

is not lawful cause of detainer. [See *Conner vs. The Commonwealth*, 3 Binney, 38.]

It is due to the Sheriff to say that if the warrant had been regularly issued, I should be compelled to say, from the evidence before me, that the charge is wholly unsupported and without probable cause.

By the 816th section of the police law it is made "the duty of the sheriff, whenever called on for that purpose by the board, to act under their control for the preservation of the public peace and quiet, and if ordered by them to do so, he shall summon the *posse comitatus* for that purpose, and hold and employ such *posse* subject to their direction," and for disobedience he is subject to a penalty of five thousand dollars. The sheriff was bound to decide, at his peril, as to the right power and authority of Young and Valiant to issue the order to him, and in my judgment he acted in the discharge of his duty in obeying it; and there being no evidence that in executing the order he was engaged in any riot or unlawful assembly, he cannot be held to answer.

There being no lawful cause shown for the detainer of the petitioner, Thomson, I will sign an order for his discharge.— And will also, under the 11th section of the 43d article of the code, sign an order for the discharge of Young and Valiant, upon their entering into recognizance to appear and answer in the proper court.

After the decision of the Judge had been rendered, and the commissioners had entered into their own recognizance in the sum of five thousand dollars each, on the charge of conspiracy, they were discharged, and at once proceeded to their office, No. 1 North street, when they addressed the following communication to the Mayor :

To the Honorable John Lee Chapman, Mayor of Baltimore.

SIR: Having again entered, and, on this occasion, under judicial sanction upon the performance of our duties as Commissioners of the Board of Police of the city of Baltimore, you are hereby notified that a meeting of the Board will be held at their present office, at No. 1 North street, in said city, this afternoon at five o'clock, at which you are respectfully invited to attend as a member of the Board ex-officio.

Very respectfully,

JAMES YOUNG,
WM. THOS. VALIANT.

Baltimore; November 13, 1866.

The Mayor not appearing at the time named, the following proceedings were had :

Present—James Young, William Thomas Valiant.

On motion, James Young was elected as President.

On motion—