

the period of continued eligibility shall not end until the last day of the calendar year next beginning after the end of the next full open enrollment period beginning after the date on which the term expires.

(2) In the event that a retired judge remains enrolled under chapter 89 of title 5 for a period of 5 consecutive years by virtue of paragraph (1) (taking into account only periods of coverage as an active judge immediately before retirement and as a retired judge pursuant to paragraph (1)), then, effective as of the day following the last day of that 5-year period—

(A) the provisions of chapter 89 of title 5 shall be applied as if such judge had satisfied the requirements of section 8905(b)(1)¹ on the last day of such period; and

(B) the provisions of paragraph (1) shall cease to apply.

(3) For purposes of this subsection, the term “open enrollment period” refers to a period described in section 8905(g)(1) of title 5.

(c) For purposes of construing and applying chapter 87 of title 5, including any adjustment of insurance rates by regulation or otherwise, a judge of the United States Court of Federal Claims in regular active service or who is retired under section 178 of this title shall be deemed to be a judge of the United States described under section 8701(a)(5) of title 5.

(Added Pub. L. 106-518, title III, §309(a), Nov. 13, 2000, 114 Stat. 2419.)

[§ 180. Repealed. Pub. L. 106-398, § 1 [[div. A], title VI, § 654(b)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A-165]

Section, added Pub. L. 102-572, title IX, §903(a), Oct. 29, 1992, 106 Stat. 4517, related to military retirement pay for retired judges.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1999, see section 1 [[div. A], title VI, § 654(c)] of Pub. L. 106-398, set out as an Effective Date of 2000 Amendment note under section 371 of this title.

[CHAPTER 9—REPEALED]

[§§ 211 to 216. Repealed. Pub. L. 97-164, title I, § 106, Apr. 2, 1982, 96 Stat. 28]

Section 211, acts June 25, 1948, ch. 646, 62 Stat. 899; Aug. 25, 1958, Pub. L. 85-755, §1, 72 Stat. 848, provided for creation of United States Court of Customs and Patent Appeals under article III of the United States Constitution and for appointment of a chief judge and four associate judges for that court.

Section 212, act June 25, 1948, ch. 646, 62 Stat. 899, provided for order of precedence of chief judge and associate judges of court.

Section 213, acts June 25, 1948, ch. 646, 62 Stat. 899; Mar. 2, 1955, ch. 9, §1(e), 69 Stat. 10; Aug. 14, 1964, Pub. L. 88-426, title IV, § 403(e), 78 Stat. 434; Aug. 9, 1975, Pub. L. 94-82, title II, §205(b)(5), 89 Stat. 422, provided for tenure and salaries of judges.

Section 214, act June 25, 1948, ch. 646, 62 Stat. 899, authorized court to hold court at such times and places as it might fix by rule.

Section 215, act June 25, 1948, ch. 646, 62 Stat. 899, provided that three judges of court constituted a quorum and that concurrence of three judges was necessary to any decision.

Section 216, act June 25, 1948, ch. 646, 62 Stat. 899, provided for filing of written opinions by Court of Customs and Patent Appeals on appeals from decisions of Patent Office and recording of those opinions in Patent Office.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as an Effective Date of 1982 Amendment note under section 171 of this title.

TRANSFER OF MATTERS AND PETITIONS PENDING IN UNITED STATES COURT OF CUSTOMS AND PATENT APPEALS ON OCTOBER 1, 1982

For provisions that any matter pending before the United States Court of Customs and Patent Appeals on Oct. 1, 1982, and that any petition for rehearing, reconsideration, alteration, modification, or other change in any decision of the United States Court of Customs and Patent Appeals rendered prior to Oct. 1, 1982, that has not been determined on that date or that is filed after that date, be determined by the United States Court of Appeals for the Federal Circuit, see section 403(b), (c) of Pub. L. 97-164, formerly set out as a note under section 171 of this title.

CHAPTER 11—COURT OF INTERNATIONAL TRADE

Sec.

- 251. Appointment and number of judges; offices.
- 252. Tenure and salaries of judges.
- 253. Duties of chief judge.
- 254. Single-judge trials.
- 255. Three-judge trials.
- 256. Trials at ports other than New York.
- 257. Publication of decisions.
- 258. Chief judges; precedence of judges.

HISTORICAL AND REVISION NOTES

The “Board of General Appraisers” was designated “United States Customs Court” by act May 28, 1926, ch. 411, §1, 44 Stat. 669. General provisions concerning such court were incorporated in section 1518 of title 19, U.S.C., 1940 ed., Customs Duties, until amended by act October 10, 1940, ch. 843, §1, 54 Stat. 1101, adding a new section to the Judicial Code of 1911, when they were transferred to section 296 of title 28, U.S.C., 1940 ed. They are retained in title 28 by this revision.

In this connection former Congressman Walter Chandler said, “Among the major subjects needing study and revision are special courts, such as the Customs Court, which should be fitted into the judicial system.” (See U.S. Law Weekly, Nov. 7, 1939.)

HISTORY OF COURT

The United States Customs Court [now Court of International Trade] as “constituted on June 17, 1930”, consisted of nine members as provided by act Sept. 21, 1922, ch. 356, title IV, §518, 42 Stat. 972, which established the Board of General Appraisers, designated the “United States Customs Court” by act May 28, 1926, ch. 411, §1, 44 Stat. 669.

Provisions similar to these were contained in act Sept. 21, 1922, ch. 356, title IV, §518, 42 Stat. 972. That section was superseded by section 518 of the Tariff Act of 1930, and was repealed by section 651 (a)(1) of said 1930 act.

The sentence in the former first paragraph as to sitting in a case previously participated in, is from act Aug. 5, 1909, ch. 6, §28, 36 Stat. 98, which combined and amended Customs Administrative Act June 10, 1890, ch. 407, §12, 26 Stat. 136, and section 31, as added by act May 27, 1908, ch. 205, 35 Stat. 406. Section 12 of the act of 1890 was expressly saved from repeal by act Sept. 21, 1922, ch. 356, title IV, §643, 42 Stat. 989, and prior acts, but its provisions, other than the sentence above mentioned, were omitted from the Code.

Provisions for the review of decisions of Boards of General Appraisers by the Circuit Courts, made by sec-

¹ So in original. Probably should be followed by “of title 5”.

tion 15 of the Customs Administrative Act of June 10, 1890, ch. 407, were superseded by provisions for such review by the Court of Customs Appeals created by section 29 added to that act by the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6. The provisions of said new section 29 were incorporated in and superseded by chapter 8 of the Judicial Code of March 3, 1911, incorporated into the Code as former chapter 8 of Title 28, Judicial Code and Judiciary.

R.S. §2608 provided for the appointment of four appraisers of merchandise, to be employed in visiting ports of entry under the direction of the Secretary of the Treasury, and to assist in the appraisal of merchandise as might be deemed necessary by the Secretary to protect and insure uniformity in the collection of the revenue from customs. It was repealed by act June 10, 1890, ch. 407, §29, 26 Stat. 141.

R.S. §2609 provided for the appointment of merchant appraisers. R.S. §2610 made every merchant refusing to serve as such appraiser liable to a penalty. Both sections were superseded by the provisions relating to appraisers and appraisements of the Customs Administrative Act of June 10, 1890, ch. 407, 26 Stat. 131, and subsequent acts, and were repealed by act Sept. 21, 1922, ch. 356, title IV, §642, 42 Stat. 989.

R.S. §2945, which contained a provision similar to that of R.S. §2610, was repealed, without mention of section 2610, by said Customs Administrative Act of June 10, 1890, ch. 407, §29, 26 Stat. 141, and was again repealed by section 642 of act Sept. 21, 1922.

R.S. §2725, which prescribed the compensation of merchant appraisers, and section 2726, which prescribed the salary of the general appraiser at New York, were superseded by the provisions relating to general appraisers and appraisers made by the Customs Administrative Act of June 10, 1890, ch. 407, §§12, 13, 26 Stat. 136, as amended by the Payne-Aldrich Act of Aug. 5, 1909, ch. 6, §28.

R.S. §2727 fixed the salary of the four general appraisers at the sum of \$2,500 a year each, and their actual traveling expenses. It was repealed by act Feb. 27, 1877, ch. 69, 19 Stat. 246.

AMENDMENTS

1996—Pub. L. 104-317, title V, §501(b)(3), Oct. 19, 1996, 110 Stat. 3856, substituted “Duties of chief judge” for “Duties of chief judge; precedence of judges” in item 253 and added item 258.

1980—Pub. L. 96-417, title V, §501(2), Oct. 10, 1980, 94 Stat. 1742, substituted “COURT OF INTERNATIONAL TRADE” for “CUSTOMS COURT” in chapter heading.

1970—Pub. L. 91-271, title I, §123(a), June 2, 1970, 84 Stat. 282, substituted “Single-judge trial” for “Divisions; powers and assignments” in item 254 and “Three-judge trials” for “Publication of decisions” in item 255 and added items 256 and 257.

§ 251. Appointment and number of judges; offices

(a) The President shall appoint, by and with the advice and consent of the Senate, nine judges who shall constitute a court of record to be known as the United States Court of International Trade. Not more than five of such judges shall be from the same political party. The court is a court established under article III of the Constitution of the United States.

(b) The offices of the Court of International Trade shall be located in New York, New York. (June 25, 1948, ch. 646, 62 Stat. 899; July 14, 1956, ch. 589, §1, 70 Stat. 532; Pub. L. 96-417, title I, §101, Oct. 10, 1980, 94 Stat. 1727; Pub. L. 104-317, title V, §501(b)(1), Oct. 19, 1996, 110 Stat. 3856.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §296 (Mar. 3, 1911, ch. 231, §187(a), as added Oct. 10, 1940, ch. 843, §1, 54 Stat. 1101).

This section contains only a part of section 296 of title 28, U.S.C., 1940 ed. Other provisions of such section are incorporated in sections 252, 253, 254, 455, 1581, 2071, 2639, and 2640 of this title.

The provision that vacancies should be filled by appointment of the President and confirmed by the Senate was omitted as unnecessary in view of the language of the revised section.

Words “a court of record known as” were added. (See Reviser’s Note under section 171 of this title.)

The term “chief judge” was substituted for “presiding judge.” (See reviser’s note under section 136 of this title.)

The provisions of such section 296 of title 28, U.S.C., 1940 ed., relating to assignment and powers of retired judges were omitted as covered by sections 294 and 296 of this title.

Changes in phraseology were made.

AMENDMENTS

1996—Subsecs. (b), (c). Pub. L. 104-317 redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows: “The President shall designate one of the judges of the Court of International Trade who is less than seventy years of age to serve as chief judge. The chief judge shall continue to serve as chief judge until he reaches the age of seventy years and another judge is designated as chief judge by the President. After the designation of another judge to serve as chief judge, the former chief judge may continue to serve as a judge of the court.”

1980—Subsec. (a). Pub. L. 96-417 incorporated first par. in provisions designated subsec. (a), redesignated the United States Customs Court as the United States Court of International Trade, and deleted “appointed” before “shall be”.

Subsec. (b). Pub. L. 96-417 added subsec. (b) and struck out a second paragraph requiring the President to designate from time to time one of the judges to act as chief judge.

Subsec. (c). Pub. L. 96-417 designated third par. as subsec. (c) and substituted “Court of International Trade” for “court” and “located in New York, New York” for “located at the port of New York”.

1956—Act July 14, 1956, declared the Customs Court to be a court established under article III of the Constitution of the United States.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 701 of Pub. L. 96-417, as amended by Pub. L. 96-542, §1, Dec. 17, 1980, 94 Stat. 3209, provided that:

“(a) Except as otherwise provided in this section, the provisions of and amendments made by this Act [see section 1 of Pub. L. 96-417, set out as a Short Title of 1980 Amendment note under section 1 of this title] shall take effect on November 1, 1980 and shall apply with respect to civil actions pending on or commenced on or after such date.

“(b)(1) The following sections of title 28, United States Code, shall apply with respect to civil actions commenced on or after the effective date of this Act [Nov. 1, 1980]:

“(A) Sections 1581(d), 1581(g), 1581(h), 1581(i), and 1583, as amended by section 201 of this Act.

“(B) Sections 2631(d), 2631(g), 2631(h), 2631(i), 2631(j), 2632(a), 2635, 2636, 2637(c), 2639(b), 2640(a)(5), 2640(c), 2640(d), 2643(a), 2643(c)(2), 2643(c)(4), and 2644, as amended by section 301 of this Act.

“(C) Section 1876, as added by section 302(a) of this Act.

“(D) Sections 2601 and 2602, as amended by section 403 of this Act.

“(E) Section 1919, as amended by section 510 of this Act.

“(F) Section 1963A, as added by section 511(a) of this Act.

“(2) Sections 337(c) and 641(b) of the Tariff Act of 1930 [19 U.S.C. 1337(c) and 1641(b)], as amended by sections 604 and 611 of this Act, shall apply with respect to civil