

of a battalion or squadron, shall be obliged to provide a substitute for any delinquent, unless he is of opinion that such delinquent has sufficient property to pay the expenses of procuring a substitute; and if such colonel or commanding officer shall be of opinion that any delinquent has not sufficient property to pay the expenses of procuring a substitute, he shall make application to a justice of the peace of the county where such delinquent resides, who upon such application, shall issue his warrant to the sheriff of the county, to arrest the delinquent and confine him in the common goal, there to remain for a certain time, to be specified in the warrant, not exceeding twenty days; and the sheriff shall be obliged to keep such delinquent in the common goal agreeably to the command of the said warrant, unless he shall agree to serve, or find a sufficient substitute in his place; *Provided however*, that no militia man, having personally or by substitute served in the militia, shall be obliged to serve again, until by rotation it comes to his turn.

Warrant to  
arrest delinquent.  
Confine 20  
days in jail.

Having  
served,  
exempt.

SEC. 33. *And be it enacted*, That if any person or persons, shall think him, or themselves aggrieved, in the seizure of his, or their goods and chattels, lands and tenements or by the executing his or their person or persons; he or they may enter an appeal before the justices of the next county court, and on the party's giving sufficient security within six days next, after any goods, lands, or tenements, shall be seized or distrained as aforesaid, or his or their person or persons executed as aforesaid, to prosecute such appeal with effect, the justices shall receive the same, and stay further process; and the said justices shall return every such appeal on the second day of the next term, and the court shall direct a trial by jury, as in other cases of debt, whose verdict shall be final and conclusive, and except in extraordinary cases of which the court shall be judge, all such appeals shall be tried at the term to which such returns shall be made, any law, or rule, to the contrary notwithstanding.

Appeal allowed in  
case of execution.

Proceedings  
directed.

SEC. 34. *And be it enacted*, That in all cases where a militia man may be draughted, or shall have volunteered to perform a tour of duty under this act, he shall be considered a soldier, and when called into actual service by the express command of the governor, shall be entitled, and then only, to the same pay and rations as if he was in the service of the United States, and be subject when so called into service, to the rules and articles of war, unless he shall furnish a substitute, and the commanding officer of the uniform company, if such person belong thereto, of extra battalion, or squadron, or regiment, if he is a draughted militia man, shall be the sole judge of the qualification of said substitute, and may receive or reject him, at his discretion; and no person subject to do militia duty, shall be

Draft considered a  
soldier.

When in  
service.

Subject to  
rules and  
articles of  
war.

Qualification of  
substitute.