

as prosecutions for penalties and forfeitures are heard and determined in Her Majesty's Court of Exchequer in England; and the forfeiture and penalty, after deducting the expenses of prosecution, shall, unless it be otherwise provided, belong to Her Majesty for the public uses of the Province: Provided always, that the net proceeds of such penalty or forfeiture, or any portion thereof, may be divided between and paid to the Collector or chief officer of the Customs at the port or place where the seizure shall have been made or the information given on which the prosecution shall have been founded, and any person having given information or otherwise aiding in effecting the condemnation of the goods, vessel or thing seized, or the recovery of the penalty, in such proportions as the Governor in Council shall in any case or class of cases direct and appoint: Provided always, that nothing herein contained shall be construed to limit or affect any power vested in the Governor in Council with regard to the remission of penalties or forfeitures by this Act or any other Act or Law.

Appropriation of penalties and forfeitures

Proviso as to the distribution of the proceeds of penalties and forfeitures.

Proviso as to power to remit the penalty.

LIII. And be it enacted, That if any goods shall be seized for non-payment of duties or any other cause of forfeiture, or any prosecution shall be brought for any penalty or forfeiture under this Act or any other Act relating to the Customs, and any question shall arise whether the duties have been paid on such goods, or the same have been lawfully imported, or lawfully laden or exported, or whether any other thing hath been done by which such forfeiture would be prevented or such penalty avoided, the burden of proof shall lie on the owner or claimant of such goods, and not on the officer who shall seize and stop the same, or the party bringing such prosecution.

Proof that goods have paid duty to lie on the owner.

LIV. And be it enacted, That in any prosecution or other proceeding, for any offence against this Act or any other Act relating to the Customs, or to trade and navigation, the averment that such offence was committed within the limits of any port, shall be sufficient without proof of such limits, unless the contrary be proved.

Averment as to the doing of anything within the limits of any port.

LV. Provided always, and be it enacted, That in case of the seizure of any cattle, horse or animal, or of any perishable article, it shall be lawful for the Collector of the port at which the same shall have been secured as aforesaid, to sell the same within such delay as to prevent its becoming deteriorated in value, or a part of the value consumed, by reason of the expense of keeping or the decay of the same, as if it had been condemned, and to keep in his hands the proceeds of such sale until the same shall have been condemned, or deemed to be condemned, or ordered to be restored to any claimant, in which last mentioned case, the Court before which the claim shall be heard shall order the Collector to pay over to the claimant the proceeds of such sale, in lieu of awarding restitution: Provided nevertheless, that the Collector or principal officer of Customs shall deliver up to any claimant, any horse, cattle, animal, or perishable article seized as aforesaid, upon such claimant depositing in the hands of the Collector or principal officer such sum of money as will represent the full value thereof, or giving security to the satisfaction of such Collector or principal officer, that the value of such seizure and all costs, shall be paid to the use of Her Majesty, if such article should be condemned.

Cattle and perishable articles seized may be sold as if condemned.

Proceeds restored if the seizure be declared null.

Proviso: such cattle or article may be delivered to the owner on security being given.

LVI. And be it enacted, That no claim to anything seized under this Act, and returned into any of Her Majesty's Courts for adjudication, shall be admitted as valid, unless such claim be entered in the name of the owner, with his residence and occupation, nor unless oath to the property in such thing be made by the owner, or by his agent knowing

How claims must be entered in order to be valid.