

JURISDICTION

"Jurisdiction" in courts is the power and authority to declare the law. (The very word in its origin imports as much. It is derived from 'juris' and 'dico' (I speak) by the law. And that sentence ought to be inscribed in living light) on every tribunal of criminal power. (It is the right of administering justice through the laws, by the means which the law has provided for that purpose.) But here the mode and the manner of administering the justice of the country was not provided or prescribed by the law and is directly prohibited by it. There was therefore no jurisdiction." Hence the existence and legal constitution of a court is an inseparable part of its jurisdiction. Johnston v. Hunter, 40 S. E. 448, 449, 50 W. Va. 52, quoting and adopting the definition in Mills v. Com., 13 Pa. 630.

As used in the Restatement of this Subject, the word "jurisdiction" means the power of a state to create interests which under the principles of the common law will be recognized as valid in other states. Restatement, Conflict of Laws, § 42.

The term "jurisdiction" relates to the exercise of such powers, only, as are judicial in their nature. Wieboldt Stores v. Sturdy, 51 N.E.2d 268, 270, 384 Ill. 271.

Under rule giving absolute privilege to officer having jurisdiction of parties and subject matter, "jurisdiction" means judicial power to hear and determine a matter, not the manner, method, or correctness of exercise of such power, while a "judicial act" means the actual exercise of such judicial power in process of reaching a decision in particular manner. O'Regan v. Schermerhorn, 50 A.2d 10, 21, 25 N.J. Misc. 1.

JURISDICTIONAL FRAUD

A party to a judgment or his privy may impeach it for "jurisdictional fraud", which is fraud that prevents the court from obtaining jurisdiction to entertain or decide the issues in controversy. Chisholm v. House, C.C. A. Okl., 160 F.2d 632, 643.

A party to a judgment or those in privity with him may impeach it in a collateral proceeding for "jurisdictional fraud", which is fraud that goes to the jurisdiction of the court and prevents it from obtaining the requisite power to entertain or decide the issues in controversy. Bradburn v. McIntosh, C.C. A. Okl., 159 F.2d 925, 931.