

69. The net proceeds of all articles seized and condemned, and all forfeitures and penalties incurred and recovered under and by virtue of this Act, shall be divided, paid and applied as follows, that is to say : after deducting the charges of prosecution from the proceeds thereof, one half part to Her Majesty, for the use of the Province, and for the support of the Government thereof, and the other moiety, or half part thereof, in case of seizure, to the officer seizing the same, and in case of penalties, to the officer who shall inform and sue for the same.

Application of
proceeds of seizures.

70. It shall and may be lawful for the Treasurer, Deputy Treasurer or any other authorized officer, to enter in the day time, between sunrise and sunset, into any house, shop or cellar, or other building whatsoever, wherein such officer shall have reasonable cause to suspect or believe any goods to be, or to be concealed or deposited, which are liable to forfeiture under this Act ; provided that if the doors be closed and admission denied, then after first demanding to be admitted, and declaring the purpose for which such entry is demanded, it shall be lawful for such officer forcibly or otherwise to enter into such house, shop, cellar or other building, and to search therein for any goods forfeited, and to seize and take away all goods liable to forfeiture under any Act relating to the Provincial Revenue.

Treasury Officers
may in the day
search houses, &c.
suspected to contain
contraband
articles.

Forcible entry.

71. Under the authority of a writ of assistance granted by the Supreme Court of this Province, or by the Chief Justice thereof, or by any Judge thereof, or by the Inferior Court of Common Pleas, or by any Justice of such Court, who are hereby authorized and required to grant such writ of assistance, upon application made in Term time or in vacation, for that purpose, by the Treasurer of the Province, or by any Deputy Treasurer, and due cause shewn therefor, it shall be lawful for any officer of the Revenue, taking with him a Peace officer, to enter any building or other place, at any time, and to search for, and seize and secure any goods liable to forfeiture under any Act or Acts relating to the Provincial Revenue, and in case of necessity, to break open any doors and chests, or other packages, for that purpose ; and such writ of assistance, when issued, shall be deemed to be in force for and during the period specified in such writ.

Search under a
Writ of assistance.

72. If any person shall by force or violence, assault, resist, oppose, molest, hinder or obstruct any officer of the Provincial Revenue, or other person employed as aforesaid, in the exercise of his office, or any person acting in his aid or assistance, such person being thereof convicted before any Court of Record in this Province, shall pay a fine not exceeding one hundred pounds, nor less than fifty pounds, in the discretion of the Court before whom such offender shall be tried ; which fine shall be paid into the Province Treasury for the use of the Province ; and in case such fine be not paid, such person shall be imprisoned in the common gaol of the County, or the Provincial Penitentiary, for any time not exceeding twelve months, nor less than three months, with or without hard labour, at the discretion of the Court.

Assaulting or
obstructing
Revenue Officer on
duty.

Penalty.

73. No suit shall be commenced for the recovery of any penalty or forfeiture under any Act relating to the Provincial Revenue, except in the name of the Treasurer of the Province, or in the name of some Deputy Treasurer, or of Her Majesty's Attorney or Solicitor General of the Province ; and if any question shall arise whether any person is an officer of the Provincial Revenue, or such other person as aforesaid, *viva voce* evidence may be given of such fact, and may be deemed legal and sufficient evidence.

Suits for penalties,
&c., to be in the
name of the
Treasurer, &c.

74. In all informations for any seizure, penalty or forfeiture, it shall be averred therein that the officer proceeding prosecutes as well for the Revenue as for the Treasurer or Deputy Treasurer, as the case may be, although such Treasurer or Deputy Treasurer may not be the person actually making such seizure ; and the net proceeds of the same shall be alleged to be payable, when recovered, to the person or persons really entitled to the same ; but no proof shall be necessary as to any such averments.

Averments in infor-
mations for
seizures.

75. If any goods shall be seized for non-payment of Duties, or any other cause of forfeiture, and any dispute shall arise whether the Duties shall have been paid for the same, or the same have been lawfully imported, or as to whether the goods seized were or were not, at the time of such seizure, imported, brought in, or within the bounds of the Province, or lawfully laden or exported, the proof thereof shall be on the owner or claimant of such goods, and not on the officer who shall seize and stop the same.

Onus Probandi to
be on the party
claiming goods
seized.

76. From and after the passing of this Act, when any penalty or penalties shall be sued for by action of debt, bill, plaint, or information, against any person or persons, in any of Her Majesty's Courts of Record in this Province, a *capias* shall and may thereupon issue as the first process, specifying the amount of the penalty

Capias to be the
first process in
prosecutions for
penalties.