

Sec. 2—Judicial Power and Jurisdiction

Cl. 1—Cases and Controversies

sources would be disturbed by the adverse environmental impact caused by the nonuse of recyclable goods, had standing as “persons aggrieved” to challenge the rates set. Neither the large numbers of persons allegedly injured nor the indirect and less perceptible harm to the environment was justification to deny standing. The Court granted that the plaintiffs might never be able to establish the “attenuated line of causation” from rate setting to injury, but that was a matter for proof at trial, not for resolution on the pleadings.⁴⁹⁵

Much debate has occurred in recent years with respect to the validity of “citizen suit” provisions in the environmental laws, especially in light of the Court’s retrenchment in constitutional standing cases. The Court in insisting on injury in fact as well as causation and redressability has curbed access to citizen suits,⁴⁹⁶ but that Congress may expansively confer substantial degrees of standing through statutory creations of interests remains true.

The Requirement of a Real Interest

Almost inseparable from the requirements of adverse parties and substantial enough interests to confer standing is the requirement that a *real* issue be presented, as contrasted with speculative, abstract, hypothetical, or moot issues. It has long been the Court’s “considered practice not to decide abstract, hypothetical or contingent questions.”⁴⁹⁷ A party cannot maintain a suit “for a mere declaration in the air.”⁴⁹⁸ In *Texas v. ICC*,⁴⁹⁹ the State attempted to enjoin the enforcement of the Transportation Act of 1920 on the ground that it invaded the reserved rights of the State. The Court dismissed the complaint as presenting no case or controversy, declaring: “It is only where rights, in themselves appropriate subjects of judicial cognizance, are being, or about to be, affected prejudicially by the application or enforcement of a statute that its validity may be called in question by a suitor and determined by an exertion of

(1940). See also *Gladstone Realtors v. Village of Bellwood*, 441 U.S. 91, 103 n. (1979); *Havens Realty Corp. v. Coleman*, 455 U.S. 363, 376 n.16 (1982) (noting ability of such party to represent interests of third parties).

⁴⁹⁵ *United States v. SCRAP*, 412 U.S. 669, 683–690 (1973). As was noted above, this case has been disparaged by the later Court. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 566–67 (1992); *Whitmore v. Arkansas*, 495 U.S. 149, 158–160 (1990).

⁴⁹⁶ See *Lujan v. Defenders of Wildlife*, 504 U.S. 555 (1992); *Lujan v. National Wildlife Federation*, 497 U.S. 871 (1990). But see *Bennett v. Spear*, 520 U.S. 154 (1997) (fact that citizen suit provision of Endangered Species Act is directed at empowering suits to further environmental concerns does not mean that suitor who alleges economic harm from enforcement of Act lacks standing); *FEC v. Akins*, 524 U.S. 11 (1998) (expansion of standing based on denial of access to information).

⁴⁹⁷ *Alabama State Fed’n of Labor v. McAdory*, 325 U.S. 450, 461 (1945).

⁴⁹⁸ *Giles v. Harris*, 189 U.S. 475, 486 (1903).

⁴⁹⁹ 258 U.S. 158 (1922).