

on land or upon waters not within admiralty and maritime jurisdiction, except matters within the jurisdiction of the Court of International Trade under section 1582 of this title.

(June 25, 1948, ch. 646, 62 Stat. 934; Pub. L. 96-417, title V, § 508, Oct. 10, 1980, 94 Stat. 1743.)

#### HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§41(3) and 371(4) (Mar. 3, 1911, ch. 231, §§24, par. 3, 256, par. 4, 36 Stat. 1091, 1160; Oct. 6, 1917, ch. 97, §1, 40 Stat. 395; June 10, 1922, ch. 216, §1, 42 Stat. 634).

Section consolidates certain provisions of sections 41(3) and 371(4) of title 28, U.S.C., 1940 ed. Other provisions of such sections are incorporated in section 1333 of this title.

Changes were made in arrangement and phraseology.

#### AMENDMENTS

1980—Pub. L. 96-417 inserted exception for matters within the jurisdiction of the Court of International Trade under section 1582 of this title.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-417 applicable with respect to civil actions commenced on or after the 90th day after Nov. 1, 1980, see section 701(c)(1)(B) of Pub. L. 96-417, set out as a note under section 251 of this title.

### § 1357. Injuries under Federal laws

The district courts shall have original jurisdiction of any civil action commenced by any person to recover damages for any injury to his person or property on account of any act done by him, under any Act of Congress, for the protection or collection of any of the revenues, or to enforce the right of citizens of the United States to vote in any State.

(June 25, 1948, ch. 646, 62 Stat. 934.)

#### HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §41(11) (Mar. 3, 1911, ch. 231, §24, par. 11, 36 Stat. 1092.)

Words "any civil action" were substituted for "all suits," in view of Rule 2 of the Federal Rules of Civil Procedure.

Minor changes were made in phraseology.

### § 1358. Eminent domain

The district courts shall have original jurisdiction of all proceedings to condemn real estate for the use of the United States or its departments or agencies.

(June 25, 1948, ch. 646, 62 Stat. 935.)

#### HISTORICAL AND REVISION NOTES

Based on section 257 of title 40, U.S.C., 1940 ed., Public Buildings, Property, and Works (Aug. 1, 1888, ch. 728, §1, 25 Stat. 357; Mar. 3, 1911, ch. 231, §291, 36 Stat. 1167).

The venue provisions of section 257 of title 40, U.S.C., 1940 ed., are incorporated in section 1403 of this title.

Other provisions of section 257 of title 40, U.S.C., 1940 ed., are retained in said title 40.

Changes were made in phraseology.

### § 1359. Parties collusively joined or made

A district court shall not have jurisdiction of a civil action in which any party, by assignment or otherwise, has been improperly or collusively made or joined to invoke the jurisdiction of such court.

(June 25, 1948, ch. 646, 62 Stat. 935.)

#### HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed. §§41(1) and 80 (Mar. 3, 1911, ch. 231, §§24(1), 37, 36 Stat. 1091, 1098; May 14, 1934, ch. 283, §1, 48 Stat. 775; Aug. 21, 1937, ch. 726, §1, 50 Stat. 738; Apr. 20, 1940, ch. 117, 54 Stat. 143).

Other provisions of section 41(1) of title 28, U.S.C., 1940 ed., are incorporated in sections 1331, 1332, 1341, 1342, 1345, and 1354 of this title.

Provisions of section 80 of title 28, U.S.C., 1940 ed., for payment of costs upon dismissal of an action for lack of jurisdiction are incorporated in section 1919 of this title. Other provisions of said section 80 appear in section 1447 of this title.

Provisions of section 80 of title 28, U.S.C., 1940 ed., for dismissal of an action not really and substantially involving a dispute or controversy within the jurisdiction of a district court, were omitted as unnecessary. Any court will dismiss a case not within its jurisdiction when its attention is drawn to the fact, or even on its own motion.

The assignee clause in section 41(1) of title 28, U.S.C., 1940 ed., "is a jumble of legislative jargon." (For further references to the consequences of "its obscure phraseology," see, 35 Ill. Law Rev., January 1941, pp. 569-571.)

The revised section changes this clause by confining its application to cases wherein the assignment is improperly or collusively made to invoke jurisdiction. Furthermore, the difficulty of applying the original clause is overcome and the original purpose of such clause is better served by substantially following section 80 of title 28, U.S.C., 1940 ed.

The assignee clause was incorporated in the original Judiciary Act of 1789. Such section 80 was enacted in 1875. The history of the assignee clause "shows clearly that its purpose and effect, at the time of its enactment were to prevent the conferring of jurisdiction on the Federal courts, on grounds of diversity of citizenship, by assignment, in cases where it would not otherwise exist." (*Sowell v. Federal Reserve Bank*, 1925, 45 S.Ct. 528, 529, 268 U.S. 449, 453, 69 L.Ed. 1041, 1048.) Thus the purpose of the assignee clause was to prevent the manufacture of Federal jurisdiction by the device of assignment. It achieves this purpose only partially. For example, the assignee clause excepts two types of choses in action from its coverage: (1) Foreign bill of exchange; and (2) corporate bearer paper. But this does not prevent the use of assignment of these choses in action to create the necessary diversity or alienage for jurisdictional purposes. Such section 80 does, however, prevent that. (See *Bullard v. City of Cisco*, 1933, 54 S.Ct. 177, 290 U.S. 179, 78 L.Ed. 254, 93 A.L.R. 141.) Its coverage against collusive jurisdiction is unlimited, and its approach is direct. The assignee clause, on the other hand, prevents the bona fide assignee of a chose in action within its terms from resorting to the Federal courts unless there is jurisdiction to support the assignee-plaintiff's case and a showing that there would have been jurisdiction if the assignor had brought the action in lieu of the assignee-plaintiff. Since the assignee clause deals with the bona fide assignee, there has been much litigation to determine the assignments which should or should not be within the purview of the clause. Thus the courts have thought it advisable to limit the term "chose in action" and exclude from its scope (1) an implied in law duty or promise, and (2) a transfer of a property interest; and to exclude an assignment by operation of law from the coverage of the clause. Intermediate assignments and reassignment also give difficulty.

### § 1360. State civil jurisdiction in actions to which Indians are parties

(a) Each of the States listed in the following table shall have jurisdiction over civil causes of action between Indians or to which Indians are parties which arise in the areas of Indian country listed opposite the name of the State to the