

TITLE LIV.

PRIZE.

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SEC. 4613. The provisions of this Title shall apply to all captures made as prize by authority of the United States, or adopted and ratified by the President of the United States.

Application of provisions of Title.
30 June, 1864, c. 174, s. 33, v. 13, p. 577.

315.—Mrs. Alexander's Cotton, 2 Wall., 404; The Cotton Plant, 10 Wall., 577.

SEC. 4614. The term "vessels of the Navy," as used in this Title, shall include all armed vessels officered and manned by the United States, and under the control of the Department of the Navy.

What are vessels of the Navy.
Ibid., s. 32.

SEC. 4615. The commanding officer of any vessel making a capture shall secure the documents of the ship and cargo, including the log-book, with all other documents, letters, and other papers found on board, and make an inventory of the same, and seal them up, and send them, with the inventory, to the court in which proceedings are to be had, with a written statement that they are all the papers found, and are in the condition in which they were found; or explaining the absence of any documents or papers, or any change in their condition. He shall also send to such court, as witnesses, the master, one or more of the other officers, the supercargo, purser, or agent of the prize, and any person found on board whom he may suppose to be interested in, or to have knowledge respecting, the title, national character, or destination of the prize. He shall send the prize, with the documents, papers, and witnesses, under charge of a competent prize-master and prize-crew, into port for adjudication, explaining the absence of any usual witnesses; and in the absence of instructions from superior authority as to the port to which it shall be sent, he shall select such port as he shall deem most convenient, in view of the interests of probable claimants, as well as of the captors. If the captured vessel, or any part of the captured property, is not in condition to be sent in for adjudication, a survey shall be had thereon and an appraisalment made by persons as competent and impartial as can be obtained, and their reports shall be

The Siren, 1 Low., 280.

Duties of commanding officer upon making capture.

Ibid., s. 1, p. 306.

The Sally Magee, 3 Wall., 451; The Sir William Peel, 5 Wall., 517.

[See §§ 4294-4299, 5551-5569.]

sent to the court in which proceedings are to be had; and such property, unless appropriated for the use of the Government, shall be sold by the authority of the commanding officer present, and the proceeds deposited with the assistant treasurer of the United States most accessible to such court, and subject to its order in the cause. [See § 1624, Art. 15.]

Statement of claim to share in prize.

Ibid., s. 2, p. 307.

SEC. 4616. If any vessel of the United States shall claim to share in a prize, either as having made the capture, or as having been within signal distance of the vessel or vessels making the capture, the commanding officer of such vessel shall make out a written statement of his claim, with the grounds on which it is founded, the principal facts tending to show what vessels made the capture, and what vessels were within signal distance of those making the capture, with reasonable particularity as to times, distances, localities, and signals made, seen, or answered; and such statement of claim shall be signed by him and sent to the court in which proceedings shall be had, and shall be filed in the cause.

Duties of prize-master.

Ibid., s. 3.

SEC. 4617. The prize-master shall make his way diligently to the selected port, and there immediately deliver to a prize-commissioner the documents and papers, and the inventory thereof, and make affidavit that they are the same, and are in the same condition as delivered to him, or explaining any absence or change of condition therein, and that the prize-property is in the same condition as delivered to him, or explaining any loss or damage thereto; and he shall further report to the district attorney and give to him all the information in his possession respecting the prize and her capture; and he shall deliver over the persons sent as witnesses to the custody of the marshal, and shall retain the prize in his custody until it shall be taken therefrom by process from the prize-court. [See § 5441.]

Libel and proceedings by district attorney.

Ibid., s. 4.

The *Dos Hermanos*, 2 Wh., 76; The *Pizarro*, 2 Wh., 227; The *Amiable Isabella*, 6 Wh., 1; The *Andromeda*, 2 Wall., 481; The *Sally Magee*, 3 Wall., 451; The *Nassau*, 4 Wall., 634; The *Springbock*, 5 Wall., 20; The *Hampton*, 5 Wall., 374; The *Sir William Peel*, 5 Wall., 517; The *Watchful*, 6 Wall., 91; The *Georgia*, 7 Wall., 32.

Duties of district attorneys.

Ibid.

SEC. 4619. The district attorneys of the several judicial districts shall represent the interests of the United States in all prize-causes, and shall not act as separate counsel for the captors on any private retainer or compensation from them, unless in a question between the claimants and the captors, on a demand for damages. They shall examine all fees, costs, and expenses, sought to be charged on any prize-fund, and protect the interest of the captors and of the United States. The district attorneys of all districts in which any prize-causes are or may be pending shall, as often as once in three months, send to the Secretary of the Navy a statement of the condition of all prize-causes pending in their districts, in such form and embracing such particulars as the Secretary of the Navy shall require.

Special counsel for captors.

Ibid., s. 23, p. 313. 27 Feb., 1877, c. 69, v. 19, p. 252.

SEC. 4620. [In any case of capture made by vessels of the Navy, the Secretary of the Navy may employ special counsel for captors, when, in his judgment, the services of such special counsel are needed in the particular case, for the due protection of the interests of the captors and of the Navy-pension fund; and, under the direction of the Secretary of the Navy, such counsel may institute and prosecute such proceedings in the case as may be necessary and proper for the protection of such interests.] [See §§ 361, 362-365.]

Appointment of prize-commissioners.

30 June, 1864, c. 174, s. 5, v. 13, p. 307.

SEC. 4621. Any district court may appoint prize-commissioners, not exceeding three in number; of whom one shall be a retired naval officer, approved by the Secretary of the Navy, who shall receive no other compensation than his pay in the Navy, and who shall protect the interests

of the captors and of the Department of the Navy in the prize-property; and at least one of the others shall be a member of the bar of the court, of not less than three years' standing, and acquainted with the taking of depositions.

SEC. 4622. The prize-commissioners, or one of them, shall receive from the prize-master the documents and papers, and inventory thereof, and shall take the affidavit of the prize-master required by section forty-six hundred and seventeen, and shall forthwith take the testimony of the witnesses sent in, separate from each other, on interrogatories prescribed by the court, in the manner usual in prize-courts; and the witnesses shall not be permitted to see the interrogatories, documents, or papers, or to consult with counsel, or with any persons interested, without special authority from the court; and witnesses who have the rights of neutrals shall be discharged as soon as practicable. The prize-commissioners shall also take depositions *de bene esse* of the prize-crew and others, at the request of the district attorney, on interrogatories prescribed by the court. They shall also, as soon as any prize-property comes within the district for adjudication, examine the same, and make an inventory thereof, founded on an actual examination, and report to the court whether any part of it is in a condition requiring immediate sale for the interests of all parties, and notify the district attorney thereof; and if it be necessary to the examination or making of the inventory that the cargo be unladen, they shall apply to the court for an order to the marshal to unlade the same, and shall, from time to time, report to the court anything relating to the condition of the property, or its custody or disposal, which may require any action by the court, but the custody of the property shall be in the marshal only. They shall also seasonably return into court, sealed and secured from inspection, the documents and papers which shall come to their hands, duly scheduled and numbered, and the other preparatory evidence, and the evidence taken *de bene esse*, and their own inventory of the prize-property; and if the captured vessel, or any of its cargo or stores, are such as in their judgment may be useful to the United States in war, they shall report the same to the Secretary of the Navy. [See § 5441.]

SEC. 4623. The marshal shall safely keep all prize-property under warrant from the court, and shall report to the court any cargo or other property that he thinks requires to be unladen and stored, or to be sold. He shall insure prize-property, if in his judgment it is for the interest of all concerned. He shall 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. If a sale of property is ordered, he shall sell the same in the manner required by the court, and collect the purchase-money, and forthwith deposit the gross proceeds of the sales with the assistant treasurer of the United States nearest the place of sale, subject to the order of the court in the particular cause; and each marshal shall forward to the Secretary of the Navy, whenever and as often as the Secretary of the Navy may require it, a full statement of the condition of each prize and of the disposal made thereof.

SEC. 4624. Whenever any captured vessel, arms, munitions, or other material are taken for the use of the United States before it 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, appraisement, and inventory shall be sent to the court in which proceedings are to be had; and if taken afterward, sufficient notice shall first be given to enable the court to have the property appraised for the protection of the rights of the claimants and captors. In all cases of prize-property taken for or appropriated to the use of the Government, the Department for whose use it is taken or appropriated shall deposit the value thereof with the assistant treasurer of the United States nearest to the place of the session of the court, subject to the order of the court in the cause.

SEC. 4625. If by reason of the condition of the captured property, or if because the whole has been appropriated to the use of the United

Duties of prize-commissioners.

Ibid., s. 6, p. 308.

The Sally Magee, 3 Wall., 451; The Nassau, 4 Wall., 634; The Sir William Peel, 5 Wall., 517.

Duties of marshal.

Ibid., s. 7.

Appraisal, &c., of property taken for Government.

Ibid., s. 27, p. 314.

Proceedings for adjudication where

property is not sent in.

30 June, 1864, c. 174, s. 28, v. 13, p. 314.

Delivery of property on stipulation.

Ibid., s. 26, p. 313.

When property may be sold.

Ibid., s. 8, p. 308.

Mode of making sale.

Ibid.

Transfer of property to another district for sale.

Ibid., s. 30, p. 315.

States, no part of it has been or can be sent in for adjudication, or if the property has been entirely lost or destroyed, proceedings for adjudication may be commenced in any district the Secretary of the Navy may designate; and in any such case the proceeds of anything sold, or the value of anything taken or appropriated for the use of the United States, shall be deposited with the assistant treasurer in or nearest to that district, subject to the order of the court in the cause. If, when no property can be sent in for adjudication, the Secretary of the Navy shall not, within three months after any capture, designate a district for the institution of proceedings, the captors may institute proceedings for adjudication in any district. And if in any case of capture no proceedings for adjudication are commenced within a reasonable time, any parties claiming the captured property may, in any district court as a court of prize, move for a monition to show cause why such proceedings shall not be commenced, or institute an original suit in such court for restitution, and the monition issued in either case shall be served on the attorney of the United States for the district, and on the Secretary of the Navy, as well as on such other persons as the court shall order to be notified.

SEC. 4626. No prize-property shall be delivered to the claimants on stipulation, deposit, or other security, except where there has been a decree of restitution and the captors have appealed therefrom, or where the court, after a full hearing on the preparatory proofs, has refused to condemn the property on those proofs, and has given the captors leave to take further proofs, or where the claimant of any property shall satisfy the court that the same has a peculiar and intrinsic value to him, independent of its market-value. In any of these cases, the court may deliver the property on stipulation or deposit of its value, if satisfied that the rights and interests of the United States and captors, or of other claimants, will not be prejudiced thereby; but a satisfactory appraisalment shall be first made, and an opportunity given to the district attorney and naval prize-commissioner to be heard as to the appointment of appraisers. Any money deposited in lieu of stipulation, and all money collected on a stipulation, not being costs, shall be deposited with the assistant treasurer, in the same manner as proceeds of a sale.

SEC. 4627. Whenever any prize-property is condemned, or at any stage of the proceedings is found by the court to be perishing, perishable, or liable to deteriorate or depreciate, or whenever the costs of keeping the same are disproportionate to its value, the court shall order a sale of such property; and whenever, after the return-day on the libel, all the parties in interest who have appeared in the cause agree thereto, the court may make such order; and no appeal shall operate to prevent the making or execution of such order.

SEC. 4628. Upon a sale of any prize-property by order of the court, the Secretary of the Navy shall employ an auctioneer of known skill in the branch of business to which any sale pertains, to make the sale, but the sale shall be conducted under the supervision of the marshal, and the collecting and depositing of the gross proceeds shall be by the auctioneer or his agent. Before any sale the marshal shall cause full catalogues and schedules to be prepared and circulated, and a copy of each shall be returned by the marshal to the court in each cause. The marshal shall cause all sales to be advertised fully and conspicuously in newspapers ordered by the court, and by posters, and he shall, at least five days before the sale, serve notice thereof upon the naval prize-commissioner, and the goods shall be open to inspection at least three days before the sale.

SEC. 4629. Whenever it appears to the court, in the case of any prize-property ordered to be sold, that it will be for the interest of all parties to have it sold in another district, the court may direct the marshal to transfer the same to the district selected by the court for the sale, and to insure the same, with proper orders as to the time and manner of selling the same. It shall be the duty of the marshal so to transfer the property, and keep and sell the same in like manner as if the property were in his own district; and he shall deposit the gross proceeds of the

sale with the assistant treasurer nearest to the place of sale, subject to the order of the court in which the adjudication thereon is pending. The necessary expenses attending the insuring, transferring, receiving, keeping, and selling the property shall be a charge upon it and upon the proceeds thereof; and whenever any such expense is paid in advance by the marshal, and he is not repaid from the proceeds, any amount not so repaid shall be allowed to him, as in case of expenses incurred in suits in which the United States is a party. The Secretary of the Navy may, in like manner, either by a general regulation or by special direction in any cause, require a marshal to transfer any prize-property from the district in which the judicial proceedings are pending, to any other district for sale; and the same proceedings shall be had as if such transfer had been made by order of the court. [See § 5441.]

SEC. 4630. The net proceeds of all property condemned as prize, shall, when the prize was of superior or equal force to the vessel or vessels making the capture, be decreed to the captors; and when of inferior force, one-half shall be decreed to the United States and the other half to the captors, except that in case of privateers and letters of marque, the whole shall be decreed to the captors, unless it shall be otherwise provided in the commissions issued to such vessels. [See §§ 4752, 4759.]

SEC. 4631. All prize-money adjudged to the captors shall be distributed in the following proportions:

First. To the commanding officer of a fleet or squadron, one-twentieth part of all prize money awarded to any vessel or vessels under his immediate command.

Second. To the commanding officer of a division of a fleet or squadron, on duty under the orders of the commander-in-chief of such fleet or squadron, a sum equal to one-fiftieth part of any prize-money awarded to a vessel of such division for a capture made while under his command, such fiftieth part to be deducted from the moiety due to the United States, if there be such moiety, otherwise from the amount awarded to the captors; but such fiftieth part shall not be in addition to any share which may be due to the commander of the division, and which he may elect to receive, as commander of a single ship making or assisting in the capture.

Third. To the fleet-captain, one-hundredth part of all prize-money awarded to any vessel or vessels of the fleet or squadron in which he is serving, except in a case where the capture is made by the vessel on board of which he is serving at the time of such capture; and in such case he shall share, in proportion to his pay, with the other officers and men on board such vessel.

Fourth. To the commander of a single vessel, one-tenth part of all the prize-money awarded to the vessel under his command, if such vessel at the time of the capture was under the command of the commanding officer of a fleet or squadron, or a division, and three-twentieths if his vessel was acting independently of such superior officer.

Fifth. After the foregoing deductions, the residue shall be distributed and proportioned among all others doing duty on board, including the fleet-captain, and borne upon the books of the ship, in proportion to their respective rates of pay in the service.

SEC. 4632. All vessels of the Navy within signal-distance of the vessel or vessels making the capture, under such circumstances and in such condition as to be able to render effective aid, if required, shall share in the prize; and in case of vessels not in the Navy, none shall be entitled to share except the vessel or vessels making the capture; in which term shall be included vessels present at and rendering actual assistance in the capture.

SEC. 4633. No commanding officer of a fleet or squadron shall be entitled to receive any share of prizes captured by any vessel or vessels not under his command, nor of such prizes as may have been captured by any vessels intended to be placed under his command, before they have acted under his orders. Nor shall the commanding officer of a

Share of captors.

Ibid., s. 10, p. 309.

The Sally, 8 Cr., 382; The Dos Hermanos, 10 Wh., 306; The Hampton, 5 Wall., 376; The Selma, 1 Low., 30.

Distribution of proceeds to captors.

Ibid.

8 June, 1874, c. 256, v. 18, p. 63.

The iron-clad Atlanta, 3 Wall., 425.

What vessels are entitled to share.

30 June, 1864, c. 174, s. 10, v. 13, p. 309.

The Steamer Merrimac and Cargo, Blatch. Pr. Cas., 584.

What officers are entitled to share.

30 June, 1864, c. 174, s. 10, v. 13, c. 309.

The iron-clad fleet or squadron, leaving the station where he had command, have any share in the prizes taken by ships left on such station after he has gone out of the limits of his command, nor after he has transferred his command to his successor. No officer or other person who shall have been temporarily absent on duty from a vessel on the books of which he continued to be borne, while so absent, shall be deprived, in consequence of such absence, of any prize-money to which he would otherwise be entitled. And he shall continue to share in the captures of the vessels to which he is attached, until regularly discharged therefrom.

Determination of shares.

Ibid., s. 9.

SEC. 4634. Whenever a decree of condemnation is rendered, the court shall consider the claims of all vessels to participate in the proceeds, and for that purpose shall, at as early a stage of the cause as possible, order testimony to be taken tending to show what part should be awarded to the captors, and what vessels are entitled to share; and such testimony may be sworn to before any judge or commissioner of the courts of the United States, consul or commercial agent of the United States, or notary public, or any officer of the Navy highest in rank, reasonably accessible to the deponent. The court shall make a decree of distribution, determining what vessels are entitled to share in the prize, and whether the prize was of superior, equal, or inferior force to the vessel or vessels making the capture. The decree shall recite the amount of the gross proceeds of the prize subject to the order of the court, and the amount deducted therefrom for costs and expenses, and the amount remaining for distribution, and whether the whole of such residue is to go to the captors, or one-half to the captors, and one-half to the United States.

Bounty for persons on board vessels sunk or destroyed.

Ibid., s. 11, p. 310.

SEC. 4635. A bounty shall be paid by the United States for each person on board any ship or vessel of war belonging to an enemy at the commencement of an engagement, which is sunk or otherwise destroyed in such engagement by any ship or vessel belonging to the United States or which it may be necessary to destroy in consequence of injuries sustained in action, of one hundred dollars, if the enemy's vessel was of inferior force, and of two hundred dollars, if of equal or superior force, to be divided among the officers and crew in the same manner as prize-money; and when the actual number of men on board any such vessel cannot be satisfactorily ascertained, it shall be estimated according to the complement allowed to vessels of its class in the Navy of the United States; and there shall be paid as bounty to the captors of any vessel of war captured from an enemy, which they may be instructed to destroy, or which is immediately destroyed for the public interest, but not in consequence of injuries received in action, fifty dollars for every person who shall be on board at the time of such capture.

Appeals and amendments in prize-cases.

3 Mar., 1873, c. 230, s. 2, v. 17, p. 556.

Powers of district court after appeal.

30 June, 1864, c. 174, s. 13, v. 13, p. 310.

Security for costs.

Ibid., s. 15, p. 311.

Costs and expenses.

Ibid., s. 14.

The Thompson, 3 Wall., 155; Root v. U. S., 9 C. Cls., 211.

SEC. 4636. The Supreme Court may, if, in its judgment, the purposes of justice require it, allow any amendment, either in form or substance, of any appeal in prize cases, or allow a prize appeal therein, if it appears that any notice of appeal or of intention to appeal was filed with the clerk of the district court within thirty days next after the rendition of the final decree therein. [See §§ 1006, 1009.]

SEC. 4637. Notwithstanding any appeal to the Supreme Court, the district court may make and execute all necessary orders for the custody and disposal of the prize-property; and in case of appeal from a decree of condemnation, may still proceed to make a decree of distribution so far as to determine what share of the prize shall go to the captors, and what vessels are entitled to participate therein. [See § 365.]

SEC. 4638. The court may require any party, at any stage of the cause, and on claiming an appeal, to give security for costs.

SEC. 4639. All costs and all expenses incident to the bringing in, custody, preservation, insurance, sale, or other disposal of prize-property, when allowed by the court, shall be a charge upon such property, and shall be paid from the proceeds thereof, unless the court shall decree restitution free from such charge.

SEC. 4640. No payments shall be made for any prize-fund, except upon the order of the court. All charges for work and labor, materials furnished, or money paid, shall be supported by affidavit or vouchers. The court may, at any time, order the payment, from the deposit made with the assistant treasurer in the cause, of any costs or charges accrued and allowed. When the cause is finally disposed of, the court shall make its order or orders on the assistant treasurer to pay the costs and charges allowed and unpaid; and in case the final decree shall be for restitution, or in case there shall be no money subject to the order of the court in the cause, any costs or charges allowed by the court, and not paid by the claimants, shall be a charge upon, and be paid out of, fund the for defraying the expenses of suits in which the United States is a party or interested.

Payment of expenses from prize-fund.

Ibid.

SEC. 4641. The net amount decreed for distribution to the United States, or to vessels of the Navy, shall be ordered by the court to be paid into the Treasury of the United States, to be distributed according to the decree of the court. The Treasury Department shall credit the Navy Department with each amount received to be distributed to vessels of the Navy; and the persons entitled to share therein shall be severally credited in their accounts with the Navy Department with the amounts to which they are respectively entitled. In case of vessels not of the Navy, and not controlled by any Department of the Government, the distribution shall be made by the court to the several parties entitled thereto, and the amounts decreed to them shall be divided between the owners and the ship's company, according to any written agreement between them, and in the absence of such agreement, one-half to the owners and one-half to the ship's company, according to their respective rates of pay on board; and the court may appoint a commissioner to make such distribution, subject to the control of the court, who shall make due return of his doings, with proof of actual payments by him, and who shall receive no other compensation, directly or indirectly, than such as shall be allowed him by the court. In case of vessels not of the Navy, but controlled by either Executive Department, the whole amount decreed to the captors shall be divided among the ship's company.

Payment of prize money.

Ibid., s. 16.

SEC. 4642. All ransom-money, salvage, bounty, or proceeds of condemned property, accruing or awarded to any vessel of the Navy, shall be distributed and paid to the officers and men entitled thereto in the same manner as prize-money, under the direction of the Secretary of the Navy. [See § 2689, p. 728, and §§ 4681, 4682.]

Distribution of bounty, salvage, &c.

Ibid., s. 11, p. 310.

SEC. 4643. Every assignment of prize or bounty money due to persons enlisted in the naval service, and all powers of attorney or other authority to draw, receipt for, or transfer the same, shall be void, unless the same be attested by the captain, or other commanding officer, and the paymaster. [See § 1480.]

Assignments, &c., of prize-money, and bounty.

Ibid., s. 12.

SEC. 4644. The clerk of each district court shall render, to the Secretary of the Treasury and the Secretary of the Navy, a semi-annual statement of all the sums allowed by the court, and ordered to be paid, within the previous half-year, to the district attorney and prize-commissioners for services, and to marshals for fees and commissions; and he shall, in all prize-causes in the district, for the purpose of the final decree of distribution, ascertain and keep an account of the amount deposited with the assistant treasurer, subject to the order of the court, in each prize-cause, and the amounts ordered to be paid therefrom as costs and charges, and the residue for distribution; and shall send copies of all final decrees of distribution to the Secretary of the Treasury and the Secretary of the Navy; and shall draw the orders of the court for the payment of all costs and allowances, and for the distribution of the residue. For these services he shall be entitled to receive the sum of twenty-five dollars in each prize-cause, which shall be in full for the services required by this action.

Accounts of clerks of district courts.

Ibid., s. 17, p. 312.

SEC. 4645. The marshal shall be allowed his actual and necessary expenses for the custody, care, preservation, insurance, sale, or other disposal of the prize-property, and for executing any order of the court

Allowances and commissions to marshals.

Ibid., s. 13.

respecting the same, and shall have a commission of one-quarter of one per centum on vessels, and of one-half of one per centum on all other prize-property, calculated on the gross proceeds of each sale; and if, after he has had any prize-property in his custody, and has actually performed labor and incurred responsibility for the care and preservation thereof, the same is taken by the United States for its own use without a sale, or if it is delivered on stipulation to the claimants, he shall, in case the same is condemned, be entitled to one-half the above commissions on the amount deposited by the United States to the order of the courts, or collected upon the stipulation. No charges of the marshal for expenses or disbursements shall be allowed, except upon his oath that the same have been actually and necessarily incurred for the purpose stated.

Compensation of district attorney and prize-commissioners.

SEC. 4646. The district attorney and prize-commissioners, except the naval officer, shall be allowed a just and suitable compensation for their respective services in each prize-cause, to be adjusted and determined by the court, and to be paid as costs in the cause.

Ibid., s. 20.—Blatch. Pr. Cas., 595.

Accounts of district attorney and prize-commissioner.

30 June, 1864, c. 174, s. 21, v. 13, p. 312.

22 June, 1870, c. 150, s. 15, v. 16, p. 164.

SEC. 4647. Each district attorney and prize-commissioner, except the naval officer, shall render to the Attorney-General an annual account of all sums he shall have received for all services in prize-causes within the previous year; and the district attorney shall be allowed to retain therefrom a sum not exceeding three thousand dollars a year, in addition to the maximum compensation allowed to be retained by him; under the provisions of Title XIII, "THE JUDICIARY," or in addition to any salary he may receive in lieu of such maximum compensation; and each such prize-commissioner shall be allowed to retain a sum not exceeding three thousand dollars a year, which shall be in full for all his official services in prize-causes; and any excess over those respective amounts shall be paid by the officer receiving the same into the Treasury of the United States, and shall be credited to the fund for paying naval pensions.

Compensation of special counsel.

30 June, 1864, c. 174, s. 23, v. 13, p. 313.

SEC. 4648. The court may allow such compensation as it deems just under the circumstances of each case to any special counsel for captors, not being the district attorney or any of his assistants, whether appointed by an Executive Department or by captors, for services actually rendered in the cause, to be paid as costs, in whole or in part, either from the entire fund or from the portion awarded to the captors; but no such allowance shall be made, except for services rendered on matters as to which the party the counsel represents has an adverse interest to the United States, or an interest otherwise proper in the opinion of the court to be represented by special counsel, or for services rendered in a contestation between parties claiming to participate in the distribution of the proceeds.

Payment of fees of special counsel.

Ibid., s. 24.

SEC. 4649. Fees of special counsel in prize-cases incurred or authorized by any Department, or for the defense of captors against demands for damages made by claimants in the district court, not paid by claimants, nor from the prize-fund in the particular cause, and audited and allowed by the Department incurring or authorizing them, and by the Solicitor of the Treasury, shall be a charge upon, and paid out of, the funds appropriated for defraying the expenses of suits in which the United States is a party or interested. [See §§ 361, 362-365.]

Commissions of auctioneers.

Ibid., s. 22.

SEC. 4650. The auctioneers employed to make sales of prize-property shall be entitled to receive commissions by a scale to be established by the Secretary of the Navy, not to exceed, in any case, one-half of one per centum on any sum exceeding ten thousand dollars on vessels, nor one per centum on that sum on other prize-property, which shall be in full for expenses, as well as for services; and in case no such scale shall be established, they shall be entitled to receive such compensation as the court shall deem just under the circumstances of each case.

Payment of fees of witnesses.

SEC. 4651. Whenever the court shall allow fees to any witness in a prize-cause, or fees for taking evidence out of the district in which the court sits, and there is no money subject to its order in the cause, the

same shall be paid by the marshal, and shall be repaid to him from any money deposited to the order of the court in the cause; and any amount not so repaid the marshal shall be allowed as witness-fees paid by him in cases in which the United States is a party.

30 June, 1864, c. 174, s. 25, v. 13, p. 313.

SEC. 4652. When any vessel or other property shall have been captured by any force hostile to the United States, and shall be recaptured, and it shall appear to the court that the same had not been condemned as prize before its recapture, by any competent authority, the court shall award a meet and competent sum as salvage, according to the circumstances of each case. If the captured property belonged to the United States, it shall be restored to the United States, and there shall be paid from the Treasury of the United States the salvage, costs, and expenses ordered by the court. If the recaptured property belonged to persons residing within or under the protection of the United States, the court shall adjudge the property to be restored to its owners, upon their claim, on the payment of such sum as the court may award as salvage, costs, and expenses. If the recaptured property belonged to any person permanently resident within the territory and under the protection of any foreign prince, government, or state in amity with the United States, and by the law or usage of such prince, government, or state, the property of a citizen of the United States would be restored under like circumstances of recapture, it shall be adjudged to be restored to such owner, upon his claim, upon such terms as by the law or usage of such prince, government, or state would be required of a citizen of the United States under like circumstances of recapture; or when no such law or usage shall be known, it shall be adjudged to be restored upon the payment of such salvage, costs, and expenses as the court shall order. The whole amount awarded as salvage shall be decreed to the captors, and no part to the United States, and shall be distributed as in the case of proceeds of property condemned as prize. Nothing in this Title shall be construed to contravene any treaty of the United States. [See §§ 4631-4642.]

Recaptures.

Ibid., s. 29, p. 314.

The Schooner Adeline, 9 Cr., 244; The Star, 3 Wh., 78.