

Sec. 6—Rights and Disabilities of Members

Cl. 2—Disabilities of Members

Incompatible Offices

This second part of the second clause, prohibiting the holding of an office of the United States during membership in Congress, elicited little discussion at the Convention and was universally understood to be a safeguard against executive influence on Members of Congress and the prevention of the corruption of the separation of powers.⁴⁷⁶ Congress has at various times confronted the issue in regard to seating or expelling persons who have or obtain office in another branch. Thus, it has determined that visitors to academies, regents, directors, and trustees of public institutions, and members of temporary commissions who receive no compensation as members are not officers within the constitutional inhibition.⁴⁷⁷ Government contractors and federal officers who resign before presenting their credentials may be seated as Members of Congress.⁴⁷⁸

One of the more recurrent problems which Congress has had with this clause is the compatibility of congressional office with service as an officer of some military organization—militia, reserves, and the like.⁴⁷⁹ Members have been unseated for accepting appointment to military office during their terms of congressional office,⁴⁸⁰ but there are apparently no instances in which a Member-elect has been excluded for this reason. Because of the difficulty of successfully claiming standing, the issue has never been a litigable matter.⁴⁸¹

SECTION 7. Clause 1. All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

Clause 2. Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approves he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who

⁴⁷⁶ THE FEDERALIST, No. 76 (Hamilton) (J. Cooke ed. 1961), 514; 2 J. STORY, COMMENTARIES ON THE CONSTITUTION OF THE UNITED STATES §§ 866–869 (1833).

⁴⁷⁷ 1 HINDS' PRECEDENTS OF THE HOUSE OF REPRESENTATIVES § 493 (1907); 6 CANNON'S PRECEDENTS OF THE HOUSE OF REPRESENTATIVES §§ 63–64 (1936).

⁴⁷⁸ HINDS', *supra* §§ 496–499.

⁴⁷⁹ Cf. RIGHT OF A REPRESENTATIVE IN CONGRESS TO HOLD COMMISSION IN NATIONAL GUARD, H. REP. NO. 885, 64th Cong., 1st sess. (1916).

⁴⁸⁰ HINDS', *supra* §§ 486–492, 494; CANNON'S, *supra* §§ 60–62.

⁴⁸¹ An effort to sustain standing was rebuffed in *Schlesinger v. Reservists Committee to Stop the War*, 418 U.S. 208 (1974).