

of the county in which he resides, for the apprehension of such person or persons; and if such person or persons upon apprehension, being brought before the justice of the peace shall stand convict, such person or persons shall incur the penalty prescribed for such offence, and if in the lapse of five days thereafter, such penalty be not paid, the boat or boats in which such person or persons shall have been found, shall be sold, after ten days notice, set up at two of the most public places in the neighborhood where the said boat or boats shall have been taken, by the officer apprehending the same, and the proceeds arising from such sale after deducting the penalty and officers fees, shall be paid to the owner or owners of the said boat or boats; *Provided nevertheless*, if any person or persons belonging to or being on board of the said boat or boats, shall offer resistance to the said sheriff or constable in the apprehension of such person or persons, the proceeds of such sale made as aforesaid, after deducting the penalty and the officers fees as aforesaid, shall be paid by the said officers to the commissioners of the school fund, to be applied to the use of the common schools of the said county where the proceedings shall have been had.

CHAP. 249.

Case of conviction and non-payment.

Vessel to be sold.

Proceeds applied.

Proviso.

Sec. 5. *And be it enacted*, That if resistance be made to or apprehended by the officer directed as aforesaid to execute the law, by any person or persons offending against the same, it shall then be the duty of said officer to summon the posse comitatus, armed with fire arms, ball, shot and powder, and charter a vessel at the expence of the county from which the warrant to such officer shall issue, and proceed therewith, without delay, to execute his duty under such warrant, and if resistance be made, beside the penalty prescribed in the foregoing section, the person or persons so resisting, may be sentenced by the said Justice of the Peace, to confinement in the jail of said county, for a period of not less than twenty, nor more than sixty days; *Provided nevertheless*, the said owner or owners, or any person concerned, may appeal from the decision of the said justice, by giving bond, in the penal sum of two hundred dollars, conditioned for the prosecution of the said appeal with effect to the next court of the county in which he or they shall be entitled to a trial by jury; the said appeal as aforesaid, shall supersede the sentence for confinement; and when the officer shall find it necessary to summon the posse, upon the apprehension and conviction of the party against whom a warrant shall issue, the proceeds arising, shall be applied as prescribed in the third section of this act, after deducting the whole expense incurred in the apprehension of the offender.

Case of resistance

Posse comitatus

Additional penalty.

Proviso.