

Sec. 5—Powers and Duties of the Houses

Cls. 1–4—Judging Elections

for the purpose of determining whether the yeas and nays were ordered, and what the vote was on any particular question, the Journal must be presumed to show the truth, and a statement therein that a quorum was present, though not disclosed by the yeas and nays, is final.⁴²⁴ But when an enrolled bill, which has been signed by the Speaker of the House and by the President of the Senate, in open session receives the approval of the President and is deposited in the Department of State (or in modern times, the National Archives), its authentication as a bill that has passed Congress is complete and unimpeachable, and it is not competent to show from the Journals of either House that an act so authenticated, approved, and deposited in fact omitted one section actually passed by both houses of Congress.⁴²⁵

SECTION 6. Clause 1. The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place.

COMPENSATION AND IMMUNITIES OF MEMBERS

Congressional Pay

With the surprise ratification of the Twenty-Seventh Amendment,⁴²⁶ it is now the rule that congressional legislation “varying”—decreasing or increasing—the level of legislators’ pay may not take effect until an intervening election has occurred. The only real controversy likely to arise in the interpretation of the new rule is whether pay increases that result from automatic alterations in pay are subject to the same requirement or whether it is only the initial enactment of the automatic device that is covered. That is, from the found-

⁴²⁴ *United States v. Ballin*, 144 U.S. 1, 4 (1892).

⁴²⁵ *Field v. Clark*, 143 U.S. 649 (1892); *Flint v. Stone Tracy Co.*, 220 U.S. 107, 143 (1911). See the dispute in the Court with regard to the application of *Field* in an origination clause dispute. *United States v. Munoz-Flores*, 495 U.S. 385, 391 n.4 (1990), and *id.* at 408 (Justice Scalia concurring in the judgment). A parallel rule holds in the case of a duly authenticated official notice to the Secretary of State that a state legislature has ratified a proposed amendment to the Constitution. *Lester v. Garnett*, 258 U.S. 130, 137 (1922); see also *Coleman v. Miller*, 307 U.S. 433 (1939).

⁴²⁶ See discussion under Twenty-Seventh Amendment, *infra*.