

File No. 8656 Continued.

OPINION.

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Judges having criminal jurisdiction in the County or City, for incompetency, willful neglect of duty, or misdemeanor in office, on conviction in a Court of law, and by Section 649 of the City Charter it is provided that if any constable appointed by the Mayor and City Council of Baltimore be convicted in a Court of Law for any misdemeanor in office, his removal from said office shall be part of the sentence or judgment pronounced upon him by the said Court.

In his letter, Mr. Mason uses the following language:

"The law states that conviction on a criminal charge shall work a disqualification of the office," that is to say, the office of a constable.

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I suppose that Mr. Mason, in making this allegation, is referring either to the provisions of the State Constitution, or to the provisions of the City Charter, above cited. If he is referring to any other provision of law, I should be glad to know what it is.

It will be observed that the provisions for the removal of constables, above cited, are grounded exclusively upon misconduct in some form, that is related to the duties of the office of constable.

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The only offense mentioned by Mr. Mason, specifically as perpetrated by Love, is the offense of having shot a man, for which he was duly sentenced to jail. This offense, so far as we are informed by Mr. Mason, was not committed by Love in the course of the discharge of his duty as constable, therefore, he could not have been removed from office because of it, under either the provisions of the State Constitution, or of the City Charter, above cited. Be this as it may, until Love is removed, he is, of course, qualified to continue to act as constable, if his qualification is not invalidated by other circumstances. He is in the same position as William F. Harig, the constable who recently shot a man for causes not connected with the discharge of his duties as constable, and who is, I believe, still a constable. Where however there is not express provision for the removal of a public officer, it is held by the Courts to be a sound and necessary rule to consider the power of removal as incident to the power of appointment. Charges, therefore, could be preferred against Love before the City Council, by whom he was appointed, and Love, after