

5th CONGRESS.]

No. 98.

[2d Session.

DEBATES OF CONGRESS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 6, 1797.

Mr. HARPER, from the committee to whom was referred the memorial of Thomas Carpenter, made the following report:

The memorialist states that he, some time ago, undertook the publication of a work entitled "The American Senator," and containing an account of the debates and proceedings of Congress; but that the number of subscribers has not been sufficient to enable him to carry it on. He therefore prays the patronage of the House, and proposes that it should order each member to be furnished, at public expense, with three copies, which, calculating the session at eighteen weeks, he supposes would not amount to more than \$2,350 annually.

It appears that, about two years ago, a subject analogous to the present was brought under the consideration of Congress, and in a form the committee conceives to have been far more advisable. It was then proposed to engage a stenographer, a person of known and considerable abilities, who, assisted by proper clerks, and aided by all the papers of the House, should report the debates and proceedings, and publish them from day to day in the newspapers. In this way the House and its members would have had a more complete control over the publication, better and more early opportunities would have been afforded for correcting any errors, and the reports appearing in the newspapers from day to day would have been far more useful and satisfactory than in the mode now suggested. The publication of these reports in a volume, at the end of the session, would have answered equally the purpose of preserving them; and the expense proposed, even if expense in a case of this kind were a more important consideration than the committee take it to be, would have been nearly the same. This plan, however, after mature discussion, was discountenanced and finally dropped. The committee can perceive no reason why it should be more eligible now than it then was; and, were it proper for the House to adopt any measure of this nature, they are of opinion that the one proposed by the memorialist is wholly inadmissible; since by it the House, at a very considerable expense, would give its sanction to a publication not under its control, and which, appearing in the first instance in the form of a volume, could answer little purpose of general information, and would be little susceptible of correction.

The committee are therefore of opinion that the plan proposed by the memorialist ought not to be agreed to; and they beg leave, accordingly, to submit to the consideration of the House the following resolution:

Resolved, That the said Thomas Carpenter have leave to withdraw his memorial.

5th CONGRESS.]

No. 99.

[2d Session.

EVIDENCE IN CASES OF CONTESTED ELECTIONS.

COMMUNICATED TO THE HOUSE OF REPRESENTATIVES, DECEMBER 15, 1797.

Mr. HARPER, from the committee to whom were recommitted certain resolutions respecting the mode of taking evidence in cases of contested elections, with instructions to take the matter of those resolutions generally into their consideration, and report their opinion thereon to the House, having carefully examined the subject, made the following report:

The subject contemplated by these resolutions naturally presents itself under two points of view: the inconveniences resulting from the want of permanent regulations, and the difficulties which stand in the way of their establishment.

These inconveniences have been felt and complained of, from the commencement of the Government till the present day; and they must continually augment with the natural increase of those causes which give rise to contests in elections, while their pressure will become more and more heavy as the progress of population on the frontiers shall add new and more remote districts to the Union. They have been so frequently experienced, and are so universally admitted, that a particular enumeration of them does not appear necessary.

These inconveniences, the committee suppose, may, in a very considerable degree, be avoided by the establishment of some permanent regulations respecting evidence in cases of contested elections. As to the difficulties which oppose themselves to the adoption of such regulations, they have been considered by the committee under a two-fold point of view: first, as respects the powers of one House of Representatives to establish rules binding upon future Houses; and, secondly, as respects the propriety of permitting the other branches of the Legislature to interfere, even in the most indirect manner, in the trial of contested elections for the House of Representatives, to which the sole decision, in such cases, is referred by the constitution.

It is said that if resolutions merely are adopted, they can last no longer than the House which made them, and, consequently, cannot be permanent. It is said that such resolutions, even could they be permanent, could confer no power to compel the attendance of witnesses before the persons authorized to take examinations, without which the whole process would be imperfect and ineffectual; and that this object cannot be accomplished without a law. It is said that to pass a law, by the consequences of which the decision of contested elections might be effected, would be to give the other branches of the Legislature a control over objects which the principles of the constitution, no less than its express directions, require to be confined exclusively to the House itself. It is said, in fine, that such a law, even if permitted by the constitution, would be ineffectual, because it could enact no sanctions under which the admission of testimony, taken pursuant to its directions, could be enforced on any future House of Representatives.