

A removal by the Governor during the recess, has the same force and effect as a removal by the General Assembly; their powers under the law are identical, and their decision alike final, conclusive and binding, and entitled to the same obedience. For parties thus removed to hold on with a strong hand, and continue to exercise official power, is to resist the rightful authority of the Governor, and to put the law at defiance.

It has seemed to me necessary to declare my opinion on this question, as involved in the consideration of the order passed by the Criminal Court, a failure to comply with which is now alleged on the return as a ground for detaining these petitioners in prison.

Considering the order was passed without lawful jurisdiction or authority, I cannot remand the parties to prison or hold them to bail under it.

In the case of William Thomson, the Sheriff, the Criminal Court passed the following order :

“CRIMINAL COURT OF BALTIMORE CITY, September Term, 1866.—*State of Maryland vs. William Thomson*.—Ordered, that William Thomson 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 this city, by desisting from all attempts to act under the authority or in aid of William T. Valiant and James Young, claiming to be Police Commissioners, so long as the said Valiant and Young 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 custody the body of William Thomson, committed this 3d day of November, 1866, in default of bail, on the above order.

“SAMUEL SPARKLIN, Coroner.”

AMENDED COMMITMENT, November 5, 1866.—For the same reasons assigned in considering the order passed in the case of Young and Valiant, I am of opinion that this order was passed without rightful power or jurisdiction, and that the commitment under it is not lawful cause for detaining the petitioner.

It appears from the evidence adduced before me that the warrant against the Sheriff for being engaged in an unlawful assembly, rout and riot, &c., upon which he was committed in default of bail, was issued without any oath or affirmation, contrary to the provisions of the 26th Article of the Declaration of Rights, and it being clear from the evidence that the same was not issued upon view, the commitment thereunder