

A Christian Perspective on Jurisdiction

by Gregory Allan

The subject of this report is "Jurisdiction," and how it is commonly obtained by the various courts.

Although this author does not claim to have exhausted that question, it is my prayer that enough information is contained here to help the student to better understand the issue. The material found here is based on my study of law, and the Holy Scriptures, and is Christian in perspective. My main premise is that we have the duty and the right, to settle our own disputes, and to stay out of the courts of the ungodly.

Jurisdiction has been a subject of study and debate since long before I became involved in law reform, and seems to be most popular among those who are suspicious of establishment courts. Each year brings more numerous reports of judicial misconduct, fraud and theft, on a scale ranging from minor traffic offenses, to multi-million dollar inheritance settlements. Many students of law have seen jurisdiction (or the absence of same) as a possible answer to a seemingly impossible problem: how to avoid personal or financial ruin at the hands of judges and attorneys?

Let's begin with an understanding of the term.

What is Jurisdiction?

Black's Law Dictionary, sixth edition, defines jurisdiction as follows:

- "A term of comprehensive import embracing every kind of judicial action. It is the power of the court to decide a matter in controversy and presupposes the existence of a duly constituted court with control over the subject matter and the parties. Jurisdiction defines the powers of courts to inquire into facts, apply the law, make decisions, and declare judgment. The legal right by which judges exercise their authority. It exists when court has cognizance of class of cases involved, proper parties are present, and point to be decided is within powers of court."

This is expanded upon in Anderson's "A Dictionary of Law, A.D. 1893" as follows:

- "Power to hear and determine a cause. Power to hear and determine the subject-matter in controversy between parties to a suit, to adjudicate or exercise any judicial power over them. (Relates to the exercise of judicial powers.) Refers to the power of the court over the parties, the subject-matter, the res or property in contest, and the authority of the court to render the judgment or decree which it assumes to make. (By jurisdiction over the "subject-matter" is meant the nature of the cause of action or relief sought; and this is conferred by the sovereign authority which organizes the court, and is to be sought for in the general nature of its powers or in the authority specially conferred. Jurisdiction of the "person" is obtained by the service of process, or by the voluntary appearance of the party in the progress of the cause. Jurisdiction of the "res" is obtained by seizure under process of the court, whereby it is held to abide such order as the court may make concerning it. Hence want of jurisdiction may be shown as to the subject-matter, the person, or, in proceedings in rem, as to the thing.)

In a nutshell, these definitions tell us that jurisdiction is the power of a court to make binding

decisions with regard to people, and peoples' rights in property; that in order for the court to secure that power, it must have control (authority and/or power) over:

1. The people, or parties to the controversy. This is called "in personam jurisdiction"; and
2. The property in controversy. This is called "in rem" jurisdiction; and
3. The specific kind of controversy. This is known as "subject-matter." For instance, a traffic court cannot hear a divorce case. This is also known as the "nature" of a matter, as in the phrase "nature and cause" found in the Sixth Article of the "Bill of Rights."

A very important aspect not mentioned in the dictionaries, is that jurisdiction never becomes a question for consideration until a dispute arises between people.

What is a Court?

We are led to understand that jurisdiction "presupposes the existence of a duly constituted court." But there is no discussion of how a court becomes duly constituted. Black's definition of court is lengthy, and leaves the reader more confused than when he started. Anderson's has this to say about courts:

- "1. According to Cowel, the house where the king remains with his retinue; also, the place where justice is administered. (These two meanings, in the beginning, were closely connected. For, in early history, when the king was actually the fountain and dispenser of justice, nothing could be more natural than that subjects who had complaints of ill-treatment to make should use the expression 'the court,' in speaking of the journey to the place where the king was domiciled, and the application to him preferred, usually in the court of the palace, for interference and redress. Anciently, then, the 'court,' for judicial purposes, was the king and his attendants; later, those who sojourned or traveled with him, to whom he delegated authority to determine controversies and to dispense justice.)
- A tribunal established for the public administration of justice, and composed of one or more judges, who sit for that purpose at fixed times and places, attended by proper officers.
- An organized body, with defined powers, meeting at certain times and places for the hearing and decision of causes and other matters brought before it, and aided in this by its officers, viz., attorneys and counsel to present and manage the business, clerks to record and attest its acts and decisions, and ministerial officers to execute its commands and secure order in its proceedings."

Before we can understand the full scope of an issue, we must begin at its roots; ask the important questions. Why are things the way they are, and how did they get this way? Who did these things, and who said that they could? In other words, "by what authority;" or in more ancient terms, "quo warranto."

Am I a Radical?

By consistently examining every issue through the looking-glass of quo warranto, I have found a razor, which can cut to the heart of almost any issue. Try it for yourself, but don't be surprised if people begin to call you a radical. Did you know that "radical" is defined as:

- "Fundamental; going to the roots of anything." (Webster's Unabridged Encyclopedic Dictionary, A.D. 1957)

So what's so bad about being radical?

In going to the roots of jurisdiction, the first questions which come to my mind are, who is the "sovereign," and what is a "retinue;" how does a "tribunal" become "established;" who "organized" the "body" of a given court, and by what authority; and how does a "judge" become "charged" with deciding anything?

I believe that the root definition of a lawful "court" is as follows:

- "A man, or group of men, lawfully delegated the authority to settle a dispute arising among two or more other men."

Please note that the usage of the words "man" and "men" is inclusive of all people; men, women, and children.

Courts exist because people inevitably have disputes. "Jurisdiction," in essence, is nothing more, or less, than the "lawfully delegated authority" to settle disputes. Therefore, the study of jurisdiction must begin with the question of who has the right to settle disputes, and then follow through to how that right can be lawfully exercised, and delegated to others.

Where do rights come from?

A lot of people claim to have Constitutional rights. Those people have obviously never read the Constitution. Read it yourself, and you will find that there is not a single article which grants rights to the people. Rather, the people are acknowledged to possess certain rights, which pre-date the Constitution, and to which officers of the Union are required to take an Oath to protect, and not to violate.

Any so-called right, which is dependent upon a Constitution, a contract, or any other piece of paper, is more accurately described as a "delegation of authority," or "privilege." If the paper is lost, destroyed, revoked, or amended, then the privilege which it created disappears. In contrast, the laws of our One True God cannot be lost or destroyed, and will never be revoked or amended. Those who tell you that the law changes constantly, have forsaken our One True God, and embraced the Beast. They would have you do the same.

In agreement with most of the founders of these united States of America, I believe that all rights originate from the Creator of all things, the One True God. (Genesis 1:1)

How do we know what rights God gave us?

This question stumps most people who claim God-given rights. When asked the question, "Do all people have the same rights?" most will answer "yes." When asked, "how do you know which rights God gave you?" the most common answer is a blank stare.

The Holy Scriptures do not talk much of rights, with the exception on one: the right to choose, or free agency.

- "Behold, I set before you this day a blessing and a curse; A blessing, if ye obey the commandments of the Lord your God, which I command you this day; And a curse, if ye will not obey the commandments of the Lord your God, but turn aside out of the way which I command you this day, to go after other gods, which ye have not known." (Deuteronomy 11: 26-28)

- "And if it seem evil unto you to serve the Lord, choose you this day whom ye will serve; whether the gods which your fathers served that were on the other side of the flood, or the gods of the Amorites, in whose land ye dwell: but as for me and my house, we will serve the Lord." (Joshua 24:15)

Free agency is the one unalienable right given to us by the One True God. We all have it, to a greater or lesser degree. Even slaves have this right. It is our right to choose. The right to contract, or not to contract. Unalienable means that it cannot be taken away by anyone except God, and cannot even be permanently given away by its owner. This concept is even honored and upheld by modern statutes which allow anyone the right to revoke powers of attorney.

When people turn away from God's laws, He makes them slaves, thereby taking away a large measure of their free agency. He does this because He loves us. Only the master is responsible for the acts of a slave. Thus are many slaves saved from the burden of their sins.

All other rights are inalienable, meaning that they can be contracted away. Any right, other than free agency, which could not be contracted away, would infringe our right to choose.

But which comes first, the rights, or the duties? Notice these other examples of the right to choose:

- "Now therefore, if ye will obey my voice indeed, and keep my covenant, then ye shall be a peculiar treasure unto me above all people: for all the earth is mine: And ye shall be unto me a kingdom of priests, and an holy nation." (Exodus 19: 5-6)
- "If ye walk in my statutes, and keep my commandments, and do them; Then I will give you rain in due season, and the land shall yield her increase, and the trees of the field shall yield their fruit. And your threshing shall reach unto the vintage, and the vintage shall reach unto the sowing time: and ye shall eat your bread to the full, and dwell in your land safely. And I will give peace in the land, and ye shall lie down, and none shall make you afraid: . . . But if ye will not hearken unto me, and will not do all these commandments; . . . I also will do this unto you; I will even appoint over you terror, consumption, and the burning ague, that shall consume the eyes, and cause sorrow of heart: and ye shall sow your seed in vain, for your enemies shall eat it." (Leviticus 25: 3-16)

Clearly, the duty to follow God's law precedes any blessings (rights) which He might bestow. Just as clearly, those who follow God's laws will be given more blessings (rights) than those who do not.

If you obey the commandment to not murder (Deuteronomy 5:17), you are given the blessing of safety. If you violate that commandment, you are to be put to death (Leviticus 24:17). Many of these examples can be enumerated. If you steal another man's property (Exodus 20:15), are you secure in the right to your own (Exodus 22:1)? If you judge other men unrighteously, what right do you have to righteous judgment (Matthew 7:2)? Stated another way, when we violate the law, we give up our rights to protection under the law.

What is law?

This was a big shocker for me. Who would think to look up the word "law," even in a law dictionary? Black's Sixth Edition devotes more than a whole page to the definition of law, but this part is the most striking:

- In old English jurisprudence, "law" is used to signify an oath, or the privilege of being sworn; as in the

phrases "to wage one's law," "to lose one's law."

So, the "radical" definition of "law" is "oath." Other words with a similar meaning as "oath" include "contract," "agreement," "covenant," "treaty," "pledge." You get the idea. So in essence, "law" is nothing more than a man's agreement to behave in a certain way. Even God's law is rooted in His covenants with Abraham, Isaac, and Israel.

In the early days of this nation, most people followed God's laws. As a result, each man was blessed with sovereignty over his own affairs; a large measure of free agency. Unlike slaves or subjects, we became responsible for our own judgments (Leviticus 18:4), and became obligated to stay out of the courts of the ungodly.

If each one of us is sovereign, then does not each of us have our own court? Don't we all possess the inherent right to settle our own disputes? Of course. Which brings us back to the question: "How does someone else's court gain jurisdiction over us, our property, and the operation of our affairs?"

Property Ownership

Just because you have control over something doesn't mean you necessarily own it. Conversely, you may not necessarily have complete control over everything you "own," unless you hold the highest title. For example, a man who sells a parcel of land by way of a "land contract" holds legal title to the land until it is paid for, at which time he must then pass the title to the buyer. But while the land is being purchased over time, the buyer has possession of the land, and in most ways uses it as his own. He has what is called an "equitable interest." However, if the buyer doesn't make his payments on schedule, then all rights in the land return to the seller, who has legal title, as well as a "reversionary" interest.

Do you own land? If you answered yes, here's another question: Do you pay yearly property taxes on that land? What happens if you don't pay the taxes? How can you claim to own something that you only have the right to use, as long as you pay a yearly rental?

We usually think of "property" in terms of land, money, or other tangible wealth, but property is always ultimately defined as "an aggregate of rights." The One True God owns everything, but we have rights in some of those things. When we accept the duty of following God's laws, and trust Him to help us protect our own rights, He asks us to pay a tithe (tenth) of our increase. Note that He never asks for a portion of anything from which we have already paid a tithe, and He warns us that any government which does this is not following His law; their authority is not legitimate, because it is "not of God." (See Romans 13:1)

The power to tax is the power to destroy; to confiscate. This is what makes the so-called "property tax" one of the most evil ideas possible in a free society. The ultimate conclusion is obvious: Whoever has the power to tax property will eventually own all property (all rights). The governments in America today do not yet possess all of our rights, but in most ways they behave as though they do. And most people, agents of government and common folk alike, have come to believe the lie.

These governments now behave in the same way as the lords of old England. All the land and the fruits thereof are presumed to belong to the "king," and at each level "down" toward the common

folk (serfs) is a lord, or group of lords to administer the "fiefdom." The serfs have a limited privilege of sale or inheritance in property, so long as they continue to pay tribute (tax) to the king.

He who holds the highest title to property has the final say as to what becomes of that property. This explains "in rem" jurisdiction.

Free agency in settling disputes

Personam jurisdiction, as far as I understand it myself, is limited to some very basic principles. Initially, it is determined as follows:

1. Sovereigns, or freemen are those men who are not bound by oath to serve other men.
2. Subjects are those men who have given an oath of service to another man, or group of men.
3. Every freeman who follows God's laws, is blessed with the right to settle his own disputes, i.e. he holds his own court at will.
4. Freemen may bring suit against other freemen, though each has equal standing, and is not bound by any other man's court unless by oath, or voluntary delegation.
5. A freeman is generally empowered to settle disputes between his subjects. This is dependent upon the oath between the freeman and the subject.
6. A freeman may bring suit against his own subjects.
7. Subjects have no standing in any court, save that of their master. They may sue their master only at his pleasure, unless the oath between the master and subject specifically allows it, which is not common. No subject may directly sue another freeman, but must appeal to his master to sue for relief on his behalf.

Settling Disputes

In any dispute the parties have three choices:

1. **Forgiveness.** This choice works well when the party who perceives himself as damaged has not suffered too great a loss, and especially where the cause of the dispute is not likely to re-occur. Sometimes if the other options are more costly than the expected relief, it is a choice which helps to preserve a man's sanity. However, no man can bear unlimited trespass, and will eventually seek other options.
2. **Bloodshed.** This is one of the oldest methods of settling disputes. It is forbidden in the Holy Scriptures, except under very specific circumstances. This method of dispute resolution almost always eventually destroys the man who uses it in any way contrary to God's law, which is why it is forbidden.
3. **Lawful Process.** This is the preferred method of dispute resolution, without which we would have no need of discussing jurisdiction. Lawful process can be divided into three sub-processes, which are listed in the Holy Scriptures, in the **Book of Matthew, chapter**

eighteen, verses fifteen through sixteen

It is important that we understand lawful process, because our only alternatives are forgiveness, or bloodshed. Between sovereigns, war is nearly always the result of an inability to resolve a recurring dispute using lawful process. Before lawful process can begin, the parties in dispute must be narrowed to include only parties of equal standing, as shown above. Then they can proceed as follows:

1. **Negotiation.** In other words, a contract, or treaty.

- "Moreover if thy brother shall trespass against thee, go and tell him his fault between thee and him alone: if he shall hear thee, thou hast gained thy brother."

Negotiation is the most common form of settlement, which is an expression of our most basic right of free agency. All contracts are examples of negotiation. Most disputes which go beyond negotiation are a result of breach-of-contract. In other words, one or more parties to a contract either do something which they had agreed not to do, or else fail to perform an act they have promised. Even criminal acts come into courts as the result of a dispute. As an example, let's say that a man has stolen a loaf of bread from you. First, you accuse him of the theft. He either admits, or denies. If he denies, you have a dispute. If he admits, then you demand restitution (replace the bread). If he agrees, and then follows through, then there is no dispute. If he does not agree, or if he agrees and then fails to follow through, then you have a dispute. This same principle applies to all criminal acts. Prosecutions for murder were originally civil disputes, prosecuted by the family of the victim. County prosecutors came into existence as a means to protect the poor, who did not have the resources to prosecute criminals who had damaged them.

2. **Mediation.** An attempt to reach an agreement with the help of a third party.

- "But if he will not hear thee, then take with thee one or two more, that in the mouth of two or three witnesses every word may be established."

We are to bring along one or two witnesses, preferably people known to all parties, to aid in the negotiation, and try to bring about a peaceful resolution. Mediation, like all negotiation, must result in a contract, or treaty between the parties. The mediator has no authority to compel the parties to agree, or to settle the dispute without agreement between the parties.

3. **Arbitration.** This is the delegation of authority to a third party to settle the dispute.

- "And if he shall neglect to hear them, tell it unto the church: "

Arbitration, in its various forms, is what we commonly think of as a court. It is the heart of this discussion on jurisdiction. The church, a body of men learned in God's law, was Jesus' choice of arbitrator when all other attempts to settle a dispute had failed. "Church," in this sense, meant "ecclesia," or the body of lawful elders. In any arbitration, all parties in dispute choose to delegate the authority of their own court, the right to make their own judgment, to a third-party. This is, in itself, the beginning of a negotiated settlement, since all parties must agree to the third-party arbitrator in order for him to have the

power, i.e. jurisdiction, to settle the dispute.

The verse ends with these words:

- "but if he neglect to hear the church, let him be unto thee as an heathen man and a publican."

In other words, if a man will not settle a dispute any other way, ignore him as long as you can, and then do what you must. A man must always have a remedy. Within the boundaries of God's law, of course.

We've learned that jurisdiction comes into play only in arbitration. As near as I can tell, the sources of jurisdiction to settle a dispute can be narrowed to two: contract, and escheat.

Jurisdiction by Contract

Contract includes voluntary participation, as well as any oath, agreement, or treaty which delegates the authority to settle disputes to another party. Walking into a court and giving your name is an example of voluntary participation. Acceptance of service of process, even from a court with whom you have no contract, can become voluntary participation if you fail to send timely notice to the court of its lack (known as "want") of jurisdiction. Jurisdictional agreements often occur far in advance of a dispute. Contracts containing clauses such as "this contract is made pursuant to the laws of Delaware," or which are acknowledged by a Notary Public, or other officer of a body with an organized court, delegate jurisdiction as a part of the contract.

The recording of a contract with a clerk or "register," for a body with an organized court, gives that court "cognizance" of the contract. It begins with a contract when a man recording a document pays a fee to the register. Look back at Black's definition of jurisdiction. "[Jurisdiction] exists when court has cognizance of [matter in dispute]." Many law reform students believe that recording a deed for land with a county register gives the county either legal title or equitable interest in the land. It appears from the evidence, that recording merely gives the county jurisdiction to settle disputes involving the land, and the parties to the deed.

Many contracts contain clauses which specifically delegate jurisdiction to an arbitration council.

- If any dispute shall arise between the parties to this contract with regard to the covenants contained herein, then jurisdiction over the settlement of said dispute shall be limited to the XYZ Resolution Council, located at 321 Abicromby Place, Anywhere, U.S.A, and the judgments and awards of said Council shall be binding upon the parties hereto.

Jurisdiction by Escheat

Escheat is a different matter, and is widely misunderstood. Black's Sixth Edition defines it as:

- A reversion of property to the state in consequence of a want of any individual competent to inherit.

Remember that "property" is not land, money, or other wealth; it is an "aggregate of rights." Is the "right to settle disputes" a property right? Of course it is. All rights are property. When we neglect to delegate to a specific party the right to settle disputes arising from our contracts, there is no one who is competent to inherit that right if a dispute does arise. This makes our "property" easy pickings for any "sovereign" with an organized court to step in and claim that right for his

own. The burden of proof is then shifted to the parties, to prove that someone else has that right. If no competent party can come forward and claim that property right, then the parties are "escheated" out of it.

Escheat is also significant on a broader scale. By allowing a Godless body of men to organize together and monopolize our courts, Christians have abandoned the right to settle their own disputes, and *barred* themselves from righteous judgment. So long as no one is willing or able to fill that capacity, we will continue to be "escheated" over and over again. Our only solution is to reaffirm our Christian Duties, rediscover our Rights, and exercise our God-given Authority.

Common law courts, ecclesiastical courts, and other types of peoples' courts are currently springing up all over the country. Although the mainstream media usually maligns these courts, their formation is a symptom of peoples' deep-seated impulse to return to God's law. Unfortunately, too many of these groups are not educated in the due-process procedures required of a lawful court. Careful study is needed in the operation of any court, for if due process is not afforded the parties in dispute, the rights of the court will be taken through escheat.

It is my prayer that this report will aid all people in achieving peace in their lives, which is the aim of any lawful court. I pray that all courts, and all people with disputes, will better understand the limited authority with which a court operates. May the One True God give us the Strength and Wisdom to follow a True Course. Amen.