

## Chapter CLXXXIV.

### POWER TO PUNISH FOR CONTEMPT.

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1. Case of Charles C. Glover. Sections 332, 333.
  2. Senate case of Paul R. Mallon. Section 334.
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**332. The contempt case of Charles C. Glover before the House in 1913.<sup>2</sup> After debate the House ordered a warrant to issue for arrest of a person who had violated its privileges by assaulting a Member.**

**The investigation of a breach of the privilege of the House was committed to a select committee appointed by the Speaker.**

**The constitutional immunity for words spoken in debate guarantees exemption from questioning not only within but also without the courts.**

**An assault upon a Member of the House for words spoken in debate is a breach of its privileges and a contempt of the House.**

**Assault committed on a Member for words spoken in debate constitutes a contempt of the House in which he is then sitting although the words may have been spoken in a prior House.**

**The House is empowered under the Constitution to punish as a contempt against it a breach of its privileges committed by assault on one of its Members for words spoken in debate.**

On April 21, 1913,<sup>3</sup> the House agreed to the following resolution, presented as a question of the privilege of the House by Mr. Finis J. Garrett, of Tennessee:

Whereas it has been published in various newspapers circulating in the city of Washington, D. C., and elsewhere, and otherwise currently reported, that on Friday, April 18, 1913, Thetus W. Sims, a Representative in Congress from the State of Tennessee, was, in a public park in said city, while on his way from his place of residence to a department of the Government for the purpose of transacting official business, and while in attendance upon the Congress as such Representative, set upon and physically assaulted by one C. C. Glover, a citizen of the District of Columbia; and

Whereas said assault is alleged to have been made because of words spoken by said Representative on the floor of the House while it was in regular session; and

Whereas said assault, if made, constitutes a breach of the privileges of the House and of its Members and demands immediate action on the part of the House for the protection of its rights and the rights of its Members in the performance of official duties: Therefore be it

*Resolved*, That a select committee of five members be appointed forthwith by the Speaker of the House to investigate and report:

First, whether such assault was made by said C. C. Glover upon the said Representative, Thetus W. Sims; and if so, then,

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<sup>1</sup>Supplementary to Chapter LI.

<sup>2</sup>For preliminary proceedings in this case see section 7811 of Chapter CXC VII.

<sup>3</sup>First session Sixty-third Congress, Record, p. 281.

Second, a course of procedure to be followed in dealing with the said C. C. Glover, to the end that the rights and the privileges of the House of Representatives and its Members shall be maintained and protected.

For the purpose of ascertaining the fact herein required to be reported upon, the said committee shall have power to send for persons and papers, and to examine witnesses upon oath administered by the chairman or any member thereof.

Said committee shall report not later than Saturday, April 26, 1913.

On April 26,<sup>1</sup> Mr. John W. Davis, of West Virginia, from the select committee appointed pursuant to this resolution, submitted a report setting forth the following findings of fact:

That Representative Thetus W. Sims while on his way from his residence in the city of Washington to the Post Office Department on official business on Friday morning, April 18, 1913, was accosted in Farragut Square, in the city of Washington, by Charles C. Glover, who, after applying to him certain epithets, assaulted him by striking him in the face.

That the said Charles C. Glover committed the assault upon Representative Sims because of statements made by Representative Sims in debate on the floor of the House of Representatives at several times during the session of the House in the Sixty-second Congress, in which Congress the said Representative Sims was also a Representative from the State of Tennessee.

The committee then report as their conclusions:

First. That for the purpose of this inquiry it is not necessary to consider what privileges, if any, the House of Representatives or its Members may possess other than those expressly stated in the Constitution.

It may be thought by some that the constitutional immunity implied in the words "for any speech or debate in either House they shall not be questioned in any other place" relates merely to lifelong immunity from legal proceedings against the Member. The term "questioned," however, has always been construed liberally.

This immunity guarantees exemption from questioning not only within but also without the courts. Obviously, if one may not question a Member for words spoken in debate under the processes of law, he can not do so by taking the law in his own hand.

Second. An assault upon a Member of the House of Representatives for words spoken in debate is a breach of its privileges and a contempt of the House.

This has not only been the uniform opinion of the House of Representatives from the earliest times, but is necessarily true because of the reasons which lie at the foundation of the constitutional provision. As just stated, it was conceived that absolute freedom of speech and of debate in the Legislative Assembly was essential to the public welfare, and it was intended that the voice of a Member, and of his constituents speaking through him, should not be silenced by any fear of legal or personal consequences. A Member, of course, may plead his constitutional privilege in bar of any action based upon his utterances, but unless his person is likewise immune from attack for the same cause, the purpose of the Constitution would be but half accomplished.

Nor is the House as a collective whole less concerned in preserving this freedom of debate than are the individual Member and his constituency. In order that the final action of any deliberate body may represent the joint wisdom of its members, there must be unrestrained exchange of thought and opinion, and whatever tends to silence one subtracts just so much from the efficiency of the whole. A breach of a Member's privilege of unconditional freedom of debate therefore reacts upon the House; and the House in treating it as a contempt against itself does so with no desire to magnify its office nor to vindicate its wounded dignity, but to preserve and defend its legislative integrity and power. Of this legislative integrity and power it is the sole guardian, and it may at all times protect that integrity and power by appropriate action taken for and by itself.

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<sup>1</sup>House Report No. 6.

Third. Such an assault, when committed on the person of a Member for words spoken in debate, constitutes a contempt of the House in which he is then sitting, although the words may have been spoken in a prior House.

It will be observed that the speeches made by Representative Sims in the House of Representatives which Mr. Glover admits constituted the provocation for this assault were delivered by Representative Sims during the Sixty-second Congress; but, while this raises a question not discussed in earlier precedents, it does not change, in our opinion, the status of the case. This becomes clear when we contrast the individual privileges of the Member and the collective privilege of the House.

It is obvious that the Constitution, in providing that Senators and Representatives shall not be questioned in any other place for any speech or debate in either House extends an immunity unlimited as to space and unrestricted in point of time. One who has been a Member of either body, whether longer so or not, can nevertheless plead this constitutional immunity against any attack which may be made upon him at any time by reason of any speech or debate which took place during his service. The shield of the Constitution, once extended, protects him so long as he may live.

The House, on the other hand, being simply the aggregate of its membership, is itself concerned with those things which affect the freedom and efficiency of its constituent Members. A Member of the Sixty-second Congress, for instance, who enters the Sixty-third Congress brings with him his constitutional immunity against question for his action in the former body; and in order that he may be free to perform, without fear or hindrance, his duties in the latter, it is both its right and duty to resent as an attack upon itself any violation of his constitutional privilege. Its attention should properly be directed, not to the time when this privilege accrued, but to the time when it was violated.

Fourth. The House of Representatives has power under the authority of the Constitution to punish as a contempt against it such a breach of its privileges as is involved in the assault upon Representative Sims by the said C. C. Glover.

Both parliamentary precedent and high authority support this power.

After citing judicial decisions and Congressional precedents in support of these conclusions, the committee conclude:

The House of Representatives is vitally concerned with the safeguarding of its privileges and the preservation of its legislative integrity and dignity. It is just as seriously concerned, however, with the maintenance of such a course of conduct on the part of each of its individual Members as will assure to every citizen in the land protection from defamation on the floor of the House. The power of the House over its Members is of the broadest character. The breach of the privileges of the House by a Member gives to the House ample power of punishment. It must become to be understood, therefore, that as the privileges of the House in so far as the public is concerned will be enforced by prompt punishment for contempt in the event of their breach, the House, in the future, as often in the past, will also fully protect all citizens from unjust assaults upon their character by censure or other punishment administered to an offending Member.

The committee calls attention to the written communication received from Mr. Glover, which will be found in full in the appendix containing the testimony accompanying this report.

This letter, it will be observed, contains a frank avowal of fault and a voluntary disclaimer of any intentional contempt toward this body. The testimony, however, establishes the fact that his act was the result of some premeditation and design extending over a period sufficiently long for him to have informed himself, if ignorant, of the privilege of the House; and his disclaimer, while full and free in form, is accompanied by a challenge, though without discourtesy, of the jurisdiction of the House in the premises.

The committee therefore recommend the adoption of the following resolution:

*Resolved*, That the Speaker do issue his warrant directed to the Sergeant at Arms commanding him to take in custody, wherever to be found, the body of Charles C. Glover, of the city of Washington, in the District of Columbia, and the same in custody keep, and that the said Charles C.

Glover be brought to the bar of the House of Representatives on a day to be fixed in said warrant to answer the charge that he, on Friday, April 18, 1913, in the city of Washington, D.C., committed an assault upon the person of Representative Thetus W. Sims, a Representative in the Sixty-third Congress from the State of Tennessee, because of words spoken by the said Representative Sims in debate on the floor of the House of Representatives while the House was in regular session during the Sixty-second Congress, and that in committing said assault Charles C. Glover has been guilty of a breach of the privileges and a contempt of the House of Representatives; and that the said Charles C. Glover be furnished with a copy of this resolution and a copy of the report of the select committee of the House of Representatives appointed to investigate the charge made against him in the House of Representatives.

*Resolved*, That when Charles C. Glover shall be brought to the bar of the House to answer the charge of having violated the privilege of the House of Representatives by having made an assault upon Representative Thetus W. Sims, of the State of Tennessee, for words spoken by said Representative Sims on the floor of the House of Representatives, the Speaker shall then cause to be read to the said Charles C. Glover the findings of facts by the special committee of the House charged with the duty of investigating whether or not the said assault had in fact been committed as alleged, and whether or not the said Charles C. Glover had violated the privileges of the House of Representatives by said assault. The Speaker shall then inquire of the said Charles C. Glover if he desires to be heard, and to have counsel, on the charge of being in contempt of the House of Representatives for having violated its privileges. If the said Charles C. Glover desires to avail himself of either of these privileges, the same shall be granted him, if not the House shall thereupon proceed to take order in the matter.

**333. The case of Charles C. Glover continued.**

**A citizen having assaulted a Member for words spoken in debate, the House arrested, arraigned, and censured him.**

**The Speaker held that Members might not confer with a respondent arraigned at the bar of the House.**

**Censure inflicted by the Speaker on a citizen and his apology to the House appear in full in the Journal.**

**Form of proceedings at the arraignment and censure of Charles C. Glover.**

On May 9, 1913,<sup>1</sup> the first section of the resolution recommended by the committee was offered, as of privilege, by Mr. Davis, and after extended debate was amended by the addition of the second section recommended by the committee, and agreed to as amended, yeas 200, nays 4.

Whereupon<sup>2</sup> Mr. J. Harry Covington, of Maryland, inquired:

Is the Speaker now about to execute the action in warrant for the apprehension of Mr. Glover?

The Speaker<sup>3</sup> said:

That is exactly what he is about to do. The Chair has been informed that Mr. Glover is within the building and can be very easily found. The precedents in the case seem to show that when Mr. Glover is brought in Members will not be allowed to confer with him until the matter is finished.

<sup>1</sup> First session Sixty-third Congress, Journal, p. 141.

<sup>2</sup> Record, p. 1431.

<sup>3</sup> Champ Clark, of Missouri, Speaker.

The Speaker thereupon signed and delivered to the Sergeant at Arms of the House the following warrant:

HOUSE OF REPRESENTATIVES, UNITED STATES OF AMERICA,

*Ninth day of May, 1913, ss:*

TO ROBERT B. GORDON, *Sergeant at Arms, greeting:*

Whereas the House of Representatives of the United States on the 9th day of May, 1913, then being in session in the city of Washington, DC, did resolve that the Speaker do issue his warrant directed to the Sergeant at Arms commanding him to take into custody wherever to be found the body of Charles C. Glover, of the city of Washington, DC, and the same in custody to keep, and that the said Charles C. Glover be brought to the bar of the House of Representatives on the 9th day of May, 1913, to answer the charge that he, on Friday, April 18, 1913, in the city of Washington, DC, committed an assault upon the person of Representative Thetus W. Sims, a Representative in the Sixty-third Congress from the State of Tennessee, because of words spoken by the said Representative Sims in debate on the floor of the House of Representatives while the House was in regular session during the Sixty-second Congress, and that in committing said assault he, the said Charles C. Glover, has been guilty of a breach of the privileges and a contempt of the House of Representatives:

These are therefore to require you, Robert B. Gordon, Sergeant at Arms for the House of Representatives of the United States, forthwith to take into your custody the body of said Charles C. Glover, of the city of Washington, DC, and him safely to keep, and to bring him before the bar of the House of Representatives on the 9th day of May, 1913; and all marshals and deputy marshals, civil officers of the United States, and every other person are hereby required to be aiding and assisting you in the execution thereof, for which this shall be your sufficient warrant.

Given under my hand this 9th day of May, 1913.

CHAMP CLARK,

*Speaker of the House of Representatives.*

In testimony of the authority of this warrant, witness the seal of the House of Representatives of the United States this 9th day of May, 1913.

SOUTH TRIMBLE,

*Clerk of the House of Representatives.*

Upon this warrant the Sergeant at Arms made returns as follows:

HOUSE OF REPRESENTATIVES,

*Washington, D.C. 9th day of May, 1913, ss:*

TO Hon. CHAMP CLARK, *Speaker, greeting:*

Received the within warrant on the 9th day of May, A. D. 1913, and pursuant to its command I did, on the 9th day of May, A. D. 1913, as directed, take into custody the body of said Charles C. Glover there in named and brought him forthwith to the bar of the House of Representatives.

Given under my hand this 9th day of May, 1913.

R.B. GORDON,

*Sergeant at Arms, House of Representatives.*

The Sergeant at Arms appeared at the bar of the House having in custody the respondent, Charles C. Glover.

By direction of the Speaker the Clerk read as follows:

That Representative Thetus W. Sims while on his way from his residence in the city of Washington to the Post Office Department on official business on Friday morning, April 18, 1913, was accosted in Farragut Square, in the city of Washington, by Charles C. Glover, who, after applying to him certain epithets, assaulted him by striking him in the face.

That the said Charles C. Glover committed the assault upon Representative Sims because of statements made by Representative Sims in debate on the floor of the House of Representatives at several times during the session of the House in the Sixty-second Congress, in which Congress the said Representative Sims was also a Representative from the State of Tennessee.

In response to an inquiry by the Speaker if the respondent desired to be heard or to have counsel, Charles C. Glover answered:

Mr. Speaker, I admit the facts to be as found, but earnestly disclaim all intention to show disrespect to this House or its Members, or to invade their privileges. Nor did I know, at the time of the occurrence, that I was doing either.

I express my deep regret and offer my sincere apology.

A seat was provided for the respondent.

Then, on motion of Mr. Charles R. Crisp, of Georgia, in behalf of the special committee appointed in charge of this investigation, it was—

*Resolved*, That the Speaker do reprimand Charles C. Glover, now at the bar of the House, for the breach of privileges of the House by him committed; and that the said Charles C. Glover be thereupon discharged from further custody.

The respondent rose.

The Speaker said:

Charles C. Glover, the House of Representatives, after thorough and patient investigation of both the law and the facts, made by a special committee of five eminent lawyers of the House, appointed by the Speaker, brought in a resolution declaring that you had violated the privileges of the House and acted in a manner derogatory to the dignity of the body by assaulting a Member for words spoken in debate on the floor of the House; and after full debate the House almost unanimously adopted that resolution.

The freedom of speech and the immunity from being questioned elsewhere for words spoken in debate on the floor of the House and also of the Senate, guaranteed by the Constitution, lie at the very root of our free institutions. You violated both grossly by your conduct. In your anger you struck a blow at constitutional government.

From the very inception of parliamentary government among English-speaking peoples the principles which I have stated have been universally adopted and practiced.

This is not a case of a Member of Congress against the prisoner at the bar. It is the House of Representatives in its assembled capacity asserting its freedom of speech and the dignity of the House, which are necessary for the free and wise transaction of the public business. It is not so much to punish an individual as it is for the public good, to the end that the Republic may endure.

The House passed a resolution directing the Speaker to issue his warrant and deliver it to the Sergeant at Arms for your arrest, and the same has been done. The mandate of the warrant has been complied with by the Sergeant at Arms by bringing your body to the bar of the House.

Acting with the moderation, the care, the wisdom, and the justice with which people of our race act, they gave you a chance to be heard either in person or by counsel in mitigation before they would determine the punishment for your very grave offense against the Constitution of your country. You elected to be heard in your own proper person; you have acknowledged the facts as charged; you have apologized to the House; you have expressed your regrets; you have asserted your ignorance of the fact that you were violating the privileges of the House and the Constitution of the United States. This statement on your part, no doubt, influenced the Members in the leniency of the punishment which they determined upon, and that was that the Speaker should reprimand you for your very grave offense.

It must be apparent that a Representative or a Senator in his individual capacity has no more rights than any other citizen of the Republic, and he is clothed by the Constitution with the immunity from being questioned elsewhere for words uttered in debate on the floor of the House so that they may speak their minds freely without fear and without embarrassment. This is for the public weal. If one person is permitted to go unpunished for an assault upon one Representative for words spoken in debate on the floor of the House, every person can assault a Representative for words used in debate on the floor of the House, and free speech is at an end, free government is at an end.

Not only that, but to assault a Representative or a Senator for words spoken in debate on the floor of either House might compel a good man who does not want to kill anybody to perform that very act.

The Chair therefore reprimands you, Charles C. Glover, in the name of and by direction of the House of Representatives, and directs the Sergeant at Arms to remove you from the Hall of the House and to discharge you from custody.

Thereupon Charles C. Glover was escorted from the Hall of the House in the custody of the Sergeant-at-Arms.

**334. In 1929 a Senate committee recommended the denial of the privilege of the floor to a newspaper reporter charged with publication of proceedings of an executive session.**—On May 21, 1929,<sup>1</sup> in the Senate, Mr. John J. Blaine, of Wisconsin, was granted leave to print in the Record as a part of his remarks a newspaper article purporting to give the vote of the Senate in executive session on the confirmation of certain nominees of the President for judicial appointments.

On the following day,<sup>2</sup> Mr. David A. Reed, of Pennsylvania, announced that the Committee on Rules had unanimously agreed to a resolution excluding Paul R. Mallon, the author of the article, and the United Press Association which he represented, from the further privileges of the floor of the Senate, and that witnesses had been summoned to appear in an inquiry authorized by the committee to learn what Senator or Senate employee had disclosed the information reported in the article.

Mr. Reed then introduced the following resolution:

*Resolved*, That the report and publication of the proceedings of the Senate in executive session on the 17th day of May, 1929, is a breach of the privileges of the Senate, made possible only by a violation of the rules of the Senate by some Member or officer of the Senate; that this is a willful disregard of the obligation of duty and honor resting upon every one admitted to an executive session, tending to bring contempt upon the Senate, and deserves and should receive severe censure and punishment.

The resolution was ordered printed and placed on the calendar. No further action on the resolution or record of the inquiry appears.

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<sup>1</sup>First session Seventy-First Congress, Record, p. 1624.

<sup>2</sup>Record, p. 1726.