

“(c) All laws of the United States in force on September 1, 1948, in which reference is made to the ‘Conference of Senior Circuit Judges’, or to the ‘Judicial Conference of Senior Circuit Judges’ are amended by substituting ‘Judicial Conference of the United States’ for such designations.

“(d) This section shall not be construed to amend historical references to courts or judicial offices which have no present or future application to such courts or offices.”

§ 1251. Original jurisdiction

(a) The Supreme Court shall have original and exclusive jurisdiction of all controversies between two or more States.

(b) The Supreme Court shall have original but not exclusive jurisdiction of:

(1) All actions or proceedings to which ambassadors, other public ministers, consuls, or vice consuls of foreign states are parties;

(2) All controversies between the United States and a State;

(3) All actions or proceedings by a State against the citizens of another State or against aliens.

(June 25, 1948, ch. 646, 62 Stat. 927; Pub. L. 95-393, §8(b), Sept. 30, 1978, 92 Stat. 810.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§341, 371(7), (8) (Mar. 3, 1911, ch. 231, §§233, 256, 36 Stat. 1156, 1160; Oct. 6, 1917, ch. 97, §2, 40 Stat. 395; June 10, 1922, ch. 216, §2, 42 Stat. 635).

This section reconciles provisions of sections 341 and 371(7), (8) of title 28, U.S.C., 1940 ed., with Article 3, section 2 and Amendment 11 of the Constitution.

Sections 341 and 371 of title 28, U.S.C., 1940 ed., were not wholly consistent with such constitutional provisions. Said section 341 provided that the Supreme Court should have original jurisdiction of controversies between a State and citizens of other States or aliens, whereas the 11th Amendment prohibits an action in any Federal Court against a State by citizens of another State or aliens.

The original jurisdiction conferred on the Supreme Court by Article 3, section 2, of the Constitution is not exclusive by virtue of that provision alone. Congress may provide for or deny exclusiveness. *Ames v. Kansas*, 1884, 4 S.Ct. 437, 111 U.S. 449, 28 L.Ed. 442; *U.S. v. 4,450.72 Acres of Land, Clearwater County, State of Minnesota*, D.C. Minn., 1939, 27 F.Supp. 167, affirmed 125 F.2d 636.

Sections 341 and 371 of title 28, U.S.C., 1940 ed., did not confer expressly exclusive jurisdiction on the Supreme Court in civil cases between States, *Louisiana v. Texas*, 1899, 20 S.Ct. 251, 176 U.S. 1, 44 L.Ed. 347, as has been provided in subsection (a)(1) of the revised section. The language at the beginning of said section 341, for which said subsection has been substituted, was ambiguous and made it appear that an action by a State against the United States would be within the exclusive jurisdiction of the Supreme Court. However, in *U.S. v. Louisiana*, 1887, 8 S.Ct. 17, 123 U.S. 32, 31 L.Ed. 69, the Supreme Court, in a case appealed from the Court of Claims, held to the contrary.

So, also, in actions by the United States to condemn lands of a State or to enforce penalties for violation of a Federal statute against a State-owned utility, the United States district courts have jurisdiction. See *United States v. State of Utah*, 1931, 51 S.Ct. 438, 283 U.S. 64, 75 L.Ed. 844; *United States v. 4,450.72 Acres of Land, Clearwater County, State of Minnesota*, D.C. Minn. 1939, 27 F.Supp. 167, affirmed 125 F.2d 636; *United States v. State of California*, 1936, 56 S.Ct. 421, 297 U.S. 175, 80 L.Ed. 567.

The intent of section 371(7), (8) of title 28, U.S.C., 1940 ed., that the jurisdiction of the courts of the United States should be exclusive of the courts of the States in controversies to which a State is a party, and suits

against ambassadors, public ministers, consuls and vice consuls, is preserved and clarified by this section and section 1351 of this title.

The revised section preserves existing law with reference to foreign ambassadors, other public ministers and consuls. Under subsection (a)(2) the Supreme Court has exclusive jurisdiction of actions or proceedings against the ambassadors or public ministers of other nations.

Under subsection (b)(1) the Supreme Court has original but not exclusive jurisdiction of actions or proceedings brought by such ambassadors or other public ministers or to which consuls or vice consuls of other nations are parties.

Section 1351 of this title gives to United States district courts, exclusive of the courts of the States, jurisdiction of civil actions against such consuls and vice consuls.

This section and said section 1351 of this title have no application to ambassadors, public ministers, consuls or vice consuls representing the United States. See *Milward v. McSaul*, D.C.S.D.N.Y. 1846, 17 Fed.Cas.No. 9,623 and *State of Ohio ex rel. Popovici v. Alger*, 1930, 50 S.Ct. 154, 280 U.S. 379, 74 L.Ed. 489.

Changes were made in phraseology.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-393, §8(b)(1), designated introductory provision of subsec. (a) and (a)(1) as (a), and struck out “(2) All actions or proceedings against ambassadors or other public ministers of foreign states or their domestics or domestic servants, not inconsistent with the law of nations”.

Subsec. (b)(1). Pub. L. 95-393, §8(b)(2), substituted “to which ambassadors, other public ministers, consuls, or” for “brought by ambassadors or other public ministers of foreign states or to which consuls or”.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-393 effective at the end of the ninety-day period beginning on Sept. 30, 1978, see section 9 of Pub. L. 95-393, set out as an Effective Date note under section 254a of Title 22, Foreign Relations and Intercourse.

STATUTES GOVERNING WRITS OF ERROR TO APPLY TO APPEALS

Act Jan. 31, 1928, ch. 14, §2, 45 Stat. 54, amended Apr. 26, 1928, ch. 440, 45 Stat. 466; June 25, 1948, ch. 646, §23, 62 Stat. 990, provided that “All Acts of Congress referring to writs of error shall be construed as amended to the extent necessary to substitute appeal for writ of error.” See also, notes preceding section 1 of this title.

§ 1252. Repealed. Pub. L. 100-352, § 1, June 27, 1988, 102 Stat. 662]

Section, acts June 25, 1948, ch. 646, 62 Stat. 928; Oct. 31, 1951, ch. 655, §47, 65 Stat. 726; July 7, 1958, Pub. L. 85-508, §12(e), (f), 72 Stat. 348; Mar. 18, 1959, Pub. L. 86-3, §14(a), 73 Stat. 10, provided for direct appeals to Supreme Court from decisions invalidating Acts of Congress.

EFFECTIVE DATE OF REPEAL

Repeal effective ninety days after June 27, 1988, except that such repeal not to apply to cases pending in Supreme Court on such effective date or affect right to review or manner of reviewing judgment or decree of court which was entered into before such effective date, see section 7 of Pub. L. 100-352, set out as a note under section 1254 of this title.

§ 1253. Direct appeals from decisions of three-judge courts

Except as otherwise provided by law, any party may appeal to the Supreme Court from an order granting or denying, after notice and hear-