

(c) If the captured vessel, or any part of the captured property, is not in condition to be sent in for adjudication, the commanding officer of the capturing vessel shall have a survey and an appraisal made by competent and impartial persons. The reports of the survey and the appraisal shall be sent to the court in which proceedings are to be had. Property so surveyed and appraised, unless appropriated for the use of the United States, shall be sold under authority of the commanding officer present. Proceeds of the sale shall be deposited with the Treasurer of the United States or in the public depository most accessible to the court in which proceedings are to be had and subject to its order in the cause.

(Aug. 10, 1956, ch. 1041, 70A Stat. 476.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
7657	34 U.S.C. 1133.	R.S. 4615.

As does 34 U.S.C. 1133, the revised section reflects the Act of March 3, 1899, ch. 413, §13, 30 Stat. 1007, and the Act of May 29, 1920, ch. 214, §1, 41 Stat. 654, which, respectively, abolished the interest of captors in prize property and substituted "Treasurer of the United States or public depository" for "assistant treasurer of the United States".

§ 7658. Duties of prize master

The prize master shall take the captured vessel to the selected port. On arrival he shall—

- (1) deliver immediately to a prize commissioner the documents and papers and the inventory thereof;
- (2) make affidavit that the documents and papers and the inventory thereof and the prize property are the same and are in the same condition as delivered to him, or explaining any loss or absence or change in their condition;
- (3) report all information respecting the prize and her capture to the United States attorney;
- (4) deliver the persons sent as witnesses to the custody of the United States marshal; and
- (5) retain the prize in his custody until it is taken therefrom by process from the prize court.

(Aug. 10, 1956, ch. 1041, 70A Stat. 476.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
7658	34 U.S.C. 1134.	R.S. 4617.

The word "diligently" is omitted as surplusage.

§ 7659. Libel and proceedings by United States attorney

(a) Upon receiving the report of the prize master directed by section 7658 of this title, the United States attorney for the district shall promptly—

- (1) file a libel against the prize property;
- (2) obtain a warrant from the court directing the marshal to take custody of the prize property; and
- (3) proceed to obtain a condemnation of the property.

(b) In connection with the condemnation proceedings the United States attorney shall insure that the prize commissioners—

- (1) take proper preparatory evidence; and
- (2) take depositions de bene esse of the prize crew and of other transient persons who know any facts bearing on condemnation.

(Aug. 10, 1956, ch. 1041, 70A Stat. 477.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
7659	34 U.S.C. 1135.	R.S. 4618.

As does 34 U.S.C. 1135, the revised section reflects the Act of March 3, 1899, ch. 413, §13, 30 Stat. 1007, which repealed all laws authorizing distribution of prize proceeds to captors.

§ 7660. Duties of prize commissioners

One or more of the prize commissioners shall—

- (1) receive from the prize master the documents and papers of the captured vessel and the inventory thereof;
- (2) take the affidavit of the prize master required by section 7658 of this title;
- (3) take promptly, in the manner prescribed by section 7661 of this title, the testimony of the witnesses sent in;
- (4) take, at the request of the United States attorney, on interrogatories prescribed by the court, the depositions de bene esse of the prize crew and others;
- (5) examine and inventory the prize property;
- (6) apply to the court for an order to the marshal to unload the cargo, if this is necessary to that examination and inventory;
- (7) report to the court, and notify the United States attorney, whether any of the prize property requires immediate sale in the interest of all parties;
- (8) report to the court, from time to time, any matter relating to the condition, custody, or disposal of the prize property requiring action by the court;
- (9) return to the court sealed and secured from inspection—
 - (A) the documents and papers received, duly scheduled and numbered;
 - (B) the preparatory evidence;
 - (C) the evidence taken de bene esse; and
 - (D) their inventory of the prize property; and
- (10) report to the Secretary of the Navy, if, in their judgment, any of the prize property is useful to the United States in the prosecution of war.

(Aug. 10, 1956, ch. 1041, 70A Stat. 477.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
7660	34 U.S.C. 1138 (less applicability to procedure for interrogating witnesses).	R.S. 4622 (less applicability to procedure for interrogating witnesses).

The words "but the custody of the property shall be in the marshal only" are omitted as surplusage, since this fact is made clear in § 7662 of this title.

§ 7661. Interrogation of witnesses by prize commissioners

Witnesses before the prize commissioners shall be questioned separately, on interrogatories prescribed by the court, in the manner usual in prize courts. Without special authority from the court, the witnesses may not see the interrogatories, documents, or papers, or consult with counsel or with other persons interested in the cause. Witnesses who have the rights of neutrals shall be discharged as soon as practicable.

(Aug. 10, 1956, ch. 1041, 70A Stat. 477.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
7661	34 U.S.C. 1138 (as applicable to procedure for interrogating witnesses).	R.S. 4622 (as applicable to procedure for interrogating witnesses).

§ 7662. Duties of marshal

The marshal shall—

(1) keep in his custody all persons found on board a prize and sent in as witnesses, until they are released by the prize commissioners or the court;

(2) keep safely in his custody all prize property under warrant from the court;

(3) report to the court any cargo or other property that he thinks should be unloaded and stored or sold;

(4) insure the prize property, if in his judgment it is in the interest of all concerned;

(5) have charge of the sale of the property, if a sale is ordered, and be responsible for the conduct of the sale in the manner required by the court, for the collection of the gross proceeds, and for their immediate deposit with the Treasurer of the United States or public depository nearest the place of sale, subject to the order of the court in the cause; and

(6) submit to the Secretary of the Navy, at such times as the Secretary designates, a full statement of the condition of the prize and of the disposal made thereof.

(Aug. 10, 1956, ch. 1041, 70A Stat. 478.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
7662	34 U.S.C. 1139.	R.S. 4623.

In clause (2) the words “in his custody” are inserted to make clear the fact that the marshal has custody of the prize property.

In clause (5) the words “and be responsible for” are inserted for clarity, since 34 U.S.C. 1144 provides that the sale and deposit of the proceeds shall be made by the auctioneer and his agent rather than by the marshal, although the marshal supervises them. The words “Treasurer of the United States or public depository” are substituted for “assistant treasurer” to reflect the Act of May 29, 1920, ch. 214, 41 Stat. 654.

§ 7663. Prize property appropriated for the use of the United States

(a) Any officer or agency designated by the President may appropriate for the use of the United States any captured vessel, arms, munitions, or other material taken as prize. The de-

partment or agency for whose use the prize property is appropriated shall deposit the value of the property with the Treasurer of the United States or with the public depository nearest to the court in which the proceedings are to be had, subject to the orders of the court.

(b) Whenever any captured vessel, arms, munitions, or other material taken as prize is appropriated for the use of the United States before that property comes into the custody of the prize court, it shall be surveyed, appraised, and inventoried by persons as competent and impartial as can be obtained, and the survey, appraisal, and inventory sent to the court in which the proceedings are to be had. If the property is appropriated after it comes into the custody of the court, sufficient notice shall be given to enable the court to have the property appraised for the protection of the rights of the claimants.

(c) Notwithstanding subsections (a) and (b), in any case where prize property is appropriated for the use of the United States, a prize court may adjudicate the cause on the basis of an inventory and survey and an appropriate undertaking by the United States to respond for the value of the property, without either an appraisal or a deposit of the value of the prize with the Treasurer of the United States or a public depository.

(Aug. 10, 1956, ch. 1041, 70A Stat. 478.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
7663	34 U.S.C. 1162.	Aug. 18, 1942, ch. 553, § 4, 56 Stat. 746; July 1, 1944, ch. 370, § 2, 58 Stat. 678.
	34 U.S.C. 1140.	R.S. 4624; Nov. 14, 1945, ch. 472, § 3, 59 Stat. 581.

In subsection (a) the words “may appropriate” are substituted for the words “the power to take or appropriate * * * may be exercised”, in 34 U.S.C. 1162, for clarity and uniformity of statement. Under the Revised Statutes it was implied and understood that the Navy could appropriate prizes on behalf of the United States for use by the Navy. Use by other government agencies was not contemplated. The 1942 Act enabled the Navy to turn prize vessels over to the War Shipping Administration without bringing them back to United States ports. Reference to that Administration in subsection (a) is omitted since the Administration has been abolished and these functions have not been specifically vested in its successors. It is surplusage as well, because the authority to appropriate is given to any officer or agency designated by the President.

The proviso added to R.S. 4624 (34 U.S.C. 1140) by the 1945 amendment is identical with the proviso added to the 1942 Act (34 U.S.C. 1162) by the 1944 amendment. The 1945 Act completed the process of making the procedure under the Revised Statutes the same as that in effect for causes over which the courts were given jurisdiction by the World War II legislation, and its single statement in subsection (c) is therefore justified.

34 U.S.C. 1140 and the revised section reflect the Act of March 3, 1899, ch. 413, § 13, 30 Stat. 1007, which repealed laws authorizing distribution of prize proceeds to captors, and the Act of May 29, 1920, ch. 214, 41 Stat. 654, which requires substitution of “Treasurer of the United States or public depository” for “assistant treasurer”.