

SENATE No. 338.

Commonwealth of Massachusetts.

IN SENATE, May 27, 1871.

The Special Committee to whom was referred the subject-matter of difference between the two Houses in relation to the amendments proposed by the Senate to the House Bill, making appropriations to meet certain expenses authorized the present year, and for other purposes, submit the following

R E P O R T :

RESOLVES relating to the Constitutional Rights and Privileges of the Senate.

Whereas, The Senate of Massachusetts has passed a resolve providing for the payment of a sum of money to the contestant of a seat for the Third Suffolk Senatorial District, which was rejected by the House of Representatives on the report of the committee of finance of that body, on the ground that there was no precedent in this Commonwealth for an appropriation for such purpose ;

And Whereas, The Senate subsequently proposed the same measure in the form of an amendment to the appropriation bill, and the House of Representatives non-concurred therein ;

And Whereas, The Senate, with a view to relieving the two branches of the legislature from the embarrassment of a disagreement on this point, amended a second appropriation bill by the insertion of the following words, to wit:—"And there is created a contingent fund of one thousand dollars for each branch of the legislature, the same to be paid out on the warrant of the governor in such sum or sums as may be ordered by each branch, such order to be ratified by the presiding officer thereof,"—in which amendment the House non-concurred ;

And Whereas, The Constitution declares that the "Senate shall be the final judge of the elections, returns and qualifications of its own members," and the exercise of that right requires investigation to be made, necessarily involving expenses, it follows that the extent and amount of the same can only be decided by the body ordering such investigation, for the reason that the investigation is made by the Senate alone, and cannot be the subject of official knowledge on the part of the other branch ;

It is therefore, Resolved, That in refusing to concur with the Senate in making an appropriation in furtherance of the purposes above set forth, the action of the House of Representatives is an invasion of the constitutional rights and privileges of the Senate, and if persisted in, will constitute a practical denial by the House of the rights of the Senate to decide upon "the elections, qualifications and returns of its own members."

Resolved, That the propositions already made to the House have shown a disposition on the part of the Senate to make all honorable concessions consistent with its constitutional rights, and its earnest desire to relieve the House from all responsibility for the specific appropriation of money to objects in regard to the propriety of which there may be a difference of opinion between the two Houses.

Resolved, That in its action the Senate have been guided solely by a desire to preserve rights and powers, the exercise of which is indispensable to the proper performance of its duties as a coördinate branch of the government.