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FRIDAY, JANUARY 9th, 1861.

PAID IN ADVANCE.

CONGRESS OF THE UNITED STATES.

HOUSE OF REPRESENTATIVES.

TUESDAY, January 6, 1861.

The house took up the report of the committee of Privileges on the letter of *JOSEPH WHEATON*, Sergeant at arms, which is as follows:

The committee of privileges to whom was referred the letter from *Joseph Wheaton*, Sergeant at Arms, reports:

That the representation made by the sergeant at arms contains a correct statement of facts; and that he, in the opinion of the committee, is to be commended for the propriety and fidelity with which he executed the order of the Speaker to apprehend the guilty of indecent and disorderly conduct in the gallery.

The committee have reason to believe from the best information they can obtain, that the person who committed the disorder, (and who has since abundantly) was at the time intoxicated with liquor.

The inquirer, by whose warrant the sergeant at arms was arrested, and held in custody, for discharging his duty in the premises, has explained his conduct in a letter accompanying this report. The suggestion made to him, that any member of the house was concerned in the relative to the prosecution of the sergeant at arms, is by the committee presumed to be false; as it would imply in such member not only a disregard of all sense of public propriety; but also an indefensible contempt for the honor and dignity of the house.

That although the arrest and confinement of an officer of the house of representatives for any act performed in its service, and in obedience to its orders, must be deemed a high breach of its privileges; yet as the magistrate in the present case seems rather to have been deceived by false representations, than influenced by improper views, the committee cannot consider his conduct as a subject of animadversion.

They are therefore of opinion that it is not expedient for the house to take any further order on the letter from *Joseph Wheaton*.

The following is the letter of the Magistrate alluded to:

City of Washington, Jan. 3, 1861.

In compliance with your request, I will endeavor to state what took place between *James Lane* and myself respecting the warrant I granted at the instance of the said *Lane* against *Joseph Wheaton*, which is in substance as follows:

On Monday the 23d instant, late in the afternoon, I was called on by a young man of genteel appearance, whose name he said was *Lane*, and informed (for the first time) that he had been arrested in the gallery of Congress by the Sergeant at arms, and by him confined in one of the committee-rooms upwards of an hour, on suspicion of clapping a member of the house of Representatives while addressing the Speaker, which charge he at that time denied being guilty of. He also stated that *Mr. Wheaton*, after keeping him confined during the time, above mentioned, discharged him, and that he was arrested a second time by the said *Wheaton* on the public square some distance from the Capitol, who wrested from him his horse without producing a written authority from the Speaker of Congress, or any other evidence to justify his conduct. I thought under such circumstances it behoved me as a justice of peace for Prince George County to take cognizance of the last charge, although embarrased in the business with great diffidence and reluctance. I issued a warrant to have *Mr. Wheaton* apprehended which was served by *Mr. Spalding* (the

constable) on the Wednesday following, by whom *Mr. Wheaton* was brought before me. On hearing his defence, which was corroborated by others who were present, I made no objection to his being marked with the districted property. *Mr. Lane* informed me that he had consulted with one or two members of Congress respecting his case, who thought he had been treated with improper severity, but he did not name any particular member. He was endeavoring to state every circumstance that took place on this disagreeable subject, in the hope my conduct may not be unwise. I therefore made, as is to be found in the enclosed, that I meant to offer an affidavit to the representatives of this my native country, or any of its officers.

I remain, with sentiments of due respect,

RICHARD FORREST.

The following is the letter from the Sergeant at Arms:

To the Hon. The House of Representatives, Speaker of the House of Representatives of the United States.

Sir, I receive it to be my duty to report to you for the information of the House of Representatives, the circumstances that attended and the proceedings which have followed my obedience to your orders for arresting the person who had been guilty of contemptuous and disorderly behavior in the gallery on Monday the 23d inst. Upon proceeding to the gallery I found that the disorderly person was one *James Lane*. From my recollection of the incident, the clerk's office and treated with all possible civility, until the adjournment of the house, when he was released and suffered to go where he pleased.

On the Wednesday morning, I was apprehended upon a warrant issued by *Richard Forrest*, Esq. in the name of the State of Maryland, commanding *Thomas Barton Morris* or *Richard Spalding* to arrest the body of *Joseph Wheaton*, and I was accordingly conducted before the said *Justice Forrest*, and was detained a prisoner from 10 o'clock in the morning until one o'clock in the afternoon, and was as length discharged by the said *Justice Forrest*, who did not appear to prosecute his complaint.

I have the honor to be, faithfully your obedient, humble servant,

JOSEPH WHEATON.

Chamber of the House of Representatives, Dec. 30, 1860.

Mr. Nichols thought the report contained statements that it would be improper in the house to sanction. Kindly explained the conduct of a magistrate, who did not appear to have violated his official duty, as he had waived the prosecution as soon as he was informed of the arrest, and the real nature of the circumstances. More could not be required. To expect the magistracy to forbear calling to account the officers of a legislative body in all cases where there would have a violation of every legal principle.

As *Mr. Nichols* understood the affair before the house, the sergeant had been arrested by the speaker to see to the man who was arrested in the gallery. He knew not that this order gave any authority to confine the man. He had no himself been present at the time; but from the circumstances he had heard stated, he believed that the man in the gallery, had confinement had entered into the head of any man. But the conduct of the sergeant did not stop here. He had been told, and he believed truly, that the sergeant, after removing the man from the gallery, had dismissed him, and had returned to the house; when on the suggestion of some members, he again pursued the man, who was in the street, and arrested him a second time when he had returned to the house, and held him in confinement, without any authority whatever.

The opinions expressed by the committee would be of little importance, if they did not go to establish the incompetency of the magistracy of this country to enquire into the conduct of men, who might be guilty of misconduct; of that magistracy on whom we must rely, in a great measure, for our protection.

Mr. Davis moved to refer the report to a committee of the whole house. *Mr. Shelton* moved the house, before it committed itself by any judgment, would require by what authority the sergeant had acted in this most extraordinary transaction. That a citizen might in future be proceeds from outrages similar to that now under discussion.

Mr. Bayard said that the gentleman from Virginia (*Mr. Nichols*) had entertained the house with an enumeration of doubts, which he hoped they would take no notice of. The facts before them came from a select committee, who were the organ of a correct investigation of facts. If the reference was made to them to a committee of the whole, with the view of ascertaining their truth, would be perfectly futile.

As to the sentiments of the gentleman on the report he could not say he was surprised at them. They amounted simply to this, that there was something to be feared in the rights of a free citizen of a free country, that it was altogether immaterial how he acted, whether he treated or mistreated the constituted authorities of his country. *Mr. Bayard* felt as much as the gentleman for the rights of the citizen; but he also felt some degree of respect for the government; as he believed that such, not merely of its dignity, but of the happiness of the people depended upon an adherence to the settled principles of the constitution.

The gentleman had told the house, that he doubted its power in several respects. He doubted its power to take the most important steps to preserve its tranquillity, and to advance such a doctrine would be to degrade the house below the level of a common court. There was no case that did not possess the power of committing for a contempt.

Mr. Stevens made several remarks which were not heard.

Mr. Nichols said that his remarks had been misstated. They were that the magistrate was right in filing his warrant; but that all that could be expected from him was an admission of the plea of the party, which had actually been done. But to say that a magistrate shall not call your officers to an account in any case, is saying more than had ever been said elsewhere. Can you not your officer commit abuses? Have not gentlemen heard of abuses committed elsewhere? Have they not heard too of their punishment. In such circumstances, but what could he be supposed, that he was where a complaint is first made, and the defence then heard?

Mr. Nichols did not think the committee had repaired a true statement of facts. The sergeant had said he expected that he had released the man, and afterwards arrested him a second time. He was, therefore, authorized in supposing, not that the committee had supplied facts, but that they had not made a full enquiry into them. It was, then, an acceptable service to give that information to the gentlemen, in the hope that they would be influenced by it.

He was surprised at the imputation thrown upon a member of the house, as the sergeant advised the prosecution of the sergeant. This conduct, far from being disgraceful, he considered as highly honorable, coming as it did, from a member enjoying an inviolability of character. *Mr. Nichols* concluded with the expression of a hope that the business would be buried in oblivion without controversy.

Mr. Davis said there were two features in the report that he would like to see the ability of the gentleman from Virginia; one was the improper opinions expressed in it; the other, the imputation thrown on a member. He would have been truly surprised if a member had heard on the subject, had not very familiar remarks of this nature been expressed. Could any gentleman,

pretending to judicial knowledge, doubt the power of the house? Could any man doubt that to arrest an officer of this house for discharging his duty was a violation of privilege?

As to the imputation thrown on a member, if any member had advised the prosecution, was not the imputation merited? For could any member of this house, so far degrade himself or the house, as to request the interference of a magistrate? This indeed would be a miserable degradation of the house.

Mr. Hays was prepared, if this were a fit time, to show that the speaker clearly possessed the power he had exercised. It could be established by the best authorities. He was again a reference to the committee of the whole, which was the only question before the house. The members wished to try the abstract principle of privilege, they should move a recommitment to the select committee, and assign the objectionable parts of the preamble.

The speaker said that whatever words he may have used in giving his orders to the sergeant, it was his intention to have acted in accordance with the order of the house, the man who had committed disorderly behavior in the gallery. He thought then, and he still thought, that his power extended to this length.

If the speaker did not possess this power, a member might be afflicted without the bar, a debate might ensue, and before the house could come to any decision, the object to be achieved might be defeated.

It was therefore only justice to the sergeant to declare that whatever he had done had been in obedience to his orders.

In the case of disorderly behaviour in the galleries, there were but two remedies which could be pursued. One was to clear the galleries of all the persons in them. This would be to punish the intruder as to arrest for a day. The other was to refer the matter to a committee of the whole.

Mr. Davis spoke against the report, and in favor of referring it to a committee of the whole.

Mr. Canby advocated the report.

Mr. Shelton declared his decided disapprobation of the conduct of the speaker, the sergeant, and the committee.

Mr. Otis spoke on a considerable length. He defined the conduct of the speaker, the sergeant and the committee. He observed that the authority of the speaker to direct a momentary arrest was conceded. To arrest for an instant was as great a trespass as to arrest for a day. It could not admit of question that the sergeant was bound to execute the orders of the speaker, and these given by him, in the presence of the whole house, without the necessity of any interference, were equal to the actual orders of the house.

It should be noticed by gentlemen that the species of outrage recently committed was more to be dreaded than any other. He defined the conduct of the speaker, the sergeant and the committee. He observed that the authority of the speaker to direct a momentary arrest was conceded. To arrest for an instant was as great a trespass as to arrest for a day. It could not admit of question that the sergeant was bound to execute the orders of the speaker, and these given by him, in the presence of the whole house, without the necessity of any interference, were equal to the actual orders of the house.

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Mr. Maton conceived that, in an affair of this kind, which presented the first instance in which a complaint had been made against an officer of the house for the arrest of a citizen, it became the house to act with deliberate caution. He was for a reference to the committee of the whole. He was not disposed to go as length into the arguments, urged by gentlemen in favor of the report. But he did not believe that the dignity of the house had anything to do with the business.

Mr. Nichols had little doubt but that the members contained in the preamble to this report, were as authoritative as this point of right he considered them.

(Continued last page.)