given in the constitution," the right of the United States to sue in its own courts "is clearly implied in that part respecting the judicial power. . . . Indeed, all the usual incidents appertaining to a *personal* sovereign, in relation to contracts, and suing, and enforcing rights, so far as they are within the scope of the powers of the government, belong to the United States, as they do to other sovereigns."[951] As early as 1818, the Supreme Court ruled that the United States could sue in its own name in all cases of contract without congressional authorization of such suits.[952] Later, this rule was extended to other types of actions. In the absence of statutory provisions to the contrary, such suits are initiated by the Attorney General in the name of the United States.[953]

By the Judiciary Act of 1789, and subsequent amendments to it, Congress has vested in the federal district courts jurisdiction to hear all suits of a civil nature at law or in equity brought by the United States as party plaintiff.[954] As in other judicial proceedings, the United States, like any party plaintiff, must have an interest in the subject matter and a legal right to the remedy sought.[955] Under the long-settled principle that the courts have the power to abate public nuisances at the suit of the government, the provision in § 208(2) of the Labor Management Relations Act of 1949, authorizing federal courts to enjoin strikes that imperil national health or safety was upheld on the grounds that the statute entrusts the courts with the determination of a "case or controversy" on which the judicial power can operate and does not impose any legislative, executive, or non-judicial function. Moreover, the fact that the rights sought to be protected were those of the public in unimpeded production

---

[951] 3 J. Story, Commentaries on the Constitution of the United States 1274 (1833), (emphasis in original).

[952] Dugan v. United States, 16 U.S. (3 Wheat.) 172 (1818).

[953] United States v. San Jacinto Tin Co., 125 U.S. 273 (1888); United States v. Beebe, 127 U.S. 338 (1888); United States v. Bell Telephone Co., 128 U.S. 315 (1888). Whether without statutory authorization the United States may sue to protect the constitutional rights of its citizens has occasioned conflict. *Compare* United States v. Brand Jewelers, 318 F. Supp. 1293 (S.D.N.Y. 1970), *and* United States v. Brittain, 319 F. Supp. 1658 (S.D.Ala. 1970), *with* United States v. Mattson, 600 F.2d 1295 (9th Cir. 1979), and United States v. Solomon, 563 F.2d 1121 (4th Cir. 1977). The result in *Mattson* and *Solomon* was altered by specific authorization in the Civil Rights of Institutionalized Persons Act, Pub. L. 96–247, 94 Stat. 349 (1980), 42 U.S.C. §§ 1997 *et seq*. *See also* United States v. City of Philadelphia, 644 F.2d 187 (3d Cir. 1980) (no standing to sue to correct allegedly unconstitutional police practices).

[954] 28 U.S.C. § 1345. By virtue of the fact that the original jurisdiction of the Supreme Court extends only to those cases enumerated in the Constitution, jurisdiction over suits brought by the United States against persons or corporations is vested in the lower federal courts. Suits by the United States against a state may be brought in the Supreme Court under its original jurisdiction, 28 U.S.C. § 1251(b)(2), although such suits may also be brought in the district courts. Case v. Bowles, 327 U.S. 92, 97 (1946).

[955] United States v. San Jacinto Tin Co., 125 U.S. 273 (1888).