

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

Revised section	Source (U.S. Code)	Source (Statutes at Large)
7663	34 U.S.C. 1162. 34 U.S.C. 1140.	Aug. 18, 1942, ch. 553, § 4, 56 Stat. 746; July 1, 1944, ch. 370, § 2, 58 Stat. 678. 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34 U.S.C. 1140 and the revised section reflect the Act of March 3, 1899, ch. 413, §13, 30 Stat. 1007, which repealed laws authorizing distribution of prize proceeds to captors, and the Act of May 29, 1920, ch. 214, 41 Stat. 654, which requires substitution of "Treasurer of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".

§ 7664. Delivery of property on stipulation

(a) Prize property may be delivered to a claimant on stipulation, deposit, or other security, if—

- (1) the claimant satisfies the court that the property has a peculiar and intrinsic value to him, independent of its market value;
- (2) the court is satisfied that the rights and interests of the United States or of other claimants will not be prejudiced;
- (3) an opportunity is given to the United States attorney and the naval prize commissioner or the naval special prize commissioner to be heard as to the appointment of appraisers; and
- (4) a satisfactory appraisal is made.

(b) Money collected on a stipulation, or deposited instead of it, that does not represent costs shall be deposited with the Treasurer of the United States or a public depository in the same manner as proceeds of a sale.

(Aug. 10, 1956, ch. 1041, 70A Stat. 479.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
7664	34 U.S.C. 1142.	R.S. 4626.

34 U.S.C. 1142 and this 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, §1, 41 Stat. 654, which requires substitution of "Treasurer of the United States or public depository" for "assistant treasurer".

§ 7665. Sale of prize

(a) The court shall order a sale of prize property if—

- (1) the property has been condemned;
- (2) the court finds, at any stage of the proceedings, that the property is perishable, liable to deteriorate, or liable to depreciate in value; or
- (3) the cost of keeping the property is disproportionate to its value.

(b) The court may order a sale of the prize property if, after the return-day on the libel, all the parties in interest who have appeared in the cause agree to it.

(c) An appeal does not prevent the order of a sale under this section or the execution of such an order.

(Aug. 10, 1956, ch. 1041, 70A Stat. 479.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
7665	34 U.S.C. 1143.	R.S. 4627.

In subsection (a) the word "perishing" is omitted as surplusage. The words "in value" are added after "depreciate" for clarity.

In subsection (c) the words "An appeal does not prevent" are substituted for the words "no appeal shall operate to prevent".

§ 7666. Mode of making sale

(a) If a sale of prize property is ordered by the court, the marshal shall—

- (1) prepare and circulate full catalogues and schedules of the property to be sold and return a copy of each to the court;
- (2) advertise the sale fully and conspicuously by posters and in newspapers ordered by the court;
- (3) give notice to the naval prize commissioner at least five days before the sale; and
- (4) keep the goods open for inspection for at least three days before the sale.

(b) An auctioneer of known skill in the business to which the sale pertains shall be employed by the Secretary of the Navy to make the sale. The auctioneer, or his agent, shall collect and deposit the gross proceeds of the sale. The auctioneer and his agent are responsible to the marshal for the conduct of the sale and the collection and deposit of the gross proceeds.