of its Houses, of the essential and inherent power to punish for contempt, in cases to which the power of either House properly extended; but because Congress, by the Act of 1857, sought to aid each of the Houses in the discharge of its constitutional functions, it does not follow that any delegation of the power in each to punish for contempt was involved." [276]

Because Congress has invoked the aid of the federal judicial system to protect itself against contumacious conduct, the Court has asserted that the federal courts have the duty to accord a person prosecuted for this statutory offense every safeguard available in other federal criminal cases.[277] The discussion in previous sections of many reversals of contempt convictions bears witness to this assertion. What constitutional protections ordinarily necessitated by due process are required in a contempt trial before the bar of one House or the other—such as notice, right to counsel, confrontation, and the like—is an open question.[278]

It has long been settled that the courts may not intervene directly to restrain the carrying out of an investigation or the manner of an investigation, and that a witness who believes the inquiry to be illegal or otherwise invalid in order to raise the issue must place himself in contempt and raise his beliefs as affirmative defenses on his criminal prosecution. This understanding was sharply reinforced when the Court held that the speech-or-debate clause utterly foreclosed judicial interference with the conduct of a congressional investigation, through review of the propriety of subpoenas or otherwise.[279] It is only with regard to the trial of contempts that the courts may review the carrying out of congressional investigations and may impose constitutional and other constraints.

SECTION 2. Clause 1. The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have

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[276] *In re* Chapman, 166 U.S. 661, 671–672 (1897).

[277] Sinclair v. United States, 279 U.S. 263, 296–297 (1929); Watkins v. United States, 354 U.S. 178, 207 (1957); Sacher v. United States, 356 U.S. 576, 577 (1958); Flaxer v. United States, 358 U.S. 147, 151 (1958); Deutch v. United States, 367 U.S. 456, 471 (1961); Russell v. United States, 369 U.S. 749, 755 (1962). Protesting the Court's reversal of several contempt convictions over a period of years, Justice Clark was moved to suggest that "[t]his continued frustration of the Congress in the use of the judicial process to punish those who are contemptuous of its committees indicates to me that the time may have come for Congress to revert to 'its original practice of utilizing the coercive sanction of contempt proceedings at the bar of the House [affected].'" Id. at 781; *Watkins*, 354 U.S. at 225.

[278] *Cf.* Groppi v. Leslie, 404 U.S. 496 (1972).

[279] Eastland v. United States Servicemen's Fund, 421 U.S. 491 (1975).