

Part VI.—PARTICULAR PROCEEDINGS

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SENATE REVISION AMENDMENT

Chapters 169, 171 and 173 were renumbered "167", "169" and "171", respectively, without change in their section numbers, by Senate amendment. See 80th Congress Senate Report No. 1559.

CROSS REFERENCES

Admiralty proceedings, see Admiralty Rules, Appendix to this title.

Arbitration proceedings, see sections 3 et seq. of Title 9, Arbitration.

Bankruptcy proceedings, see General Orders and Forms in Bankruptcy Title 11, Appendix, Bankruptcy.

Copyright proceedings, see section 101 of Title 17, Copyrights, and rules of copyright practice set out in Appendix to Title 17.

Labor disputes, procedure, see sections 159 and 160 of Title 29, Labor.

Railway labor disputes, court procedure after arbitration, see section 159 of Title 45, Railroads.

See, also, rule 81 of the Federal Rules of Civil Procedure, Appendix to this title.

Chapter 151.—DECLARATORY JUDGMENTS

Sec.

2201. Creation of remedy.

2202. Further relief.

§ 2201. Creation of remedy.

In a case of actual controversy within its jurisdiction, except with respect to Federal taxes, any court of the United States, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought. Any such declaration shall have the force and effect of a final judgment or decree and shall be reviewable as such. (June 25, 1948, ch. 646, 62 Stat. 964; May 24, 1949, ch. 139, § 111, 63 Stat. 105; Aug. 28, 1954, ch. 1033, 68 Stat. 890; July 7, 1958, Pub. L. 85-508, § 12 (p), 72 Stat. 349.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 400 (Mar. 3, 1911, ch. 231, § 274d, as added June 14, 1934, ch. 512, 48 Stat. 955; Aug. 30, 1935, ch. 829, § 405, 49 Stat. 1027).

This section is based on the first paragraph of section 400 of title 28, U. S. C., 1940 ed. Other provisions of such section are incorporated in section 2202 of this title.

While this section does not exclude declaratory judgments with respect to State taxes, such suits will not ordinarily be entertained in the courts of the United States where State law makes provision for payment under protest and recovery back or otherwise affords adequate remedy in the State courts. See *Great Lakes Dredge & Dock Co. v. Huffman*, La. 1943, 63 S. Ct. 1070,

319 U. S. 293, 87 L. Ed. 1407. See also *Spector Motor Service v. McLaughlin*, Conn. 1944, 65 S. Ct. 152, 323 U. S. 101, 89 L. Ed. 101. See also section 1341 of this title forbidding district courts to restrain enforcements of State taxes where State courts afford plain, speedy, and efficient remedy.

Changes were made in phraseology.

AMENDMENTS

1958—Subsec. (a) amended by Pub. L. 85-508 to eliminate provisions which related to the District Court for the Territory of Alaska. See section 81A of this title which establishes a United States District Court for the State of Alaska.

1954—Act Aug. 28, 1954, amended section to extend its provisions to Alaska.

1949—Act May 24, 1949, corrected spelling of "or" in second sentence.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment of section by Pub. L. 85-503 as effective upon the admission of Alaska into the Union, see note set out under section 81A of this title.

AMOUNT IN CONTROVERSY

Jurisdictional amount increased from \$3,000 to \$10,000 in diversity of citizenship cases and in cases arising under the Constitution, laws, or treaties of the United States, see sections 1331 and 1332 of this title.

§ 2202. Further relief.

Further necessary or proper relief based on a declaratory judgment or decree may be granted, after reasonable notice and hearing, against any adverse party whose rights have been determined by such judgment. (June 25, 1948, ch. 646, 62 Stat. 964.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 400 (Mar. 3, 1911, ch. 231, § 274d, as added June 14, 1934, ch. 512, 48 Stat. 955; Aug. 30, 1935, ch. 829, § 405, 49 Stat. 1027).

This section is based on the second paragraph of section 400 of title 28, U. S. C., 1940 ed. Other provisions of such section are incorporated in section 2201 of this title.

Provision in said section 400 that the court shall require adverse parties whose rights are adjudicated to show cause why further relief should not be granted forthwith, were omitted as unnecessary and covered by the revised section.

Provisions relating to submission of interrogatories to a jury were omitted as covered by rule 49 of the Federal Rules of Civil Procedure.

Changes were made in phraseology.

Chapter 153.—HABEAS CORPUS

Sec.

2241. Power to grant writ.

2242. Application.

2243. Issuance of writ; return; hearing; decision.

2244. Finality of determination.

2245. Certificate of trial judge admissible in evidence.

2246. Evidence; depositions; affidavits.

2247. Documentary evidence.

2248. Return or answer; conclusiveness.

2249. Certified copies of indictment, plea and judgment; duty of respondent.

2250. Indigent petitioner entitled to documents without cost.

2251. Stay of State court proceedings.

2252. Notice.

2253. Appeal.

2254. State custody; remedies in State Courts.

2255. Federal custody; remedies on motion attacking sentence.

SENATE REVISION AMENDMENT

Chapter catchline was changed by Senate amendment. See 80th Congress Senate Report No. 1559.