

Such has been the construction of the act of 1813. In Maulsby's case, 13 Md. 637 it was said, with the approbation of the Court of Appeals, "Where a party is committed upon any process, as upon a charge of crime, it is competent for the judge, notwithstanding the warrant of commitment set out in the return may be in due form and by a competent officer, to examine testimony and to determine upon the proof exhibited to him the real ground of the accusation, and to bail or discharge the prisoner."

In all these cases errors in pleadings have been waived, and the evidence adduced must be considered; but for the purpose of trying the case and deciding upon the guilt or innocence of the party accused. My Office under the writ stays far short of that, and casts upon me only the duty of deciding whether upon the return and the proof there is any probable ground for the accusation, or whether the arrest and detention are "without sufficient cause."

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

First, as to the charge of conspiracy against Young and Valiant. This has been already fully set out as contained in the warrant which was issued upon both by a Court of competent jurisdiction, and is sufficient in form, charging indictable offense. 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 the warrant would be an indictable offense.

A forcible seizure of Wood and blinds of the buildings and property held by them, however wrongfully, would be an indictable offense, as tending to a breach of the public peace, and it is settled in the States vs. Buchanan, 5 F. and S. 317, that a conspiracy to do any unlawful acts is an indictable offense. On page 355 the Court says: "There is nothing in the objection that do."