

ground for the accusation, or whether the arrest and detention are "without sufficient cause."

As the charges against these petitioners set forth in the returns are different, and rest upon different proof, I must now consider the cases separately.

First, as to the charge of conspiracy against Young and Valliant. This has been already fully set out as contained in the warrant which was issued upon oath by a court of competent jurisdiction, and is sufficient in form, charging an indictable offence. There can be no doubt that, without reference to the title of Young and Valiant to the office of police commissioners, and assuming that they were *de jure* entitled to the office, and *de facto* in the exercise of their duties as such, the conspiracy charged in this warrant would be an indictable offence.

A forcible disseizin of Wood and Hindes of the buildings and property held by them, however wrongfully, would be an indictable offence, as tending to a breach of the public peace, and it is settled in the *State vs. Buchanan*, 5 H. and J. 317, that a conspiracy to do any unlawful act is an indictable offence. On page 355 the Court says, "There is nothing in the objection that to punish a conspiracy when the end is not accomplished would be to punish a mere unexecuted intention. It is not the bare intention that the law punishes, but the *act of conspiring*, which is made a substantial offence by the nature of the object intended to be effected."

Looking to the testimony of Fuller and Ball as to the declarations of Valiant with regard to the intention of himself and Young, taken in connection with the accompanying facts and circumstances, I am of opinion there is probable cause shown for their arrest and detention under this charge, and that it is my duty to hold them to bail to answer the same.

The Criminal Court also had full jurisdiction and authority to hold them to bail to keep the peace in the ordinary and legal form.

It appears, however, from the return before me, that the judge of the Criminal Court passed the following order.

CRIMINAL COURT OF BALTIMORE, September Term, 1863.—*State of Maryland vs. William Thomas Valiant and James Young*—Ordered, That William T. Valiant and James Young give security in the sum of \$20,000 to keep the peace towards the existing police commissioners and all acting under their orders, and towards the liege inhabitants of the city, by desisting from all attempts to act as and exercise the powers of police commissioners, so long as they shall not have established their claims by law to be police commissioners for the said city duly appointed, and the present commissioners continue in the *de facto* exercise of their office.

Warden Baltimore City Jail: Receive into your jail and