

Sec. 2—Judicial Power and Jurisdiction

Cl. 1—Cases and Controversies

tablish that he has a “personal stake” in the dispute and that the alleged injury suffered is particularized as to him.⁴⁸¹ Neither requirement, the Court held, was met by these legislators. First, the Members did not suffer a particularized loss that distinguished them from their colleagues or from Congress as an entity. Second, the Members did not claim that they had been deprived of anything to which they were personally entitled. “[A]ppellees’ claim of standing is based on loss of political power, not loss of any private right, which would make the injury more concrete. . . . If one of the Members were to retire tomorrow, he would no longer have a claim; the claim would be possessed by his successor instead. The claimed injury thus runs (in a sense) with the Member’s seat, a seat which the Member holds . . . as trustee for his constituents, not as a prerogative of personal power.”⁴⁸²

So, there is no such thing as Member standing? Not necessarily so, because the Court turned immediately to preserving (at least a truncated version of) *Coleman v. Miller*,⁴⁸³ in which the Court had found that 20 of the 40 members of a state legislature had standing to sue to challenge the loss of the effectiveness of their votes as a result of a tie-breaker by the lieutenant governor. Although there are several possible explanations for the result in that case, the Court in *Raines* chose to fasten on a particularly narrow point. “[O]ur holding in *Coleman* stands (at most . . .) for the proposition that legislators whose votes would have been sufficient to defeat (or enact) a specific legislative Act have standing to sue if that legislative action goes into effect (or does not go into effect), on the ground that their votes have been completely nullified.”⁴⁸⁴ Because these Members could still pass or reject appropriations bills, vote to repeal the Act, or exempt any appropriations bill from presidential cancellation, the Act did not nullify their votes and thus give them standing.⁴⁸⁵

It may be observed that the Court’s two holdings do not cohere. If legislators have standing only to allege personal injuries suffered in their personal capacities, how can they have standing to assert official-capacity injury in being totally deprived of the effectiveness of their votes?

Standing to Challenge Lawfulness of Governmental Action.—Standing to challenge governmental action on statutory or other non-constitutional grounds has a constitutional content to the

⁴⁸¹ 521 U.S. at 819.

⁴⁸² 521 U.S. at 821.

⁴⁸³ 307 U.S. 433 (1939).

⁴⁸⁴ 521 U.S. at 823.

⁴⁸⁵ 521 U.S. at 824–26.