

764. Any commissioned officer in either of said divisions failing to perform any duty prescribed by law and to which no penalty is annexed, shall, for every such delinquency, be fined not exceeding one hundred dollars, in the discretion of such court martial as the case may require.

765. All fines imposed by this law, or arising from any of its provisions, or from the by-laws of any company made in pursuance of the same, if not paid by the delinquent within five days after demand made or bill left at his place of residence, shall be recovered in the name of the State in the following manner, that is to say: the list of delinquents, with the amount of fines by them respectively incurred, certified by the president of any court martial, or other court, or by the officer commanding the division, brigade, regiment or company, as the case may be, shall be considered as a judgment, and held to be conclusive evidence of such fine having been incurred, and upon said list being presented to a justice of the peace for said city, he shall issue a summons for the party fined in the name of the State for the use of the third division, or the first division of Maryland volunteers, commanding him to appear before the said justice, and warning him that he is liable to an execution against him for militia fines at the suit of said State, and the said party, if appearing and claiming it, shall have the benefit of appeal to the Court of Common Pleas, or of supersedeas on the judgment, as in cases of small debts; but if the party appear and does not appeal or supersede, or if he fail to appear and is returned summoned, the justice shall enter judgment upon said list and issue execution thereon in the name of the State for the use of the division, directed to any constable of said city, whose duty it shall be to execute the same and enforce the payment thereof with costs.

766. Nothing contained in this law shall be so construed as to subject to the payment of any fine for not attending at any of the meetings herein prescribed, any person not liable to perform militia duty under the laws of the State or of the United States; *Provided*, that the person so exempt shall prove the same to the satisfaction of 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 have become so exempt from age or other cause; *And provided*, that the exemption arising from the sentence of said court of