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SUPPLEMENT.

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The Union, the Constitution and the
Enforcement of the Laws.

OFFICIAL.

LAW OF THE UNITED STATES.

Passed at the First Session of the Thirty-eighth
Congress.

[PUBLIC—No. 149.]

AN ACT to regulate prize proceedings and
the distribution of prize money, and for
other purposes.

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 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 docu-
ments 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 docu-
ments, papers, and witnesses, under charge
of competent prize master and prize crew,
to the port for adjudication, explaining the ab-
sence of any usual witnesses, and in the ab-
sence of instruction 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 proba-
ble claimants, as well as of the captors. If
the captured vessel or any part of the cap-
tured property is not in condition to be sent
for adjudication, a survey shall be had
thereon and an appraisement made by per-
sons 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 appropri-
ated 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 sub-
ject to its order in the cause.

Sec. 2. *And be it further enacted,* That if
any vessel of the United States shall claim
a 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 ves-
sel shall make out a written statement of his
claim, with the grounds on which it is re-
sented, 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 state-
ment of claim shall be signed by him and
sent to court in which proceedings shall be
had, and shall be filed in the cause.

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 commis-
sioner 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 deliv-
er 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.

Sec. 4. *And be it further enacted,* That the
district attorney of the United States for the
district in which the prize property, and shall forthwith obtain in-
struction from the court directing the mar-
shal 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 evi-
dence is taken by the prize commissioners,
and that the prize commissioners also take
depositions de bene esse of the prize

crew and other transient persons cognizant
of any facts bearing on condemnation or dis-
tribution. 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 cap-
tors, on any private retainer or compensa-
tion 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; 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 require.

Sec. 5. *And be it further enacted,* That
any district court may appoint prize com-
missioners, 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 depart-
ment 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. 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 herein-
before required, and shall forthwith take the
testimony of the witnesses sent in, separate
from each other, on interrogatories, prear-
ed by the court, in the manner usual in prize
courts, and the witnesses shall not be per-
mitted to see the interrogatories, documents,
or papers, or to consult with counsel or with
any persons interested, without special au-
thority from the court; and the witnesses
who have the rights of neutrals shall be dis-
charged 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 interroga-
tories 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 re-
port 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 neces-
sary 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 unladen the same, and shall from
time to time report to the court any thing
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 reasonably return into court
sealed and secured from inspection, the docu-
ments and papers which shall come to their
hands, duly scheduled and numbered, and
the other preparatory 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 Gov-
ernment in war, they shall report the same
to the Secretary of the Navy.

Sec. 7. *And be it further enacted,* That the
marshal shall safely keep all prize property
under warrant from the court, and shall re-
port 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 in-
terest of all concerned. He shall keep in his
custody all persons found on board a prize
and sent in as witnesses, until they are re-
leased 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, sub-
ject to the order of the court in the particu-
lar case; 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.

Sec. 8. *And be it further enacted,* That,
whenever any prize property shall be con-
demned, or shall at any stage of the pro-
ceedings be found by the court to be perish-
ing, perishable, or liable to deteriorate or
depreciate, or whenever the cost 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
interested who have appeared in the cause
shall agree thereto, the court is authorized to
make such order, and no appeal shall op-
erate 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 collect-
ing and depositing of the gross proceeds shall
be by the auctioneer or his agent. Before
any sale the marshal shall cause full catalog-
ues and schedules to be prepared and cir-
culated, and a copy of each shall be returned

by the marshal to the court in each case.
The marshal cause all sales to be advertised
fully and conspicuously in newspapers or-
dered by the court, and by posters, and he
shall at least five days before the sale, serve
notice thereof upon the naval prize commis-
sioner, and the goods shall be open to in-
spection at last three days before the sale.

Sec. 9. *And be it further enacted,* That in
case a decree of condemnation shall be ren-
dered, 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 commis-
sioner of the court; 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 ves-
sels are entitled to share in 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 re-
maining for distribution, and whether the
whole of such residue is to go to the cap-
tors, or one-half to the captors, and one-half
to the United States.

Sec. 10. *And be it further enacted,* That
the net proceeds of all property condemned
as prize shall, when the prize was of super-
ior or equal force to the vessel or vessels
making the capture, be decreed to the cap-
tors; 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 pro-
vided in the commissions issued to such ves-
sels. 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 effec-
tive 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 cap-
ture and rendering actual assistance in the
capture. All prize money adjudged to the
captors shall be distributed in the following
proportions, namely:

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

Second. To the commanding officer of a
division of a fleet or squadron, on duty un-
der 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.

Third. To the fleet captain, one hun-
dredth 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.

Fourth. To the commander of a single
ship, one-tenth part of all the 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 offi-
cer of a fleet or squadron, or a division, and
three-twentieths if his ship was acting inde-
pendently of such superior officer.

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

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 prize 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 tempo-
rarily absent on duty from a vessel on the
books of which he continued to be borne,
while so absent, shall be deprived in conse-
quence of such absence of any prize money
to which he would otherwise be entitled.
And he shall continue to share in the cap-
tures of the vessels to which he is attached
until regularly discharged therefrom.

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 com-
mencement of an engagement, which shall
be sunk or otherwise destroyed in such en-
gagement by any ship or vessel belonging to
the United States, or which it may be neces-
sary 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 offi-
cers and crew in the same manner as prize
money; and when the actual number of men
on board any such vessel cannot be satisfac-
torily ascertained, it shall be estimated ac-
cording to the complement allowed to ves-
sels 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 immedi-
ately 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 award-
ed to any vessel of the navy, shall be dis-
tributed and paid to the officers and men en-
titled thereto in the same manner as prize
money, under the direction of the Secretary
of the Navy.

Sec. 12. *And be it further enacted,* That
every assignment of prize or bounty money,
or wages, due to persons enlisted in the na-
val 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 offi-
cer 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.

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 pre-
viously have extended the time for cause
shown in the particular case, and the Su-
preme Court shall always be open for the
entry of such appeals. Such appeals may
be claimed whenever the amount in contro-
versy exceeds two thousand dollars, and in
other cases on the certificate of the district
judge that the adjudication involves a ques-
tion of general importance. Notwithstand-
ing such appeal, the district court may
make and execute all necessary orders for
the custody and disposal of the prize prop-
erty; 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 cap-
tors, and what vessels are entitled to partici-
pate therein. Any prize cause now pending
in any circuit court shall, on the applica-
tion of all parties in interest who have ap-
peared 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 ap-
plication 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 gen-
eral 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
of the court below, or the appellate court, may
order any original document or other evi-
dence 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, un-
less the court shall decree restitution free
from such charge. No payments shall be
made from any prize fund, except upon the
order of 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 pay-
ment, from the deposit made with the As-
sistant 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 al-
lowed 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 ex-
penses 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 ap-
pel, 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 dis-
tributed according to the decree of the court.
And the Treasury Department shall credit
the Navy Department with each amount re-
ceived to be distributed to vessels of the na-
vy; 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 divid-
ed between the owners and the ship's com-
pany, 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 con-
trol of the court, who shall make due return
of his doings, with proof of actual pay-
ments 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 Depart-
ment of the Government, the whole amount
decreed to the captors shall be divided
among the ship's company.

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 state-
ment, 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 pur-
pose of the final decree of distribution, as-
certain and keep an account of the amount
deposited with the Assistant Treasurer, sub-
ject to the order of the court, in each prize
cause, and the amounts ordered to be paid
therefrom as costs and charges, and the re-
sidue 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 sec-
tion.

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 dis-
posal of the prize property, and for execut-
ing any order of the court respecting the
same, and shall have a commission of one-
quarter of 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 de-
posited 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 al-
lowed 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 com-
pensation allowed to them, respectively, by
the aforesaid act.

Sec. 20. *And be it further enacted,* That
the district attorney and prize commis-
sioners, except the naval officers, shall be al-
lowed 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 commis-
sioner, except the naval officer, shall render to
the Secretary of the Interior an annual ac-
count, beginning with the first day of July
next, of all sums he shall have received for
all services in the 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 com-
pensation 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 compensa-
tion; and each such prize commissioner
shall be allowed to retain a sum not exceed-
ing three thousand dollars for each year,
which shall be in full for all his official ser-
vices in prize causes; and any excess over
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