right of foreign corporations to resort to federal courts in diversity is not one that the states may condition as a qualification for doing business in the state.[1086]

Unincorporated associations, such as partnerships, joint stock companies, labor unions, governing boards of institutions, and the like, do not enjoy the same privilege as a corporation; the actual citizenship of each of its members must be considered in determining whether diversity exists.[1087]

Manufactured Diversity.—A litigant who, because of diversity of citizenship, can choose whether to sue in state or federal court, will properly consider where the advantages and disadvantages balance, and if diversity is lacking, a litigant who perceives the balance to favor the federal forum will sometimes attempt to create diversity. In the Judiciary Act of 1789, Congress exempted from diversity jurisdiction suits on choses of action in favor of an assignee unless the suit could have been brought in federal court if no assignment had been made.[1088] One could create diversity by a *bona fide* change of domicile even with the sole motive of creating domicile.[1089] Similarly, one could create diversity, or defeat it, by choosing a personal representative of the requisite citizenship.[1090] Most attempts to manufacture or create diversity have involved corporations. A corporation cannot get into federal court by transferring its claim to a subsidiary incorporated in another state,[1091] and for a time the Supreme Court tended to look askance at collusory incorporations and the creation of dummy corporations for purposes of creating diversity.[1092] But, in *Black & White Taxicab & Trans-*

[1086] In Terral v. Burke Constr. Co., 257 U.S. 529 (1922), the Court resolved two conflicting lines of cases and voided a state statute that required the cancellation of the license of a foreign corporation to do business in the state upon notice that the corporation had removed a case to a federal court.

[1087] Chapman v. Barney, 129 U.S. 677 (1889); Great Southern Fire Proof Hotel Co. v. Jones, 177 U.S. 449 (1900); Thomas v. Board of Trustees, 195 U.S. 207 (1904); United Steelworkers v. R.H. Bouligny, Inc., 382 U.S. 145 (1965); Carden v. Arkoma Associates, 494 U.S. 185 (1990). *But compare* People of Puerto Rico v. Russell & Co., 288 U.S. 476 (1933), distinguished in *Carden*, 494 U.S. at 189–190, and Navarro Savings Ass'n v. Lee, 446 U.S. 458 (1980), distinguished in *Carden*, 494 U.S. at 191–192.

[1088] Ch. XIX, § 11, 1 Stat. 78, sustained in Turner v. Bank of North America, 4 U.S. (4 Dall.) 8 (1799), and Sheldon v. Sill, 49 U.S. (8 How.) 441 (1850). The present statute, 28 U.S.C. § 1359, provides that no jurisdiction exists in 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." *See* Kramer v. Caribbean Mills, 394 U.S. 823 (1969).

[1089] Williamson v. Osenton, 232 U.S. 619 (1914); Morris v. Gilmer, 129 U.S. 315 (1889).

[1090] Mecom v. Fitzsimmons Drilling Co., 284 U.S. 183 (1931).

[1091] Miller & Lux v. East Side Canal & Irrigation Co., 211 U.S. 293 (1908).

[1092] *E.g.*, Southern Realty Co. v. Walker, 211 U.S. 603 (1909).