

**§ 7653. Court in which proceedings brought**

(a) If a prize is brought into a port of the United States, or the Commonwealths or possessions, proceedings for the adjudication of the prize cause shall be brought in the district in which the port is located.

(b) If a prize is brought into the territorial waters of a cobelligent, or is brought into a locality in the temporary or permanent possession of, or occupied by, the armed forces of the United States, or is appropriated for the use of the United States, before proceedings are started, the venue of the proceedings for adjudication of the cause shall be in the judicial district selected by the Attorney General, or his designee, for the convenience of the United States.

(c) If the prize property is lost or entirely destroyed or if, because of its condition, no part of it has been or can be sent in for adjudication, proceedings for adjudication of the cause may be brought in any district designated by the Secretary of the Navy. In such cases the proceeds of anything sold shall be deposited with the Treasurer of the United States or public depository in or nearest the district designated by the Secretary, subject to the orders of the court for that district.

(Aug. 10, 1956, ch. 1041, 70A Stat. 474; Pub. L. 109-163, div. A, title X, §1057(a)(5), Jan. 6, 2006, 119 Stat. 3440.)

## HISTORICAL AND REVISION NOTES

| Revised section | Source (U.S. Code)                   | Source (Statutes at Large)                |
|-----------------|--------------------------------------|---|
| 7653(b) .....   | 34 U.S.C. 1160.                      | Aug. 18, 1942, ch. 553, §2, 56 Stat. 746. |
| 7653(c) .....   | 34 U.S.C. 1141 (less last sentence). | R.S. 4625 (less last sentence).           |

Subsection (a) is inserted in order to present a complete statement of the subject matter of the section. Its substance is not specifically set out in the Revised Statutes but is strongly implied in 34 U.S.C. 1135 which requires the United States attorney for the district in which the port is located to file a libel.

In subsection (b) the requisites for jurisdiction conferred under the 1942 Act are substituted for the words "brought under the jurisdiction conferred by this Act". The substituted words are the same as those used in clauses (2), (3), and (4) of the preceding section except that the words "before proceedings are started" are added following the words "appropriated for the use of the United States" for clarity. An appropriation can take place before or after proceedings are commenced, but in the latter case there is no occasion for the Attorney General to determine venue.

In subsection (c) the words "or if because the whole has been appropriated to the use of the United States" and the words "or the value of anything taken or appropriated for the use of the United States" are omitted. The provision in the 1942 Act which empowers the Attorney General to decide the venue of proceedings when the prize property has been appropriated is incompatible with the provision in R.S. 4625 which authorizes the Secretary of the Navy to select the judicial district in such cases. Hence the 1942 Act superseded R.S. 4625 with respect to cases of this type. Deposit of the value of prize property appropriated by the United States is adequately covered in §7663 of this title and is not mentioned here. The second sentence of 34 U.S.C. 1141 (R.S. 4625), relating to proceedings by captors, is omitted because it was rendered inoperative by the Act of March 3, 1899, ch. 413, §13, 30 Stat. 1007, which repealed all laws authorizing the distribution of prize money to captors.

## AMENDMENTS

2006—Subsec. (a). Pub. L. 109-163 substituted "Commonwealths or possessions" for "Territories, Commonwealths, or possessions".

**§ 7654. Effect of failure to start proceedings**

If a vessel is captured as prize and no proceedings for adjudication are started within a reasonable time, any party claiming the captured property may, in any district court as a court of prize—

(1) move for a monition to show cause why such proceedings shall not be started; or

(2) bring an original suit for restitution.

The monition issued in either case shall be served on the United States Attorney for the district, on the Secretary of the Navy, and on such other persons as are designated by order of the court.

(Aug. 10, 1956, ch. 1041, 70A Stat. 475.)

## HISTORICAL AND REVISION NOTES

| Revised section | Source (U.S. Code)              | Source (Statutes at Large) |
|-----------------|---------------------------------|----------------------------|
| 7654 .....      | 34 U.S.C. 1141 (last sentence). | R.S. 4625 (last sentence). |

**§ 7655. Appointment of prize commissioners and special prize commissioners**

(a) In each judicial district there may be not more than three prize commissioners, one of whom is the naval prize commissioner. They shall be appointed by the district court for service in connection with any prize cause in which proceedings are brought under section 7653(a) or (c) of this title. The naval prize commissioner must be an officer of the Navy whose appointment is approved by the Secretary of the Navy. The naval prize commissioner shall protect the interests of the Department of the Navy in the prize property. At least one of the other commissioners must be a member of the bar of the court, of not less than three years' standing, who is experienced in taking depositions.

(b) A district court may appoint special prize commissioners to perform abroad, in connection with any prize cause in which proceedings are brought under section 7653(b) of this title, the duties prescribed for prize commissioners, and, in connection with those causes, to exercise anywhere such additional powers and perform such additional duties as the court considers proper, including the duties prescribed by this chapter for United States marshals. The court may determine the number and qualifications of the special prize commissioners it appoints, except that for each cause there shall be at least one naval special prize commissioner. The naval special prize commissioner must be an officer of the Navy whose appointment is approved by the Secretary. The naval special prize commissioner shall protect the interests of the Department of the Navy in the prize property.

(Aug. 10, 1956, ch. 1041, 70A Stat. 475.)

HISTORICAL AND REVISION NOTES

| <i>Revised section</i> | <i>Source (U.S. Code)</i>  | <i>Source (Statutes at Large)</i>   |
|------------------------|--|---|
| 7655(a) .....          | 34 U.S.C. 1137 (less applicability to compensation of the naval prize commissioner).         | R.S. 4621 (less applicability to compensation of the naval prize commissioner); Nov. 14, 1945, ch. 472, §2, 59 Stat. 581. |
| 7655(b) .....          | 34 U.S.C. 1163 (less applicability to compensation of the naval special prize commissioner). | Aug. 18, 1942, ch. 553, §5 (less applicability to compensation of the naval special prize commissioner), 56 Stat. 746.    |

The first sentence of subsection (a) is reworded to make it clear that the limitation as to number applies to the number of prize commissioners who may serve in each judicial district at any one time and that the court is not precluded from making additional appointments to fill vacancies. The words "for service in connection with any prize cause in which proceedings are brought under section 7653(a) or (c) of this title" are added to distinguish the prize commissioners from the special prize commissioners mentioned in subsection (b). The words "officer of the Navy" in subsections (a) and (b) are substituted for the words "naval officer, active or retired" because an officer of the Navy does not lose his status as such upon retirement, and to retain these words would open to question the many other provisions in this subtitle treating retired officers as officers.

In subsection (b) the words "in connection with any prize cause in which proceedings are brought under section 7653(b) of this title" are substituted for the words "in cases arising under this Act" for accuracy of reference. The words "including the duties prescribed by this chapter for United States marshals" are added for clarity. Section 7662 of this title prescribes the duties of marshals. Most of these duties could not be performed by the marshals if the prize was not brought into a United States port. In such cases occurring during World War II the courts, under the authority of the 1942 Act, required the special prize commissioners to perform the duties ordinarily performed by the marshals. The words "without regard for the requirements of section 7367 of this title" are omitted as unnecessary, since that section is codified in subsection (a), and language distinguishing the prize commissioners from the special prize commissions is included in each subsection.

**§ 7656. Duties of United States attorney**

(a) The interests of the United States in a prize cause shall be represented by the United States attorney for the judicial district in which the prize cause is adjudicated. The United States attorney shall protect the interests of the United States and shall examine all fees, costs, and expenses sought to be charged against the prize fund.

(b) In a judicial district where one or more prize causes are pending the United States attorney shall send to the Secretary of the Navy, at least once every three months, a statement of all such causes in the form and covering the particulars required by the Secretary.

(Aug. 10, 1956, ch. 1041, 70A Stat. 475.)

HISTORICAL AND REVISION NOTES

| <i>Revised section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|-----------------------------------|
| 7656 .....             | 34 U.S.C. 1136.           | R.S. 4619.                        |

The Act of March 3, 1899, ch. 413, §13, 30 Stat. 1007, which repealed all laws authorizing the distribution of prize money to captors, rendered inoperative parts of

R.S. 4619 relative to protection of captors' interest. These parts are omitted from 34 U.S.C. 1136 and from the revised section.

**§ 7657. Duties of commanding officer of capturing vessel**

(a) The commanding officer of a vessel making a capture shall—

(1) secure the documents of the captured vessel, including the log, and the documents of cargo, together with all other documents and papers, including letters, found on board;

(2) inventory and seal all the documents and papers;

(3) send the inventory and documents and papers to the court in which proceedings are to be had, with a written statement—

(A) that the documents and papers sent are all the papers found, or explaining the reasons why any are missing; and

(B) that the documents and papers sent are in the same condition as found, or explaining the reasons why any are in different condition;

(4) send as witnesses to the prize court the master, one or more of the other officers, the supercargo, purser, or agent of the prize, and any other person found on board whom he believes to be interested in or to know the title, national character, or destination of the prize, and if any of the usual witnesses cannot be sent, send the reasons therefor to the court; and

(5) place a competent prize master and a prize crew on board the prize and send the prize, the witnesses, and all documents and papers, under charge of the prize master, into port for adjudication.

(b) In the absence of instructions from higher authority as to the port to which the prize shall be sent for adjudication, the commanding officer of the capturing vessel shall select the port that he considers most convenient in view of the interests of probable claimants.

(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