

Dec. Ses. 1823

Proceedings
to recover
arms impro-
perly held.

Be

In gov-
ernment.ited
sci-
p-Penalty.
Governor
Council
thorityloan. Judge Ad-
vocate.

General issue

Persons ex-
empt; how
ascertained.

Regulation.

when ascertained by which such arms or accoutrements were held for the purpose of replacing or repairing the same.

74. *And be it enacted*, That whenever any of the public arms or accoutrements shall within the limits of the said division be found in the possession of any person, except as authorised by this act, the same may be demanded by any commissioned officer, and if refused to be delivered up, on proof of such demand and refusal, before any justice of the peace, said justice shall at the instance of said officer by warrant in the name of the state, cause the person to be brought before him and examine into the facts, and upon its appearing to said justice that the arms or accoutrements so claimed belong to the state, he shall order them to be delivered to said officer, and the person holding them to pay costs, and may if necessary commit said person to prison until said order is complied with, and if he shall decide otherwise, said officer shall pay costs, which shall be reimbursed out of the fines of the regiment to which he is attached, and the arms or accoutrements so recovered shall be delivered to the commanding officer of the regiment to which said officer belongs to be delivered to the corps when ascertained by which they were held, and if any officer shall neglect or refuse to comply with the duties required of him by this section, he shall be fined a sum not exceeding twenty dollars, in the discretion of such court martial as the case may require.

75. *And be it enacted*, That the system of tactics, training and discipline adopted, or which may hereafter be adopted by Congress for the United States army shall be used and observed throughout the said division, and if any officer shall neglect, or refuse to use, practice and enforce such system in part of the disciplining and training the militia under his command, he shall be cashiered or fined a sum not exceeding one hundred dollars, in the discretion of such court martial as the case may require.

76. *And be it enacted*, That the officer appointing any court martial or other court, created under the provisions of this act may if he deems it necessary, appoint a judge advocate or recorder to such court, who shall have and exercise the powers and duties incident to said appointment.

77. *And be it enacted*, That if any suit or action shall be brought or commenced against any person or persons, for any thing done in the execution of the provisions of this act, the defendant or defendants may plead the general issue, and give this act and the special matter in evidence.

78. *And be it enacted*, That nothing in this act shall be so construed as to subject to the payment of any fine for not attending any of the meetings as prescribed by this act, any person not liable to perform militia duty under the laws of this state, or of the United States; *Provided*, That the person so exempt shall prove the same to the satisfaction of the enrolling officer of the district in which he resides, previous to the first parade as prescribed by this act, or to any court of appeal that shall be held for the trial of the appeals of the company, of the officers, non commissioned officers and privates as absentees from parade, for said district, after he may have been enrolled in the same, or after he may become so exempt from age or other cause, and provided that the exemption arising from the sentence of such court of appeal can only take effect for the meeting they are appointed to decide upon and for any subsequent meeting within the year,