

300 Dollars Reward.

Runaway from the subscriber living in Calvert county, Maryland, on the 6th April, three negro men, viz:

**JIM;**  
Aged about 25 years, 5 feet 7 or 8 inches high, black complexion, round face, well set, and had on when he went away a blue cloth coat, black cassimere pantaloons and a new fur hat. As he can write it is probable he has forged a pass for himself and the others.

**TOM;**  
Aged about 27 years, 5 feet 8 or 9 inches high, slender made, black complexion had down look when spoken to, he had on a suit of white home made Jersey and a wool hat.

**WAPPIN;**  
Aged about 45 years, 5 feet 8 or 7 inches high, a thick square built fellow of a brown complexion, had on a suit of white home made Jersey with yellow stripes.  
I will give one hundred dollars for the apprehension of each of the above described negroes, if taken out of the state, or fifty dollars for each if taken in the state, and I get them again.  
JOSEPH W. LYNOLDS.  
April 18, 1822.

**Family Flour**  
The subscribers keep, and intend keeping a regular supply of the  
**Best Family Flour,**  
which they will sell at a very small advance on the Baltimore price, for Cash.  
Adm and Jno. Miller.  
July 4.

**Notice.**  
I do hereby forewarn all persons from taking an assignment of a note payable to George Wilkinson, and Co. dated 6th August, 1821, as I have a claim against the same, and am determined not to pay it to any person.  
JAMES HARRISON.  
Lower Marlboro, June 10th, 1822.

**FOUND**  
Some months since, in Prince-George's street, in this city an old fashioned GOLD SETT FINGER RING, a Mocha stone set round with Garnets on the top. The owner may have the same, on application at this office, by proving property, and paying the expense of advertising.  
June 13

**Notice is hereby given,**  
That the subscriber has obtained from the orphans court of Anne Arundel county, letters of administration on the personal estate of James Barry, late quarter gunner in the service of the United States. All persons having claims against said estate, are requested to present them, properly authenticated, and those indebted are requested to make immediate payment.  
JACOB BARRY, Adm'r.  
July 4.

**Farmers Bank of Maryland,**  
Annapolis, June 19th, 1822.  
In compliance with the charter of the Farmers Bank of Maryland, and with a supplement thereto, establishing a branch thereof at Frederick town, Notice is hereby given to the stockholders on the western shore, that an election will be held at the banking house in the city of Annapolis on the first Monday in August next, between the hours of 10 o'clock A.M. and 3 o'clock P.M. for the purpose of choosing sixteen directors for the bank at Annapolis, and nine directors for the branch bank at Frederick town.  
By order,  
GNA. PINKNEY, Cash.

The Editors of the Maryland Republican Annapolis and the Federal Gazette, and American of Baltimore, are requested to publish the above once a week for six weeks.

**FOR SALE,**  
The property in Annapolis formerly occupied by the late Dr. James Murray. This property consists of a large and convenient

**Brick Dwelling House,**  
With a good Garden, Pump of Water, a Brick Building suitable for an office, Carriage-house, Stable, Smoke-house, and other useful improvements, all in good order, and well calculated to accommodate a large family. One fourth of the purchase money will be required in hand; bonds on interest, for the balance, with good security; an extensive credit will be given if required. Possession can be given in a short time.  
For Terms apply to Mr. Henry Maynard, or Mr. Daniel Murray, on Elk Ridge.  
SARAH E. MURRAY.  
May 30.

**Just Published**  
And for sale at this Office and at Mr. George Shaw's Store—price 25cts.  
**The Constitution of Maryland,**  
To which is prefixed,  
**The Declaration of Rights—**  
With the amendments incorporated therein Oct. 25.

# MARYLAND GAZETTE AND POLITICAL INTELLIGENCER.

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**THE OPINION OF THE COURT OF APPEALS**  
Upon the question, whether a conspiracy to cheat, and defraud a bank, by the officers thereof, is an offence at common law, and punishable in Maryland?  
Court of Appeals, Dec. Term, 1821.  
THE STATE vs. BUCHANAN, et. al.  
(Concluded.)

That case has no other bearing on the present, than as it shows that all indictable conspiracies, are not embraced by the statute 33 Edward I, but that at common law a conspiracy to do any thing which the law forbids is indictable. In *The King vs. The Journeymen Tailors of Cambridge, 8 Mod. 10.* recognized in 6 T. R. 636, the defendants were indicted at common law, and not on the statute of George, for a conspiracy to raise their wages; and it was held, that the conspiracy was indictable, at common law, though it would have been lawful for either of them to raise his wages if he could. So in *The King vs. Delaval, 3 Burr. 1434*, which was a conspiracy to place a girl by her own consent in the hands of Delaval for the purpose of prostitution. The act of seduction was not of itself an indictable offence, but it was the end, the immoral object of the conspiracy, which gave it its criminal character. And the case of *The King vs. Lord Grey* is of a similar description. In 1 Hawk. P. C. 190, ch. 72, it is said, "where can be no doubt, that all combinations whatsoever, wrongfully to prejudice a third person, are highly criminal at common law." This is literally adopted and transcribed into 1 Burn's Justice 378, and 3 Wilson's Works 118. Chitty in his 3 Vol. on Criminal Law, 1139, says, "in a word all confederacies wrongfully to prejudice another, are misdemeanors at common law, whether the intention is to injure his property, his person or his character." and in 4 Blk. Com. 137. (Christian's note 4) "every confederacy to injure individuals, or to do acts which are unlawful, or prejudicial to the community, is a conspiracy." The concurring testimony of these writers, that all conspiracies wrongfully to injure a third person are indictable offences, is not lightly to be received, though the positions laid down, are not assumed as full and definite descriptions of the crime of conspiracy; yet they go quite far enough for all the purposes of this prosecution. Indeed the four first were only treating of conspiracies levelled against individuals. And such is the character of conspiracy, so ramified is it in its nature, the object and tendency of it being that, from which it derives its criminality, that it would be exceedingly difficult to give a single specific definition of the offence. But by a course of decisions running through a space of more than four hundred years, from the reign of Edward the III to the 59th of George the III, without a single conflicting adjudication, these points are clearly settled:—

1st. That the offence of conspiracy is of common law origin, and not restricted or abridged by the statute 33 Edward I.  
2d. That a conspiracy to do any act that is criminal per se, is an indictable offence at common law, for which it can scarcely be necessary to offer any authority.  
3d. That an indictment will lie at common law—1st. For a conspiracy to do an act not illegal, nor punishable if done by an individual, but immoral only—as in *The King vs. Lord Grey* and others, and the case of *Sir Francis Blake Delaval*. 2d. For a conspiracy to do an act neither illegal nor immoral in an individual, but to effect a purpose, which has a tendency to prejudice the public—as in *The King vs. The Journeymen Tailors of Cambridge*, for a conspiracy to raise their wages, either of whom might legally have done so, and *The King vs. Edwards* and others. 3d. For a conspiracy to extort money from another, or to injure his reputation by means not indictable if practised by an individual, as by verbal defamation, and that, whether it be to charge him

with an indictable offence or not—as in *Timberly and Childes Child vs. North & Timberly; The Queen vs. Armstrong, Harrison and others; The Queen vs. Best and others; The King vs. Kinnerly & Moore; The Queen vs. Martham Brian; The King vs. Parsons and others, and The King vs. Rispal*. 4th. For a conspiracy to cheat and defraud a third person, accomplished by means of an act which would not in law amount to an indictable cheat, if effected by an individual—as in *Breerton & Townsend; The King vs. Skirrett and others; The Queen vs. Macarty & Fordenborough; The Queen vs. Orbell; The King vs. Wheatly, and The King vs. Lara*. 5th. For a malicious conspiracy, to impoverish or ruin a third person in his trade or profession—as in *The King vs. Cope and others; The King vs. Eccles; The King vs. Leigh and others. (Macklin's case.)* and the case of *Clifford vs. Brandon*. 6th. For a conspiracy to defraud a third person by means of an act not per se unlawful, and though no person be thereby injured—as in *The King vs. Robinson & Taylor; The King vs. Berenger and others, and The King vs. Edwards and others*. 7th. For a bare conspiracy to cheat or defraud a third person, though the means of effecting it should not be determined on at the time—as in *The King vs. Gill & Henry*. 8th. That a conspiracy is a substantive offence and punishable at common law, though nothing be done in execution of it—as in the *Book of Assises, ch. 44; The Poulterer's case; The King vs. Edwards and others; The King vs. Eccles; The King vs. Berenger and others, and The King vs. Gill & Henry*; and all the authorities that the conspiracy is the gist of the offence. And 9th. That in a prosecution for a conspiracy, it is sufficient to state in the indictment, the conspiracy and the object of it; and that the means by which it was intended to be accomplished need not be set out, being only matters of evidence to prove the charge, and not the crime itself, and may be perfectly indifferent—as in *The King vs. Eccles, & The King vs. Gill & Henry*.  
From all which it results, that every conspiracy to do an unlawful act, or to do a lawful act for an illegal, fraudulent, malicious or corrupt purpose, or for a purpose which has a tendency to prejudice the public in general, is at common law an indictable offence, though nothing be done in execution of it, and no matter by what means the conspiracy was intended to be effected; which may be perfectly indifferent, and makes no ingredient of the crime, and therefore need not be stated in the indictment. In 1 Tremaine's P. C. 82, 83, there is an information against Turner and others, for a conspiracy to destroy the reputation of one George Green, and falsely to charge him with adultery with the wife of one of the conspirators, for the purpose of extorting money from him. In 86, against Record and others, for a cheat practised on Lady Dorothea Seymour, in prevailing on her by means of a falsehood to advance large sums of money to them. In 91, against Wilcox and others, for cheating by conspiracy one John Dulton of a quantity of cloth under pretence of buying them. In 94, against Taylder and others, for a cheat by conspiracy, in drawing an absolute conveyance to themselves of the estates of two women, and persuading them to execute it, pretending it was only in trust for the women, &c. And in 97, against Allbone and others, for cheating by conspiracy one Hilliard, in obtaining divers bonds from him for the payment of money to themselves and others, as a consideration for procuring a marriage between him and an indigent woman whom they represented as being rich. In neither of these cases, could an indictment have been sustained for the same injury practised by an individual, without the aid of conspiracy or combination; and as Tremaine gives the terms, the reigns, and the names of the respective parties, there can be little doubt, that they are precedents of informations in adjudicated cases, and that they were held to be good; and they go far to show how the common law was understood in England in the reigns of Charles and James the II. And the law of conspiracy, as settled by the uniform tenor of the decisions of the courts

in England, has been recognized and adopted as the common law, by the courts of several of the sister states; as in *The Commonwealth vs. Ward and others, 1 Mass. Rep. 473. The Commonwealth vs. Judd and others, 2 Mass. Rep. 329; and The Commonwealth vs. Tibbitts & Tibbitts, ibid 536; and the cases of The Journeymen Cordwainers in New-York and Pennsylvania; and also in a similar case in this state, by the court of oyer and terminer, &c. for Baltimore county, which has it is believed been entirely acquiesced in. In 2 East's C. L. title Cheat—cheats by conspiracy are treated of, as being on the same footing with cheats effected by the use of public false tokens, as false weights and measures. Chitty in his 3 Vol. title Conspiracy, after speaking of indictable conspiracies levelled at individuals, says, "but the object of conspiracy, is not confined to an immediate wrong to particular individuals, it may be to injure public trade, to affect public health, to violate public police, to insult public justice, or to do any act in itself illegal." Thus taking a clear distinction between indictable combinations to injure individuals, and such as have for their object an injury to the public at large, or the commission of acts which are in themselves illegal. And in page 1140 he says, "that to constitute a conspiracy, it is not necessary that the act intended should be in itself illegal, or even immoral; that it should affect the public at large; or that it should be accomplished by false pretences." Conspiracies are odious in law, and are always taken mala parte, and properly. In *The King vs. Rispal*, it was said by Lord Mansfield in delivering the opinion of the court, that "they tended to a breach of the peace, as much as cheats or libels." That is the only reason assigned in the books why libels are punishable by indictment; and whether they have in fact a more direct tendency to a breach of the peace, than verbal slanders, which are not per se so punishable, it is now too late to inquire—the law is settled, whether the reason be good or bad. There is however a greater malignity of spirit displayed, and a deeper and more lasting mischief contemplated by a deliberately written libel, than by a mere verbal slander, which is often repented of almost as soon as it is uttered. Libels therefore furnish evidence of a disposition, more dangerous to the social order, than verbal slanders, against the effect of which, the law has interposed itself, as a necessary safeguard. So at common law, a cheat effected by public false tokens, as "false weights and measures," is punished criminaliter, not because the party cheated, is more injured in that way, than by a mere private cheat accomplished by an individual in any other manner, which is not indictable; but because it is that, against which ordinary care and prudence are not sufficient to guard, and the use of which, evinces a disposition to practise upon the whole community. And for the same reason fraudulent, false or malicious conspiracies to cheat or otherwise injure a third person, are indictable offences; for that ordinary care and prudence, which would be a sufficient guard against the evil designs of an individual, furnish no protection against the machinations of a band of conspirators. *The King vs. Turner* and others, 13 East, 228, has been much relied upon by the counsel for the defendants in error, but the case itself is not at all in hostility with this principle, or with any of the adjudications to which we have had occasion to advert. It was an agreement, (in the words of Lord Ellenborough by whom it was decided) "to go and sport upon another's ground," not tinged either with malice, falsehood or fraud. And an agreement to commit a civil trespass, (for every unauthorised entry upon the possessions of another, though it only be for the purpose of innocent amusement, is in law a trespass) may not, according to circumstances, amount to an indictable offence. But fraud, falsehood and malice, strike at the very root of the social order, as the well being of a community greatly depends on the honesty, truth, and properly regulated passions of those who compose it; and therefore it is ne-*

cessary, that the law should punish them whenever they assume a shape, against the effect of which ordinary care and prudence are not sufficient to guard.  
There is nothing in the objection, that to punish a conspiracy where 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 substantive offence, by the nature of the object intended to be effected. And in that respect, conspiracies are analogous to unlawful assemblies. An unlawful assembly, is the assembling of three or more together to do an unlawful act, as to pull down enclosures, and departing without doing it, or making any motion towards it. In that case it is not the bare unexecuted intention which the law punishes, but it is the act of meeting, connected with the object of that meeting, which constitutes the offence; and for that act of meeting alone, though it should be to do, what if actually done by one, as the pulling down of another's enclosures, (which would be but a civil trespass,) the parties are liable to be punished by fine and imprisonment. And why should the law favour the act of conspiring together, falsely to injure the reputation of another, maliciously to ruin him in his occupation, or fraudulently to cheat him of his property, (no matter by what means,) and yet punish the act of meeting together to pull down another's fence, without making any motion towards it?  
But it is contended, that if our ancestors brought with them the common law of the mother country, or any part of it, it was the common law so far only as it had been established by judicial precedents, at the time of their emigration, and not as it has since been expanded in England by judicial decisions. That our ancestors did bring with them the laws of the mother country, so far at least as they were applicable to their situation, and the condition of an infant colony, cannot be seriously questioned. The rule that "in conquered or ceded countries that have laws of their own, those laws continue in force, until actually altered," &c. is for the benefit and convenience of the conquered, who submit to the government of the conquerors, or in the case of cession, of the people, who by treaty submit to the government of those to whom their country is ceded, and was not applicable to the condition of our ancestors, as the Indians did not submit to their government, but withdrew themselves from the territory they acquired. They were therefore in the predicament of a people discovering and planting an uninhabited country; and as they brought with them all the rights and privileges of native Englishmen, they consequently brought with them also, as their birthright, all the laws of England, which were necessary to the preservation and protection of those rights and privileges. And it would be difficult to show, that the law of conspiracy was not, at the time of their emigration, quite as necessary to them here in their new and colonial condition as it was in England, unless it can also be shown, that there was less necessity here, than there, for the preservation of life, liberty, reputation and property, or protection against falsehood, malice and fraud. If then they did bring with them the common law of conspiracy, which is assumed as undeniable, (though it may have existed potentially only,) they brought it as it is now settled and known in England; for what it is now, it was then, if any reliance can be had on ancient authorities; and it is to judicial decisions, that we are to look, not for the common law itself, which is nowhere to be found, but for the evidences of it. It appears, as has been seen by a note of a case in the *Book of Assises, 27th Edward III*, that an indictment was sustained at common law for a conspiracy, though nothing was done in execution of it. The same principle is recognized and adopted in 9 Coke's Rep. 56, (*The Poulterer's case*), in its fullest extent; and that is the great principle running through the cases so much objected to in argument, that conspiracies are substantive punishable offences, though they be not executed; and the rest, that it

is sufficient to state in the indictment the conspiracy and the object of it; that the means by which it was intended to be effected, are but matters of evidence to prove the charge, and no part of the crime itself, and may be perfectly indifferent, and need not therefore be set out, are but consequences. And in the case of *Breerton & Townsend, Noy's Rep. 103.* (12 James I.) an indictment was held to lie, as has been seen, for a conspiracy to defraud another by means of an act, which if it had been effected by an individual, would not have been indictable. The case in Noy, in which the parties were punished by fine, also shows, that the villainous judgment was not given in all cases of conspiracy, but that there were at common law, different degrees of punishment, and consequently of crime; and in 1 Hawk. P. C. 193, ch. 72, s. 9, it is said, that it has never been settled to be the proper judgment upon any conviction of conspiracy, except such as threatened the life of the party, which obviates any argument drawn from the villainous judgment, against there being any other conspiracies at common law than those enumerated in the statute 33 Edward I. These cases were before the colonization, the charter being in the eighth year of the reign of Charles the 1st. and they furnish the leading principles of the doctrine of conspiracy, of which the subsequent decisions are but practical applications, and must be received as explications of the law as it before existed, and not as creating a new law, or altering the old one, which could only be done by legislative enactment; and cannot be assimilated to occasional alterations, or changes in the practice of courts, in relation to the forms of proceeding, which are only creatures of courts, and often go on mere fiction. And it is a mistake to suppose, that they are expansions of the common law, which is a system of principles not capable of extension; but always existing, and attaching to whatever particular matter or circumstances may arise and come within the one or the other of them; not that this or that combination, is by the common law in terms declared to be an indictable conspiracy, but that it falls within those principles of the common law, which have for their object the preservation of the social order, in the punishing such combinations, as are calculated to threaten its well being. Precedents therefore do not constitute the common law, but serve only to illustrate principles. And if there were no other adjudications on the subject to be found, the judicial decisions since the colonization, furnish conclusive evidence, not only of what is now understood to be the law of conspiracy in England, so far as those decisions go, but of what were always the principles on which that law rests. And if the political connection between this and the mother country had never been dissolved, the expression of a doubt would not now be hazarded on the question, whether the same law was in force here. And unlike a positive or statute law, the occasion or necessity for which, may long since have passed away, if there has been no necessity before, for instituting a prosecution for conspiracy, no argument can be drawn from the non user; for resting on principles, which cannot become obsolete, it has always potentially existed, to be applied as occasion should arise. If there had never been in Maryland, since the original settlement of the colony by our ancestors, a prosecution for murder, arson, assault and battery, libel, with many other common law offences, and consequently no judicial adoption of either of those branches of the common law, could it therefore be contended, that there was now no law in the state for the punishment of such offences? The third section of the *Bill of Rights*, which declares "that the inhabitants of Maryland are entitled to the common law of England, and the trial by jury according to the course of that law, and to the benefit of such of the English statutes, as existed at the time of their first emigration, and which by experience, have been found applicable to their local and other circumstances, and of such others as have been since made in England or Great-Britain, and have been introduced, used and practised by the