



BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551

October 29, 1979

TO: Federal Open Market Committee

FROM: Murray Altmann *M.A.*


Attached is a memorandum to the Board of Governors from Mr. Petersen transmitting the order of the United States District Court for the District of Columbia in the case of Riegle v. Federal Open Market Committee, et al.

Attachment

October 26, 1979

To: Board of Governors

Subject: Riegle v. Federal Open
Market Committee, et al.

From: Neal L. Petersen 

The Court today after oral argument this Tuesday, October 23, granted the defendants' motion to dismiss the above action, challenging the Constitutionality of the selection and appointment of Reserve Bank members of the FOMC, on the ground that the plaintiff, Senator Riegle, lacked standing to bring the action. The Court did not, therefore, address the merits of the controversy.

The plaintiff has 60 days to file a notice of appeal to the Court of Appeals and we presume he will do so.

A copy of the order is attached.

Attachment

cc: Messrs. Axilrod, Ettin, Altmann, Mannion, Siciliano

members, particularly plaintiff, whose committee assignments involve him directly in matters which concern the operation of the Federal Reserve System. Plaintiff's status as a litigant in this action rests, therefore, on his ability to establish his standing as a Congressman who has suffered an individual injury derivative of an injury to the interest of the Senate as a whole. See Harrington v. Bush, 553 F.2d 190 (D.C. Cir. 1977); Kennedy v. Sampson, 511 F.2d 410 (D.C. Cir. 1974).


Plaintiff has failed to satisfy this standard. Unlike the injured party in Kennedy v. Sampson, Senator Riegle's alleged injury does not stem from Executive action that frustrates an otherwise effective congressional enactment, nor does it impair his powers as a legislator in any manner that is not redressable by Congress. The legislative process continues to operate in unimpeded fashion; Congress' power to require additional FOMC membership criteria remains clearly undiminished. See Reuss v. Balles, 584 F.2d 461, 467-68 (D.C. Cir.), cert. denied, 439 U.S. 997 (1978); Harrington v. Bush, supra, 553 F.2d at 199-200 n. 41. Congress enacted the relevant statutory provision over 40 years ago, it has had numerous opportunities to amend the statute since that time, and it retains the option to modify the statute today. Under these circumstances, it appears that Senator Riegle's injury is of a political nature, deriving solely from the acts or omissions of his colleagues and not in any way from the actions of the named defendants. Reuss v. Balles, supra 584 F.2d at 468. See Simon v. Eastern Ky. Welfare Rights Org., 426 U.S. 26, 41-42 (1976).

Plaintiff's attempt to distinguish Reuss v. Balles by relying on the Senate's powers under the appointments Clause is unavailing. The distinction plaintiff would have the Court draw wrongly focuses attention on the

question of which chamber is the possessor of a given constitutional authority. What the Court must decide is whether or not a Congressman from either chamber has standing to challenge the constitutionality of a statutory provision on which he has failed to persuade his colleagues in the past and remains free to attempt persuasion in the future. The Court concludes that to confer standing upon such a Congressman without more would improperly interfere with the legislative process.

Accordingly, plaintiff's motion for summary judgment is denied; defendants' motion to dismiss is granted, and the action is hereby dismissed.

SO ORDERED.



UNITED STATES DISTRICT JUDGE

October 26, 1979.