

Sec. 2—Judicial Power and Jurisdiction

Cl. 1—Cases and Controversies

of itself preclude suits in state courts against consular officials. The leading case is *Ohio ex rel. Popovici v. Agler*,⁸⁴⁷ in which a Rumanian vice-consul contested an Ohio judgment against him for divorce and alimony.

A number of incidental questions arise in connection with the phrase “affecting ambassadors and consuls.” Does the ambassador or consul to be affected have to be a party in interest, or is a mere indirect interest in the outcome of the proceeding sufficient? In *United States v. Ortega*,⁸⁴⁸ the Court ruled that a prosecution of a person for violating international law and the laws of the United States by offering violence to the person of a foreign minister was not a suit “affecting” the minister but a public prosecution for vindication of the laws of nations and the United States. Another question concerns the official status of a person claiming to be an ambassador or consul.

The Court has refused to review the decision of the Executive with respect to the public character of a person claiming to be a public minister and has laid down the rule that it has the right to accept a certificate from the Department of State on such a question.⁸⁴⁹ A third question was whether the clause included ambassadors and consuls accredited by the United States to foreign governments. The Court held that it includes only persons accredited to the United States by foreign governments.⁸⁵⁰ However, in matters of especial delicacy, such as suits against ambassadors and public ministers or their servants, where the law of nations permits such suits, and in all controversies of a civil nature in which a state is a party, Congress until recently made the original jurisdiction of the Supreme Court exclusive of that of other courts.⁸⁵¹ By its compliance with the congressional distribution of exclusive and concurrent original jurisdiction, the Court has tacitly sanctioned the power of Congress to make such jurisdiction exclusive or concurrent as it may choose.

Cases of Admiralty and Maritime Jurisdiction

The admiralty and maritime jurisdiction of the federal courts had its origins in the jurisdiction vested in the courts of the Admiral of the English Navy. Prior to independence, vice-admiralty courts were created in the Colonies by commissions from the English High

⁸⁴⁷ 280 U.S. 379, 383, 384 (1930). Now precluded by 28 U.S.C. § 1351.

⁸⁴⁸ 24 U.S. (11 Wheat.) 467 (1826).

⁸⁴⁹ *In re Baiz*, 135 U.S. 403, 432 (1890).

⁸⁵⁰ *Ex parte Gruber*, 269 U.S. 302 (1925).

⁸⁵¹ 1 Stat. 80–81 (1789). Jurisdiction in the Supreme Court since 1978 has been original but not exclusive. Pub. L. 95–393, § 8(b), 92 Stat. 810, 28 U.S.C. § 1251(b)(1).