

as may be; and any person offending herein shall forfeit and pay treble the sum so levied, to be recovered by the party grieved by indictment or action of debt in the county where the offence shall happen: Provided, That no lieutenant-colonel, or commanding officer of a battalion, shall be obliged to provide a substitute for any delinquent, unless he is of opinion that such delinquent has sufficient property to pay the expences of procuring a substitute; and if such lieutenant-colonel or commanding officer shall be of opinion, that any delinquent has not sufficient property to pay the expences 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 imprison him in the common gaol, 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 gaol, agreeable to the command of the said warrant, unless he shall agree to serve, or find a sufficient substitute in his place: Provided also, 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.

C H A P.
LIII.

XXI. And be it enacted, That if any person or persons shall think him, her or themselves aggrieved in the seizure of his, her or their goods and chattels, lands or tenements, or by the executing his, her or their person or persons, he, she 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 or chattels, lands or tenements, shall be seized or distrained as aforesaid, or his, her 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 of the county, 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, custom or usage, to the contrary notwithstanding.

Persons aggrieved may appeal, &c.

XXII. And be it enacted, That no militia-man shall leave the company to which he belongs, and join any other, under the penalty of ten dollars, unless by consent of the captain, or commanding officer of the company, or in case of removing to some other district within this or any other state, and in such case he shall apply to the commander of such company, who shall give him a certificate of his being discharged, under the penalty of ten dollars, and if the said militia-man had been in actual service, shall also certify the time thereof, and how long he had continued therein, under the like penalty.

No militia-man to leave his company, &c.

XXIII. And be it enacted, That no person, serving as a substitute for another, shall thereby be excused from serving in his turn.

Substitutes not to be excused, &c.

XXIV. And be it enacted, That no officer or private of the militia shall be subject to any arrest, either on mesne process or execution, or in any other manner, for any civil matter, in his attendance at, going to, or returning from, muster.

Officers, &c. not subject to arrest, &c.

XXV. And be it enacted, That if any suit or suits shall be brought or commenced against any person or persons for any thing done in pursuance of this act, the action shall be laid in the county where the cause or causes of such action did arise, and not elsewhere, and the defendant or defendants may plead the general issue, and give this act and the special matter in evidence; and if the jury shall find for the defendant or defendants in such action or actions, or if the plaintiff or plaintiffs shall be nonsuited, or discontinue his or their action or actions, after the defendant or defendants shall have appeared, or if upon demurrer judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants shall have treble costs, and have the like remedy for the same as any defendant or defendants hath or have in other cases to recover costs by law.

On suit, action to be laid in the county, &c.

XXVI. And,