derivative rather than direct interest in protecting their votes, which was sufficient for standing purposes, when some "legislative disenfranchisement" occurred.[476]

In a comprehensive assessment of its position, the Circuit distinguished between (1) a diminution in congressional influence resulting from executive action that nullifies a specific congressional vote or opportunity to vote in an objectively verifiable manner, which will constitute injury in fact, and (2) a diminution in a legislator's effectiveness, subjectively judged by him, resulting from executive action, such a failing to obey a statute, where the plaintiff legislator has power to act through the legislative process, in which injury in fact does not exist.[477] Having thus established a fairly broad concept of Member standing, the Circuit then proceeded to curtail it by holding that the equitable discretion of the court to deny relief should be exercised in many cases in which a Member had standing but in which issues of separation of powers, political questions, and other justiciability considerations counseled restraint.[478] The status of this issue thus remains in confusion.

Member or legislator standing has been severely curtailed, although not quite abolished, in *Raines v. Byrd*.[479] Several Members of Congress, who had voted against passage of the Line Item Veto Act, sued in their official capacities as Members of Congress to invalidate the law, alleging standing based on the theory that the statute adversely affected their constitutionally prescribed lawmaking power.[480] Emphasizing its use of standing doctrine to maintain separation-of-powers principles, the Court adhered to its holdings that, in order to possess the requisite standing, a person must es-

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[476] Kennedy v. Sampson, 511 F.2d 430, 435–436 (D.C. Cir. 1974). *See* Harrington v. Bush, 553 F.2d 190, 199 n.41 (D.C. Cir. 1977). *Harrington* found no standing in a Member's suit challenging CIA failure to report certain actions to Congress, in order that Members could intelligently vote on certain issues. *See also* Reuss v. Balles, 584 F.2d 461 (D.C. Cir. 1978), *cert. denied*, 439 U.S. 997 (1978).

[477] Goldwater v. Carter, 617 F.2d 697, 702, 703 (D.C. Cir. 1979) (en banc), *vacated and remanded with instructions to dismiss*, 444 U.S. 996 (1979). The failure of the Justices to remark on standing is somewhat puzzling, since it has been stated that courts "turn initially, although not invariably, to the question of standing to sue." Schlesinger v. Reservists Comm. to Stop the War, 418 U.S. 208, 215 (1974). *But see* Harrington v. Bush, 553 F.2d 190, 207 (D.C. Cir. 1977). In any event, the Supreme Court's decision vacating *Goldwater* deprives the Circuit's language of precedential effect. United States v. Munsingwear, 340 U.S. 36, 39–40 (1950); O'Connor v. Donaldson, 422 U.S. 563, 577 n.12 (1975).

[478] Riegle v. FOMC, 656 F.2d 873 (D.C. Cir. 1981), *cert. denied*, 454 U.S. 1082 (1981).

[479] 521 U.S. 811 (1997).

[480] The Act itself provided that "[a]ny Member of Congress or any individual adversely affected" could sue to challenge the law. 2 U.S.C. § 692(a)(1). After failure of this litigation, the Court in the following Term, on suits brought by claimants adversely affected by the exercise of the veto, held the statute unconstitutional. Clinton v. City of New York, 524 U.S. 417 (1998).