

Penalty for selling article liable to tax before tax is paid.

required to pay any tax upon any article, goods, wares, merchandise, or manufactures, as herein provided, shall sell, or cause or allow the same to be sold, before the tax to which such article, goods, wares, merchandise, or manufacture is legally liable, is paid, with intent to avoid such tax, or in fraud of the revenue herein provided, any debt contracted in the sale of such article, goods, wares, merchandise, or manufactures, or any security given therefor, unless the same shall have been bona fide transferred to the hands of an innocent holder, shall be entirely void, and the collection thereof shall not be enforced in any court. And if any such article, goods, wares, merchandise, or manufacture has been paid for, in whole or in part, the sum so paid shall be deemed forfeited, and any person who will sue for the same in an action of debt shall recover of the seller the amount so paid, one half to his own use, and the other half to the use of the United States.

Appropriation for expenses of internal revenue acts.

SEC. 181. *And be it further enacted*, That four hundred thousand dollars, or so much thereof as may be necessary for the payment of the expenses incident to carrying into effect the various acts connected with internal revenue which are or may be authorized and payable after the first of July, eighteen hundred and sixty-four, is hereby appropriated for that purpose, payable out of any money in the treasury not otherwise appropriated, to be expended under the direction of the Secretary of the Treasury. And it shall be the duty of the collectors of internal revenue, as the secretary may direct, to act as disbursing agents to pay the aforesaid expenses, without increased compensation therefor, who shall give good and sufficient bonds for the faithful performance of their duties as such disbursing agents for such sum and in such form as shall be prescribed by the first comptroller of the treasury, subject to the approval of the Secretary of the Treasury: *Provided*, That the aforesaid appropriation shall continue in force to the thirtieth day of June, eighteen hundred and sixty-five, and thereafter the Secretary of the Treasury shall embrace in his annual estimates the amount which, in his opinion, will be required for the expenses of this branch of the public service.

Collectors to be disbursing agents.

Word "state" to include "territories," and District of Columbia.

SEC. 182. *And be it further enacted*, That wherever the word state is used in this act, it shall be construed to include the territories and the District of Columbia, where such construction is necessary to carry out the provisions of this act.

APPROVED, June 30, 1864.

June, 30, 1864.

CHAP. CLXXIV. — *An Act to regulate Prize Proceedings and the Distribution of Prize Money, and for other Purposes.*

Duty of commander of vessel making captures. Documents.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be the duty of the commanding officer of any vessel or vessels making a capture to 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 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 send to said 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

Witnesses.

Prize master and crew.

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 appraisal made by persons as competent and impartial as can be obtained, and their reports shall be 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 said court, and subject to its order in the cause.

Duty of commander, if captured vessel cannot be sent in.

SEC. 2. *And be it further enacted,* That if any vessel of the United States shall claim to share in the 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 rested, 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.

If vessels claim to share prize, commander to make a statement.

SEC. 3. *And be it further enacted,* That it shall be the duty of the prize master to 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 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.

Duty of prize master.

SEC. 4. *And be it further enacted,* That the attorney of the United States for the district shall immediately file a libel against such prize property, and shall forthwith obtain a warrant from the court directing the marshal to take it into his custody, and shall proceed diligently to obtain a condemnation and distribution thereof, and to that end shall see that the proper preparatory evidence is taken by the prize commissioners, and that the prize commissioners also take the depositions de bene esse of the prize crew and other transient persons cognizant of any facts bearing on condemnation or distribution. It shall also be the duty of the district attorney to represent the interests of the United States in all prize causes, and he 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. The district attorney shall examine all fees, costs, and expenses, sought to be charged on the 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.

United States attorney to file libel and procure condemnation;

not to act as counsel for captors, unless, &c. ;

to examine fees, costs, &c. ;

to report quarterly to Secretary of Navy.

SEC. 5. *And be it further enacted,* That 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

Prize commissioners.

a member of the bar of the court, of not less than three years' standing, and acquainted with the taking of depositions.

Duty of prize commissioners.

SEC. 6. *And be it further enacted*, That 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 hereinbefore required, 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 the 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 only in the marshal. 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 that, in their judgment, may be useful to the government in war, they shall report the same to the Secretary of the Navy.

Marshal to keep prize property safely, &c.;

SEC. 7. *And be it further enacted*, That 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 he may require it, a full statement of the condition of each prize and of the disposition made thereof.

to keep witnesses, &c., in custody.

When prize property may be sold.

SEC. 8. *And be it further enacted*, That, whenever any prize property shall be condemned, or shall at any stage of the proceedings be found by the court to be perishing, perishable, or liable to deteriorate or depreciate, or whenever the costs of keeping the same shall be disproportionate to its value, it shall be the duty of the court to order a sale thereof; and whenever, after the return day on the libel, all the parties in interest who have appeared in the cause shall agree thereto, the court is authorized to make such order, and no appeal shall operate to prevent the making or execution of such order. The Secretary of the Navy shall employ an auctioneer or auctioneers 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

Auctioneers.

Mode of sale.

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.

Sales to be advertised.

SEC. 9. *And be it further enacted*, That in case a decree of condemnation shall be 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. And said 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.

Court to decide what vessels shall share in the prize.

SEC. 10. *And be it further enacted*, That 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: *Provided*, 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. 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 of 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 the capture and rendering actual assistance in the capture. All prize money adjudged to the captors shall be distributed in the following proportions, namely:—

Net proceeds of prizes, how to be distributed.

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.

What vessels to share.

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, the said 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: *Provided*, That 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.

Proportions of shares; of commander of fleet or squadron;

of commander of division of fleet;

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, as is hereinafter provided.

of fleet-captain;

Fourth. To the commander of a single ship, one tenth part of all the

of commander of single ship;

Shares of prize money.

prize money awarded to the ship under his command, if such ship 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 ship was acting independently of such superior officer.

Residue, how distributed.

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.

Certain officers not to receive shares of certain prizes.

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 ships or vessels intended to be placed under his command, before they have acted under his orders. Nor shall the commanding officer of a 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 said 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.

Bounty for persons on vessels of enemy destroyed by United States vessels.

SEC. 11. *And be it further enacted,* That 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 shall be 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 shall be 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. 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.

Ransom money, salvage, &c., how distributed and paid.

Assignments of prize money, &c. to be void unless, &c.

SEC. 12. *And be it further enacted,* That every assignment of prize or bounty money, or wages, 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; and in case of any assignment of wages, the same shall specify the precise time when they commence. But the commanding officer of every vessel is required to discourage his crew from selling any part of their prize money or wages, and never to attest any power of attorney until he is satisfied that the same is not granted in consideration of money given for the purchase of prize money or wages.

Appeals in prize cases.

SEC. 13. *And be it further enacted,* That appeals from the district courts of the United States in prize causes shall be directly to the supreme court, and shall be made within thirty days of the rendering of the decree appealed from, unless the court shall previously have extended the time, for cause shown in the particular case, and the supreme court shall always be open for the entry of such appeals. Such appeals may

When may be claimed.

be claimed whenever the amount in controversy exceeds two thousand dollars, and, in other cases, on the certificate of the district judge that the adjudication involves a question of general importance. Notwithstanding such appeal, 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. Any prize cause now pending in any circuit court shall, on the application of all parties in interest, who have appeared in the cause, be transferred by that court to the supreme court; and such transfer may be made, in the discretion of the court, and on such terms as it may direct, on the application of any party: *Provided*, That if the amount in controversy does not exceed two thousand dollars, such transfer shall not be made unless the court shall certify that the adjudication involves a question of general importance. All appeals to the supreme court from the circuit court in prize causes, now remaining therein, shall be claimed and allowed in the same manner as in cases of appeal from the district court to the supreme court. In any case of appeal or transfer the court below, or the appellate court, may order any original document or other evidence to be sent up, in addition to the copy of the record, or in lieu of a copy of a part thereof.

SEC. 14. *And be it further enacted*, That 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 the same, and be paid therefrom, unless the court shall decree restitution free from such charge. No payments shall be made from 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, the fund for defraying the expenses of suits in which the United States is a party or interested.

SEC. 15. *And be it further enacted*, That the court may require any party, at any stage of the cause, and on claiming an appeal, to give security for costs.

SEC. 16. *And be it further enacted*, That 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. And 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, 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: *Provided*, That in case of vessels not of the navy, but controlled by any department of the gov-

District court to do certain acts, notwithstanding appeal.

Prize cases in circuit courts may be transferred to supreme court.

Proviso.

Appeals.

Costs and expenses to be a charge upon the property, unless, &c.

Rules for payments.

On appeals, security may be required for costs.

Net amount for distribution to navy vessels to be paid into treasury.

Credits to Navy Department and others.

Distribution to vessels not of the navy.

Commissioner to distribute.

ernment, the whole amount decreed to the captors shall be divided among the ship's company.

Clerks of district courts to render accounts semi-annually to Secretary of Treasury and Navy;

to keep account of deposits with assistant treasurer.

Fees for service.

Allowances and commissions to marshals.

Marshals and clerks not to retain more than maximum compensation.
1853, ch. 80, § 3.
Vol. x. p. 165.

Compensation of district attorneys and prize commissioners.

District attorney and prize commissioner to render accounts annually.

District attorney may retain not over \$3000 in addition to maximum.
Vol. x. p. 165.

Prize commissioner may retain \$3000 a year.

SEC. 17. *And be it further enacted*, That the clerk of each district court shall render to the Secretary of the Treasury and the Secretary of the Navy a semi-annual statement, beginning with the first day of July next, 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. And for the said 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 section.

SEC. 18. *And be it further enacted*, That 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 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 shall have had any prize property in his custody, and shall have actually performed labor and incurred responsibility for the care and preservation thereof, the same shall be taken by the United States for its own use without a sale, or if it shall be delivered on stipulation to the claimants, he shall, in case the same shall be 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.

SEC. 19. *And be it further enacted*, That neither the marshal nor the clerk shall be permitted to retain for all official services, of every kind, excepting those in prize causes, more than the maximum compensation allowed to be retained by him by the third section of the act of the twenty-sixth of February, eighteen hundred and fifty-three; nor shall the additional compensation which either of said officers shall be permitted to retain for all services, of every kind, in prize causes, exceed one half the maximum compensation allowed to them, respectively, by the aforesaid act.

SEC. 20. *And be it further enacted*, That 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.

SEC. 21. *And be it further enacted*, That each district attorney and prize commissioner, except the naval officer, shall render to the Secretary of the Interior an annual account, beginning with the first day of July next, 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 for each year, in addition to the maximum compensation allowed to be retained by him by the third section of the act of the twenty-sixth February, eighteen hundred and fifty-three, 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 for each 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.

Excess to be paid over.

SEC. 22. *And be it further enacted,* That 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 said sum of other prize property, which shall be in full for his expenses, as well as their 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.

Auctioneers' pay, &c.

SEC. 23. *And be it further enacted,* That in any case of capture heretofore made, or that may hereafter be 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. The court may allow such compensation as it shall deem just under the circumstances of each case to special counsel for captors, not being the district attorney or any of his assistants, whether appointed by a department of the government or by the 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.

Special counsel for captors.

Court may allow compensation.

SEC. 24. *And be it further enacted,* That fees of special counsel in prize cases incurred or authorized by any department of the government, or for the defence 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.

Fees of special counsel to be charged to what fund.

SEC. 25. *And be it further enacted,* That 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 said 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.

Witness fees, how to be paid.

SEC. 26. *And be it further enacted,* That 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 it shall be satisfied that the rights and interests of the United States and captors, or of other claimants, will not be prejudiced thereby, a satisfactory appraisalment being first made, with an opportunity given to the district attorney and naval prize commissioner to be heard as to the appointment

Prize property not to be delivered to claimants on stipulation, &c., unless, &c.

of appraisers. And 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.

If captured vessel, &c., is taken by government before it is in custody of prize court.

SEC. 27. *And be it further enacted*, That whenever any captured vessel, arms, munitions, or other material shall be taken for the use of the government before it comes into the custody of a 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 shall be sent to the court in which proceedings are to be had; and if taken afterwards, 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 heretofore taken for, or appropriated, to the use of the government, or that shall hereafter be so taken or appropriated, the department for whose use it was or shall be 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.

Proceedings for adjudication how and where to be commenced, if property is not sent in, &c.

SEC. 28. *And be it further enacted*, That in case of any capture heretofore made, or that shall hereafter be made, if, by reason of its condition, or because the whole has been appropriated to the use of the United States, no part of the captured property has been or can be sent in for adjudication, or if the captured property be 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 government, 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 shall be 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.

When captors may institute proceedings.

Proceedings where captors delay commencing proceedings.

Salvage for recaptures.

SEC. 29. *And be it further enacted*, That 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; and 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; and 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; and 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; and 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: *Provided*, That nothing in this act shall be construed to contravene any treaty of the United States. And 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.

SEC. 30. *And be it further enacted*, That if it shall appear 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. And 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; and the necessary expense attending the insuring, transferring, receiving, keeping, and selling the said property shall be a charge thereupon and upon the proceeds thereof; and whenever any such expense is paid in advance by the marshal, and he shall not be repaid from the proceeds, any amount not so repaid he shall be allowed 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 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, as hereinbefore provided.

SEC. 31. *And be it further enacted*, That if any person shall wilfully do any act, or aid, assist, or advise, in the doing of any act relating to the bringing in, custody, preservation, sale, or other disposition of any property captured as prize, or relating to any documents or papers connected with the property, or to any deposition or other document or paper connected with the proceedings, with intent to defraud, delay, or injure the United States, or any captor or claimant of such property, he shall, on conviction, be punished by a fine not exceeding ten thousand dollars, or by imprisonment not exceeding five years, or both, at the discretion of the court.

SEC. 32. *And be it further enacted*, That in the term "vessels of the navy" shall be included, for the purposes of this act, all armed vessels officered and manned by the United States, and under the control of the Department of the Navy.

SEC. 33. *And be it further enacted*, That the provisions of this act shall be applied to all captures made as prize by authority of the United States, or adopted and ratified by the President of the United States.

SEC. 34. *And be it further enacted*, That this act shall apply to all prize proceedings now pending.

SEC. 35. *And be it further enacted*, That the act entitled "An act providing for salvage in cases of recapture," approved on the third day of March, in the year eighteen hundred, and the act entitled "An act in addition to the act concerning letters-of-marque, prizes, and prize goods," approved on the twenty-seventh day of January, in the year eighteen hundred and thirteen, and the act entitled "An act in addition to an act entitled an act in relation to the navy pension fund," approved on the sixteenth day of April, eighteen hundred and sixteen, and an act entitled "An act to facilitate judicial proceedings in adjudications upon captured property and for the better administration of the law of prize," approved on the twenty-fifth day of March, eighteen hundred and sixty-two, and

Recaptures.

No part of salvage to go to the United States.

Captured property may be transferred to another district for sale.

Wilfully acting with intent to defraud, or delay captor or claimants, &c., how punished.

Term "vessels of the navy" to include what.

This act to apply to all captures, &c.;

and to pending proceedings.

Repeal of acts of 1800, ch. 14. Vol. ii. p. 16.

1813, ch. 13. Vol. ii. p. 792.

1816, ch. 56. Vol. iii. p. 237.

1862, ch. 500. Vol. xii. p. 374.

1862, ch. 204,
§§ 2, 6, 12.

1863, ch. 86.
Vol. xii. p. 759.

the second, sixth, and twelfth sections of an act entitled "An act for the better government of the navy of the United States," approved on the seventeenth day of July, eighteen hundred and sixty-two, and the act entitled "An act further to regulate proceedings in prize cases and to amend various acts of congress in relation thereto," approved on the third day of March, eighteen hundred and sixty-three, and all other acts and parts of acts inconsistent herewith, are hereby repealed.

APPROVED, June 30, 1864.

June 30, 1864.

CHAP. CLXXV. — *An Act to establish certain Post-Roads.*

Certain post-
roads established
in —
California,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following be established as post-roads: —

CALIFORNIA.

From San Buena Ventura, California, via Ravena City, and Big Meadows on the Mohave River, to the sink of said river, and thence to Fort Mohave on the Colorado River, and Fort Whipple, to Santa Fé, New Mexico;

From Keyville, via Walker's Pass, Little Owen Lake, and Big Owen Lake, to Union Mills;

From Red Bluff, via Zelle's Ferry, Battle Creek, Parkville, Millville, and Buckeye, to Shasta;

From Los Angeles to La Paz, and thence to the capital of Arizona Territory, and thence to Santa Fe;

From San Jose, in Santa Clara County, via the mountain road leading into Pajer's Valley, to Watsonville, in Santa Cruz County;

From San Mateo to Pescadero, in Santa Cruz County;

From Aurora to San Carlos;

From Visalia to San Carlos;

From Stockton, via Copperopolis, to Angel's;

From Sonora, California, via Bridgeport, to Aurora, Nevada Territory

From Susanville, in Lassen County, California, to Boise City, in Idaho Territory;

From Campo Seco to Mokelumne Hill;

From Crescent City, California, to Waldo, Oregon;

From San Bernardino, California, to La Paz, Arizona Territory;

From Fulsom City, via Uniontown, to Coloma;

From San Pedro to Wilmington and Los Angeles.

Illinois.

ILLINOIS.

From Elgin, via Burlington, to Sycamore;

From Rock Island, via Camden Mills, Pleasant Ridge, Hazlet, Hamlet, Perryton, Aledo, High Point, New Boston, Keithsburg, Oquawka, Sagetown, Hopper's Mills, Shohoken, Tinappity, Dallas City, Pontoosac, and Appanoose, to Fort Madison, Iowa;

From Luda, Ogle County, to New Milford, Winnebago County;

From Argo, via Morrison road, in the town of York, and Baker's Spring, in the town of Union Grove, to Morrison;

From Hale, Ogle County, to Payne's Point;

From Beaverville, via Donovan, to Iroquois;

From Moro, via Ridgely, to Prairie City;

From Sparta, via Shiloh Hill, to Jones' Creek;

From Grand Ridge Settlement, in the southwest township of Kankakee County, via Norton township, Union Hill, Essex township, Kankakee County, and Reid township, in Will County, to Wilmington in same county;

From Joliet, via Grinton, in Troy township, and Seward, to Platteville, in Kendall County;