge of ten cents a copy.

The hearing on the above-mentioned application will be held at the offices of the Commission, Washington, D. C., beginning at 10:00 A. M., on the 30th day of September, 1937.

In order to avail itself of the opportunity to be heard, the applicant, within fifteen (15) days from the mailing of this notice, shall file with the Commission a written appearance and statement of desire to be heard, subscribed and verified by the applicant, and a terse yet complete statement, in writing, of the facts which it expects to prove at such hearing.

Within twenty-five (25) days of the publication of this notice of hearing, any person who desires to participate in such hearing shall file with the Commission its appearance and a statement of its desire to be heard, subscribed and verified, and a terse yet complete statement, in writing, of the facts it expects to prove at such hearing. No party, other than the applicant, shall be heard in this proceeding unless and until he shall file his appearance in accordance with the provisions of this paragraph.

Appearances filed in accordance with the preceding paragraphs shall be considered as pleadings but not as evidence of the facts therein stated.

In case no appearance or statement in writing of the facts to be proved upon this hearing is filed by the applicant within the time so specified, or if on the date set for hearing the applicant does not appear and offer evidence in support of his application, the hearing will be cancelled, the applicant deemed in default, and his application denied.

Dated at Washington, D. C., August 21, 1937.

FEDERAL COMMUNICATIONS COMMISSION
TELEGRAPH DIVISION,
T. J. SLOWIE, Secretary.

[F. R. Doc. 37-2629; Filed, August 26, 1937; 9:41 a. m.]

FEDERAL HOME LOAN BANK BOARD.

Federal Savings and Loan Insurance Corporation.

AMENDMENT TO RULES AND REGULATIONS

LIMITING THE BORROWING POWER OF INSURED INSTITUTIONS

Be it resolved, That pursuant to authority vested in the Board of Trustees of the Federal Savings and Loan Insurance Corporation by Sections 402 (a) and 403 (b) of the National Housing Act (12 U. S. C. 1725 (a), 1726 (b)), the Rules and Regulations for Insurance of Accounts are hereby amended by inserting therein immediately following Section 9, a new Section 9-A, as follows:

SEC. 9-A. Limitation upon borrowing.—No insured institution shall borrow in excess of the aggregate amount authorized by

the law under which such insured institution operates. No insured institution shall borrow an aggregate amount exceeding one-half the amount paid in and credited on withdrawable or repurchasable shares, share accounts, certificates of deposit and investment certificates; nor, within such an amount, an amount aggregating more than one-fifth thereof, in loans with a maturity of one year or less, from sources other than a Federal home loan bank. No action of an insured institution in obtaining funds through borrowing, in accordance with the provisions of this section, shall be deemed a violation hereof, because of a subsequent reduction in the amounts paid in and credited on withdrawable or repurchasable shares, share accounts, certificates of deposit and investment certificates.

Be it further resolved, That, it being deemed this is a major amendment affecting matters of general principle or policy, and not of an emergency character, pursuant to the provisions of subsection (a) of Section 22 of the Rules and Regulations for Insurance of Accounts, such amendment shall be effective 30 days from a date to be fixed by the Secretary to the Board, which date shall be fixed within 10 days from the date of the adoption of this resolution.

The Secretary fixed the effective date of this resolution as of thirty days from September 1, 1937.

Adopted by the Board of Trustees of the Federal Savings and Loan Insurance Corporation on August 20, 1937.

[SEAL] R. L. NAGLE, Secretary.

[F. R. Doc. 37-2621; Filed, August 25, 1937; 12:30 p. m.]

AMENDMENT TO RULES AND REGULATIONS

PROHIBITING INSURED INSTITUTION FROM OCCUPYING JOINT OFFICE QUARTERS WITH OTHER FINANCIAL INSTITUTION OR MORTGAGE COMPANY WHICH IS NOT INSURED EITHER BY THE CORPORATION OR BY THE FEDERAL DEPOSIT INSURANCE CORPORATION

Be it resolved, That pursuant to authority vested in the Board of Trustees of the Federal Savings and Loan Insurance Corporation by subsection (a) of Section 402 of the National Housing Act (12 U. S. C. 1725 (a)), subsection (c) of Section 3 of the Rules and Regulations for Insurance of Accounts is hereby amended by adding at the end thereof, the following sentence:

No insured institution shall occupy office quarters which are also occupied by some other financial institution or mortgage company which is not insured either by the Corporation or by the Federal Deposit Insurance Corporation, without prior written approval of the Corporation.

Be it further resolved, That, it being deemed this amendment is of an emergency character, said amendment shall be effective immediately.

Adopted by the Board of Trustees of the Federal Savings and Loan Insurance Corporation on August 23, 1937.

[SEAL] R. L. NAGLE, Secretary.

[F. R. Doc. 37-2623; Filed, August 25, 1937; 12:32 p. m.]

Home Owners' Loan Corporation.

AMENDMENT OF CHAPTER VI, SEC. 603 (C), CONSOLIDATED MANUAL

SETTLEMENT, ADJUSTMENT, AND COMPROMISE OF CLAIMS OR MATTERS AFFECTING THE CORPORATION

Be it resolved, That pursuant to the authority vested in the Board by the Home Owners' Loan Act of 1933 (48 Stat. 128, 129) as amended by sections 1 and 13 of the Act of April 27, 1934 (48 Stat. 643-647), and particularly by sections 4-a and 4-k of said Act as amended, subsection (c) of section 603 of the Consolidated Manual be, and it is hereby, amended to read as follows:

The General Counsel, with the approval of the General Manager, may settle, adjust, or compromise any claim or matter affecting the Corporation, whether in litigation or not, and may incur any expense necessary to dispose of any outstanding interest, prior lien or equity affecting the title to any property taken as security or acquired by the Corporation. Under procedure

and regulations prescribed by the General Counsel, with the approval of the General Manager, such authority may be exercised also by the Regional Counsel, with the approval of the Regional Manager, and in respect of suits or proceedings against tenants, by the State Counsel, with the approval of the State Manager.

[SEAL]

R. L. NAGLE, Secretary.

[F. R. Doc. 37-2622; Filed, August 25, 1937; 12:31 p. m.]

AMENDING SECTIONS 1d (1) (2) (3) AND (6) OF CHAPTER XIX OF THE STATE MANUAL AND OF CHAPTER V OF THE REGIONAL MANUAL AND SECTIONS 306 AND 309 OF CHAPTER III OF THE CONSOLIDATED MANUAL

REDESIGNATING FUNCTIONS OF BROKERS, CHANGES IN DESIGNATIONS OF FUNCTIONS OF CONTRACT MANAGEMENT BROKERS AND CONTRACT SALES BROKERS; CHANGES IN DIRECTIONS FOR LISTING OF PROPERTIES FOR SALE

Be it resolved, That pursuant to the authority vested in the Board by Home Owners' Loan Act of 1933 (48 Stat. 128, 129) as amended by Sections 1 and 13 of the Act of April 27, 1934 (48 Stat. 643-647) and particularly by Sections 4-a and 4-k of said Act as amended, Sections 1-d (1), (2), (3), and (6) of Chapter XIX of the State Manual and of Chapter V of the Regional Manual and Sections 306 and 309 of Chapter III of the Consolidated Manual be amended as follows:

Section 1-d (1) (first paragraph 306) is hereby amended to read as follows:

It is the general policy of the Corporation to endeavor to dispose of, rent and manage its acquired properties through brokers in all localities where satisfactory arrangements can be made and maintained for such facilities and where it appears to the best interest of the Corporation to conduct those activities in such manner. The Regional Manager may also assign any other properties under the jurisdiction of the Property Management Division to brokers for sale, rental or management when in his opinion it is advantageous to do so.

Section 1-d (2) (second paragraph 306) is hereby amended to read as follows:

Lists of Contract Sales Brokers and Contract Management Brokers are to be prepared in accordance with regulations to be issued by the Deputy General Manager in Charge with the approval of the General Manager and the General Counsel. Such lists shall contain the names of persons, firms, or corporations engaged in the real estate business in the communities where the Corporation holds mortgages or other liens or has acquired real properties. The names which shall be placed upon these lists shall represent the best qualified brokers available in the territory. The individuals, firms and corporations shall be selected upon the basis of the best interests of the Corporation. The Contract Sales Broker shall perform such service in selling such properties as may be listed with him and such other duties in connection therewith as are required by the terms of the Sales Brokers' Agreement entered into between such broker and the Corporation. The listing shall be subject to prior sale and also subject to change at any time and to the right of withdrawal upon written notice. The Contract Management Broker shall perform such service in connection with the rental and management of properties listed with him and such other duties as are required by the terms of the Management Broker's Agreement entered into between such broker and the Corporation.

Section 1-d (3) (third paragraph 306) is hereby amended to read as follows:

In addition to the list of Contract Sales Brokers in each locality a list of Approved Sales Brokers shall be prepared and maintained. The list shall include the names of those active real estate brokers, in each area where the Corporation holds mortgages or other liens or has acquired real properties, who in the opinion of the Regional Manager or Deputy General Manager in Charge are reputable and qualified to negotiate for the sale of the Corporation's properties and who have indicated their willingness to act as a broker on forms furnished by the Corporation for such purpose. As a condition precedent to being placed upon the approved list, brokers may be required to agree to submit any and all disputes and controversies arising out of sales commissions to arbitrators to be selected in accordance with procedure set forth in the Chapter of the Manual of Rules and Regulations relating to Property Management and to abide by the decision rendered by the arbitrators. When the property is listed with a Contract Sales Broker, the Corporation shall distribute, on its duly authorized forms, listings of any such property to approved real estate brokers within a reasonably effective area of the property. Such a listing shall not be exclusive and

the listing price shall be subject to change and the said price and the listing subject to withdrawal or prior sale of the property, all without notice. Such listing shall also be subject to the right of the Corporation to make a sale to any person upon condition that the Corporation shall not be obligated to pay any commission except in cases where the purchaser was procured by an Approved Broker with whom the property is listed. Approved Sales Brokers, upon receipt of any such listing, shall thereafter conduct all of their negotiations with the Corporation through the Contract Sales Broker designated in the listing.

The first sentence of Section 1-d (6) (309) is hereby amended to read as follows:

In areas where the services of a satisfactory broker are not available, the Regional Manager may arrange for a representative citizen of the community to perform such duties in connection with the sale, rental or management of the properties under the jurisdiction of the Property Management Division as are required by the terms of the Management Broker's Agreement or Sales Broker's Agreement.

Be it further resolved, That this resolution, insofar as it amends the State and Regional Manuals shall be effective immediately upon its passage; and insofar as it affects the Consolidated Manual shall be effective the same date on which the resolution of January 22, 1937 adopting the Property Management Chapter of the Consolidated Manual becomes effective.

Adopted by the Federal Home Loan Bank Board on August 19, 1937.

[SEAL]

R. L. NAGLE, *Secretary*.

[F. R. Doc. 37-2620; Filed, August 25, 1937; 12:30 p. m.]

AMENDING PROPERTY MANAGEMENT CHAPTER OF THE MANUALS PLANS OF SALE AND TERMS OF PAYMENT ACQUIRED PROPERTIES

Be it resolved, That pursuant to the authority vested in the Board by the Home Owners' Loan Act of 1933 (48 Stat. 128, 129) as amended by Sections 1 and 13 of the Act of April 27, 1934 (48 Stat. 643-647), and particularly by Sections 4-a and 4-k of said Act as amended, all of that portion of Section 310 of Chapter III of the Consolidated Manual of the Home Owners' Loan Corporation, and of that portion of Section 1-e of Chapter XIX of the State Manual and of Chapter V of the Regional Manual relating to the plans and terms of sale which begins with the words "there are three authorized plans" and which ends with the words "and the balance to principal" be, and it is hereby, amended to read as follows:

The General Manager with the approval of the General Counsel is authorized to determine the plans of sale of real properties under the jurisdiction of the Property Management Division and of any leasehold or other interests therein. The General Manager is authorized to determine the terms of payment for the sale of such properties or interests therein, provided, however, that in no event shall the term of repayment under any mortgage or other security instrument or installment or like contract exceed fifteen years from the date of delivery of the deed or of such contract. The authority herein vested in the General Manager may be exercised also by the Deputy General Manager in Charge of Property Management, the Regional Manager, and the State Manager under procedure and limitations prescribed by the General Manager with the approval of the General Counsel.

Be it further resolved, That the provision of this resolution insofar as it amends Chapter III of the Consolidated Manual shall become effective on the effective date of the resolution adopted January 22, 1937, and insofar as the provisions of this resolution amend Section 1-e of Chapter XIX of the State Manual and of Chapter V of the Regional Manual, the provisions of this resolution shall become effective immediately upon its adoption.

Adopted by the Federal Home Loan Bank Board on August 24, 1937.

[SEAL]

R. L. NAGLE, *Secretary*.

[F. R. Doc. 37-2624; Filed, August 25, 1937; 12:32 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 26th day of August, A. D. 1937.

[File No. 54-1]

IN THE MATTER OF AMERICAN WATER WORKS AND ELECTRIC COMPANY, INCORPORATED

[Application Pursuant to Section 11 (e) of the Public Utility Holding Company Act of 1935]

NOTICE OF AND ORDER FOR HEARING

An application having been duly filed with this Commission, by American Water Works and Electric Company, Incorporated, a registered holding company, pursuant to Section 11 (e) of the Public Utility Holding Company Act of 1935, which application requests

(a) that the Commission find that the plan of reorganization therein set forth is necessary and desirable for the purpose of effectuating the provisions of Section 11 (b) of the Act and is fair and equitable to the persons affected by such plan and that, upon the carrying out of the plan of reorganization therein set forth, the operations of the holding-company system of the applicant, including those of the applicant and each of its subsidiary companies, will be limited to a single integrated public-utility system and to such other businesses as are reasonably incidental or economically necessary or appropriate to the operations of such integrated public-utility system or necessary or appropriate in the public interest or for the protection of investors or consumers and not detrimental to the proper functioning of such system, and that such system and its operation will in all other respects conform to the provisions of Section 11 (b) of the Act;

(b) that the Commission enter its order approving the proposed plan of reorganization as provided in Section 11 (e) of the Act; and

(c) that the Commission grant such other or further relief as may be appropriate.

For the purpose of conforming the applicant's holding-company system to the provisions of Section 11 (b) of the Act, applicant proposes, subject to the necessary approval of the Commission, to reorganize its system in the following respects:

(1) By the purchase by The West Penn Electric Company from West Penn Power Company of 583,999²³/₂₅ shares of common stock of Monongahela West Penn Public Service Company, constituting all of the outstanding common stock of such company except 98²⁵/₂₅ shares now owned by the applicant.

(2) By the redemption by The West Penn Electric Company of all of its securities outstanding with others than the applicant through funds to be advanced to such company by the applicant, and by the dissolution of such company and the distribution of its assets to the applicant as the then owner of all of its outstanding securities.

(3) By the purchase by Monongahela West Penn Public Service Company from Monongahela Securities Company of all of the outstanding securities and open account indebtedness of Monterey Utilities Corporation.

(4) By the purchase by South Penn Power Company of all of the property and franchises of its wholly owned subsidiaries, Ayr Township Electric Company, Licking Creek Township Electric Company and Todd Township Electric Company.

(5) By the purchase by Monongahela West Penn Public Service Company from The West Penn Electric Company (prior to its dissolution) of all of the outstanding securities and open account indebtedness of West Virginia Public Service Company.

It is ordered, That a hearing on such matter be held on September 14, 1937, at ten o'clock in the forenoon of that day at Room 1103, Securities and Exchange Building, 1778 Pennsylvania Avenue N. W., Washington, D. C.; and

Notice of such hearing is hereby given to said party and to any interested State, State commission, State securities commission, municipality, and any other political subdivision of a State, and to any representative of interested consumers or security holders, and any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before September 9, 1937.

It is further ordered, That Richard Townsend, an officer of the Commission, be and he hereby is designated to preside at such hearing, and authorized to adjourn said hearing from time to time, to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, contracts, agreements, of other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

Upon the completion of the taking of testimony in this matter, the officer conducting said hearing is directed to close the hearing and make his report to the Commission.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 37-2634; Filed, August 26, 1937; 12:47 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 26th day of August, A. D. 1937.

[File No. 46-68]

IN THE MATTER OF THE WEST PENN ELECTRIC COMPANY [APPLICATION PURSUANT TO SECTION 10 (A) (1) OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935]

NOTICE OF AND ORDER FOR HEARING

An application having been duly filed with this Commission, by The West Penn Electric Company, a registered holding company, pursuant to Section 10 (a) (1) of the Public Utility Holding Company Act of 1935, for approval of the acquisition by applicant of 583,999 23/25th shares of the common stock of Monongahela West Penn Public Service Company, from West Penn Power Company, for a consideration of \$7,000,000, both the vendor and the issuer being subsidiary companies of applicant and all of said companies being members of the American Water Works and Electric Company, Incorporated, holding-company system.

It is ordered, That a hearing on such matter be held on September 14, 1937, at ten o'clock in the forenoon of that day at Room 1103, Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C.; and

Notice of such hearing is hereby given to said party and to any interested State, State commission, State securities commission, municipality, and any other political subdivision of a State, and to any representative of interested consumers or security holders, and any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before September 9, 1937.

It is further ordered, That Richard Townsend, an officer of the Commission, be and he hereby is designated to preside at such hearing, and authorized to adjourn said hearing from time to time, to administer oaths and affirmations, sub-

pena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, contracts, agreements, or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

Upon the completion of the taking of testimony in this matter, the officer conducting said hearing is directed to close the hearing and make his report to the Commission.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 37-2635; Filed, August 26, 1937; 12:47 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 25th day of August, A. D. 1937.

[File No. 46-66]

IN THE MATTER OF THE GREENVILLE ELECTRIC LIGHT AND POWER COMPANY

[Public Utility Holding Company Act of 1935—Section 10]

ORDER APPROVING ACQUISITION OF SECURITIES UNDER SECTION 10 OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

The Greenville Electric Light and Power Company, a subsidiary of United Public Utilities Corporation, a registered holding company, having filed an application pursuant to Section 10 (a) (1) of the Public Utility Holding Company Act of 1935, for approval of the acquisition by it from The Buckeye Light & Power Company, a subsidiary of said United Public Utilities Corporation, of said Company's unsecured negotiable promissory note in the principal amount of \$60,000, to be dated May 1, 1935, to mature January 1, 1945, and to bear interest at the rate of six per cent per annum, such note to be issued to the applicant in payment and discharge of the outstanding indebtedness to the applicant of said The Buckeye Light & Power Company; a hearing on said application having been duly held after appropriate notice; the record in this matter having been examined; and the Commission having made and filed its findings herein:

It is ordered, that the acquisition by the applicant of said note in accordance with the terms and conditions of and for the purposes represented by such application, and upon the further condition that the applicant, upon receiving such note, shall by an indorsement so qualified that the applicant shall not guarantee or assume any liability on said note, transfer it to said United Public Utilities Corporation in reduction by \$60,000 of the applicant's existing indebtedness to said Corporation, be and the same hereby is approved.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 37-2637; Filed, August 26, 1937; 12:48 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 26th day of August, A. D., 1937.

[File No. 46-65]

IN THE MATTER OF REPUBLIC ELECTRIC POWER CORPORATION
ORDER CONSENTING TO WITHDRAWAL OF APPLICATION FILED PURSUANT TO SECTION 10 (A) (1) OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

The Commission, having due regard to the public interest and the interest of investors and consumers, upon the

request of the applicant, consents to the withdrawal of the above application and to that effect

It is so ordered.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 37-2638; Filed, August 26, 1937; 12:48 p. m.]

*United States of America—Before the Securities
and Exchange Commission*

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 25th day of August, A. D., 1937.

[File No. 32-59]

IN THE MATTER OF THE BUCKEYE LIGHT & POWER COMPANY

[Public Utility Holding Company Act of 1935—Section 6 (b)]

**ORDER GRANTING EXEMPTION FROM THE PROVISIONS OF SECTION
6 (A)**

The Buckeye Light & Power Company, a corporation organized and operating within the State of Ohio and a subsidiary of United Public Utilities Corporation, a registered holding company, having duly filed with this Commission an application pursuant to Section 6 (b) of the Public Utility Holding Company Act of 1935, for exemption from the provisions of Section 6 (a) of said Act of the issue and sale by the applicant to The Greenville Electric Light and Power Company, a subsidiary of said United Public Utilities

Corporation, of the applicant's unsecured negotiable promissory note in the principal amount of \$60,000 to be dated as of May 1, 1935, to mature January 1, 1945, and to bear interest at the rate of six per cent per annum, in payment and discharge of the outstanding indebtedness of the applicant in the amount of \$60,000 to the said The Greenville Electric Light and Power Company; a hearing on said application, as amended, having been duly held after appropriate notice; the record in this matter having been examined; and the Commission having made and filed its findings herein:

It is ordered, That the issue and sale of the above described note, in accordance with the terms and for the purpose represented by the application herein be, and the same hereby is, exempted from the provisions of Section 6 (a) of the Public Utility Holding Company Act of 1935; provided, however, that if the authorization of the issue and sale of such note by the Public Utilities Commission of the State of Ohio shall be revoked or otherwise terminated this exemption shall immediately terminate without further order of this Commission; and

It is further ordered, That within ten days after the issue and sale of said note, the applicant shall file with this Commission a Certificate of Notification, showing that such issue and sale have been effected in accordance with the terms and conditions of, and for the purposes represented by said application.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 37-2636; Filed, August 26, 1937; 12:47 p. m.]

¹ 2 F. R. 1035 (DI).

