

[CHAPTER 689.]

AN ACT

August 26, 1935.

[S. 3286.]

[Public, No. 335.]

To abolish the oath required of customs and internal-revenue employees prior to the receipt of compensation, and for other purposes.

Customs and internal revenue employees. Oath requirement abolished. U. S. C., p. 798. Certain authorizations to administer oaths to, amended. Vol. 30, p. 286; U. S. C., p. 796.

R. S., secs. 1790, 2693, pp. 317, 529.

Customhouse brokers. Vol. 46, p. 759. U. S. C., p. 902.

Revocation or suspension of license.

Notice to be given.

Hearings.

Transmittal of record to Secretary.

Authority of Secretary.

Appeal from Secretary's decision.

Petition to proper circuit court of appeals, etc.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1790 of the Revised Statutes (U. S. C., title 19, sec. 49) is hereby repealed.

SEC. 2. Section 1 of the Act entitled "An Act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-nine, and for other purposes", approved March 15, 1898 (30 Stat. 277 at 286), as amended, is hereby amended by striking therefrom the following sentence: "Hereafter collectors of customs and their special deputies shall be competent to administer oaths to officers of the Revenue Marine Service and employees in the Customs Service required by sections seventeen hundred and ninety and twenty-six hundred and ninety-three of the Revised Statutes."

SEC. 3. Subdivision (a) of section 641 of the Tariff Act of 1930 (46 Stat. 759; U. S. C., Supp. VII, title 19, sec. 1641) is hereby amended by striking out "(e)" in line 17 and inserting in lieu thereof "(c)".

SEC. 4. Subdivisions (b), (c), and (d) of section 641 of such Acts are hereby amended to read as follows:

"(b) REVOCATION OR SUSPENSION.—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 ten days thereafter notify the customhouse broker in writing of a hearing to be held before him within five 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.

"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 sixty 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.

"(c) PRIOR LICENSES.—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.

"(d) REGULATIONS BY SECRETARY.—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."

SEC. 5. Subdivision (e) of section 641 of such Act is hereby repealed.

Approved, August 26, 1935.

Procedure.

Additional evidence may be admitted.

Effect on findings.

Subject to Supreme Court review.

U. S. C., p. 1271.

Proceedings a stay of order.

Force and effect of prior licenses.
Vol. 36, p. 464.
U. S. C., p. 819.

Regulations by Secretary.

Provision repealed.
Vol. 46, p. 760, repealed.