

written to make the words “during war” applicable to the entire chapter. These words appear in 34 U.S.C. 1159, but not in 34 U.S.C. 1131. Prize is historically and uniformly treated as a war-time matter, so no substantive change results from the extension. The words “this chapter does not affect” are substituted for the words “nothing herein contained shall be construed as affecting, or in any way impairing”. The words “Air Force” are added under authority of §305(a) of the National Security Act of 1947, as amended (5 U.S.C. 1711), to provide the same applicability as formerly provided by the word “Army”. The word “legal” is omitted as surplusage.

In subsection (b) the definition of the term “ship” is omitted as covered by the term “vessel”. All of 34 U.S.C. 1132 except that part which includes “aircraft” within the term “vessels” is omitted as unnecessary since the defined term “vessels of the Navy” does not appear in the provisions to which the definition is made applicable. The last sentence of 34 U.S.C. 1158 applies only to Title LIV (Prize) of the Revised Statutes. In subsection (d) it is broadened to cover the entire body of statutory prize law. Additions to the prize law made by the Act of August 18, 1942, ch. 553, 56 Stat. 746, as amended, operated only to extend the jurisdiction of courts of the United States to certain cases in which the prizes are not brought into the territorial waters of the United States. Relations of this country with other countries are not affected by the 1942 Act except when jurisdiction is exercised by American courts over prizes brought into cobelligerent ports. As that Act provides that the consent of the cobelligerent is necessary to the exercise of such jurisdiction, the rule against contravention of treaties is properly applied to it.

#### PRIOR PROVISIONS

A prior section 8851, added Pub. L. 85-861, §1(192), Sept. 2, 1958, 72 Stat. 1537; amended Pub. L. 86-559, §1(73), June 30, 1960, 74 Stat. 280; Pub. L. 90-83, §3(6), Sept. 11, 1967, 81 Stat. 220; Pub. L. 90-486, §9(2), Aug. 13, 1968, 82 Stat. 760; Pub. L. 96-513, title V, §514(7), Dec. 12, 1980, 94 Stat. 2935; Pub. L. 98-525, title XIV, §1405(55), Oct. 19, 1984, 98 Stat. 2626; Pub. L. 99-145, title V, §522(b)(2), title XIII, §1303(a)(27)(B), Nov. 8, 1985, 99 Stat. 632, 740; Pub. L. 100-456, div. A, title XII, §1234(a)(1), Sept. 29, 1988, 102 Stat. 2059, related to transfer or discharge of reserve lieutenant colonels, colonels, and brigadier generals with 30 years of service or five years in grade, prior to repeal by Pub. L. 103-337, div. A, title XVI, §1629(c)(3), Oct. 5, 1994, 108 Stat. 2963, effective Oct. 1, 1996.

#### AMENDMENTS

2018—Pub. L. 115-232 renumbered section 7651 of this title as this section.

#### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115-232, set out as a note preceding section 3001 of this title.

### § 8852. Jurisdiction

(a) The United States district courts have original jurisdiction, exclusive of the courts of the States, of each prize and each proceeding for the condemnation of property taken as prize, if the prize is—

- (1) brought into the United States, or the Commonwealths or possessions;
- (2) brought into the territorial waters of a cobelligerent;
- (3) brought into a locality in the temporary or permanent possession of, or occupied by, the armed forces of the United States; or
- (4) appropriated for the use of the United States.

(b) The United States district courts, exclusive of the courts of the States, also have original jurisdiction of a prize cause in which the prize property—

- (1) is lost or entirely destroyed; or
- (2) cannot be brought in for adjudication because of its condition.

(c) The jurisdiction conferred by this section of prizes brought into the territorial waters of a cobelligerent may not be exercised, nor may prizes be appropriated for the use of the United States within those territorial waters, unless the government having jurisdiction over those waters consents to the exercise of the jurisdiction or to the appropriation.

(Aug. 10, 1956, ch. 1041, 70A Stat. 474, §7652; Pub. L. 109-163, div. A, title X, §1057(a)(5), Jan. 6, 2006, 119 Stat. 3440; renumbered §8852, Pub. L. 115-232, div. A, title VIII, §807(d)(9), Aug. 13, 2018, 132 Stat. 1837.)

#### HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
7652(a) .....	34 U.S.C. 1159 (less applicability to capture).	Aug. 18, 1942, ch. 553, §1 (less applicability to capture), 56 Stat. 746; July 1, 1944, ch. 370, §1, 58 Stat. 678; Nov. 14, 1945, ch. 472, §1, 59 Stat. 581.
	34 U.S.C. 1164 (2d sentence).	Aug. 18, 1942, ch. 553, §6 (less 1st sentence), 56 Stat. 747.
7652(c) .....	34 U.S.C. 1166.	Aug. 18, 1942, ch. 553, §8, 56 Stat. 747.
	34 U.S.C. 1161.	Aug. 18, 1942, ch. 553, §3, 56 Stat. 746.

Subsection (a) reflects 28 U.S.C. 1333 by restating the basic prize jurisdiction of that section over prizes brought into the United States, and by providing that the extension of prize jurisdiction conferred by 34 U.S.C. 1159 on the United States district courts is exclusive of the courts of the States. 34 U.S.C. 1166 and the second sentence of 34 U.S.C. 1164 are executed in the single jurisdictional statement of this section and the consolidation of the Act of August 18, 1942, ch. 553, 56 Stat. 746 (34 U.S.C. 1159-1166) with the earlier prize provisions. The words “during war” in 34 U.S.C. 1159 are omitted as covered in §7651 of this title. In clause (1) the words “or the Territories, Commonwealths, or possessions” are added, since “United States” in this title is geographically limited to the 48 States and the District of Columbia, whereas the term here is intended to include all places within the jurisdiction of the district courts.

In clause (4) the words “taken or” preceding the words “appropriated for the use of the United States” are omitted as surplusage and in order to avoid confusion between the two meanings of the word “taken” in prize law. In both the Revised Statutes and the 1942 Act the phrase “taken or appropriated” means no more than “appropriated” alone, whereas “taken”, in the phrase “taken as prize” means “captured”.

Subsection (b) is included to make the statement of jurisdiction complete. It is derived by implication from the first sentence of R.S. 4625 (34 U.S.C. 1141) which is the source of subsection (c) of §7653 of this title.

#### PRIOR PROVISIONS

A prior section 8852, added Pub. L. 85-861, §1(192), Sept. 2, 1958, 72 Stat. 1537; amended Pub. L. 86-559, §1(74), June 30, 1960, 74 Stat. 280; Pub. L. 99-145, title XIII, §1303(a)(27)(B), Nov. 8, 1985, 99 Stat. 740; Pub. L. 100-456, div. A, title XII, §1234(a)(1), Sept. 29, 1988, 102 Stat. 2059, related to transfer or discharge of reserve major generals and brigadier generals with 35 years of service or five years in grade, prior to repeal by Pub. L.

103-337, div. A, title XVI, §1629(c)(3), Oct. 5, 1994, 108 Stat. 2963, effective Oct. 1, 1996.

AMENDMENTS

2018—Pub. L. 115-232 renumbered section 7652 of this title as this section.

2006—Subsec. (a)(1). Pub. L. 109-163 substituted “Commonwealths or possessions” for “Territories, Commonwealths, or possessions”.

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115-232, set out as a note preceding section 3001 of this title.

§ 8853. 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 cobelligerent, 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, §7653; Pub. L. 109-163, div. A, title X, §1057(a)(5), Jan. 6, 2006, 119 Stat. 3440; renumbered §8853, Pub. L. 115-232, div. A, title VIII, §807(d)(9), Aug. 13, 2018, 132 Stat. 1837.)

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.

PRIOR PROVISIONS

A prior section 8853, added Pub. L. 85-861, §1(192), Sept. 2, 1958, 72 Stat. 1538; amended Pub. L. 86-559, §1(75), June 30, 1960, 74 Stat. 280; Pub. L. 98-94, title X, §1016(c), Sept. 24, 1983, 97 Stat. 668, related to computation of years of service, prior to repeal by Pub. L. 103-337, div. A, title XVI, §1629(c)(3), Oct. 5, 1994, 108 Stat. 2963, effective Oct. 1, 1996. See section 14706 of this title.

AMENDMENTS

2018—Pub. L. 115-232 renumbered section 7653 of this title as this section.

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

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115-232, set out as a note preceding section 3001 of this title.

§ 8854. 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, §7654; renumbered §8854, Pub. L. 115-232, div. A, title VIII, §807(d)(9), Aug. 13, 2018, 132 Stat. 1837.)

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).

AMENDMENTS

2018—Pub. L. 115-232 renumbered section 7654 of this title as this section.

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-232 effective Feb. 1, 2019, with provision for the coordination of amendments and