

Instead of designating the Attorney General, or some other public officer, to bring such proceedings, Congress can constitutionally enact a statute conferring on any non-official person, or on a designated group of non-official persons, authority to bring a suit to prevent action by an officer in violation of his statutory powers; for then, in like manner, there is an actual controversy, and there is nothing constitutionally prohibiting Congress from empowering any person, official or not, to institute a proceeding involving such a controversy, even if the sole purpose is to vindicate the public interest. Such persons, so authorized, are, so to speak, private Attorney Generals.

See *L. Singer Sons v. Union P.R. Co.*, 311 U.S. 295, 307, 308, 61 S. Ct. 254, 85 L.Ed. 198; *Rochester Tel. Corp. v. United States*, 307 U.S. 125, 131-134, 59 S.Ct. 754, 83 L.Ed. 1147; *Coleman v. Miller*, 307 U.S. 433, 460, 467, 59 S.Ct. 972, 83 L.Ed. 1385, 122 A.L.R. 695; Advisory Opinions, 1 Encyc. Soc. Sc. 475.

That the Declaratory Judgment Act is not such a statute is clear from the decision in *City of Atlanta v. Ickes*, supra. ASSOCIATED INDUSTRIES v. ICKES•134 F.2d 694, 704 (2d Cir. 1943)

Thus recently, the Supreme Court in *United States ex rel. Marcus v. Hess*, 63 S.Ct. 379, 383, 87 L.Ed. ____, affirmed a judgment in favor of a citizen under the so-called Federal Informers Act; that Act authorized a qui tam action by "any person," in behalf of the government, to institute and prosecute to judgment a suit to recover the fines and double damages due to the United States by one who obtains money from it by fraudulent claims, one-half of the recovery being paid to the person who institutes the suit and the other half to the government. The court said, "Qui tam suits have been frequently permitted by legislative action * * *. Congress has power to choose this method to protect the government from burdens fraudulently imposed upon it * * *. `Statutes providing for actions by a common informer, who himself had no interest whatever in the controversy other than that given by statute, have been in existence for hundreds of years in England, and in this country ever since the foundation of our government,' *Marvin v. Trout*, 199 U.S. 212, 225, 26 S.Ct. 31, 34, 50 L.Ed. 157."

31 U.S.C.A. §§ 231-234. ASSOCIATED INDUSTRIES v. ICKES•134 F.2d 694, 704 (2d Cir. 1943)