

court, \* \* \* and renders all proceedings prior to the filing of a proper instrument void ab initio.<sup>19</sup>

Jurisdiction then is brought to a court by way of a complaint, information or indictment. If these instruments fail to charge a crime, there can be no subject matter jurisdiction.

The allegations in the indictment or information determines the jurisdiction of the court.<sup>20</sup>

Where an information charges no crime, the court lacks jurisdiction to try the accused, and a motion to quash the information or charge is always timely.<sup>21</sup>

Without a formal and sufficient indictment or information, a court does not acquire subject matter jurisdiction and thus an accused may not be punished for a crime.<sup>22</sup>

One way in which a complaint or indictment fails to charge a crime, is by its failure to have the charge based upon a valid or existing law. Complaints or indictments which cite invalid laws, or incomplete laws, or nonexistent laws are regarded as being invalid on their face. Thus they are said to be “fatally defective” or “fatally bad.” Usually when such matters occur the accused would have the complaint or indictment set aside either by a “motion to quash,” or a “demurrer.” But with today’s system, if they are not based on the jurisdictional question, such a motion can be easily denied.

The crux then of this whole issue of jurisdiction revolves around law, that is, the law claimed to be violated. If one is subject to a law, they are then under the jurisdiction of some authority. If a king passes a law then those who are subject to the law are under his jurisdiction, and they can be judged for the

violation of the law by the king or one of his ministers. When a person is outside the king’s jurisdiction, there is no law he is subject to. But the reverse of this is also true, that being, if there is no law of the king, then there is no jurisdiction or authority to judge the person, even if he is the king’s subject.

If a crime is alleged but there is no law to form the basis of that crime, there is no jurisdiction to try and sentence one even though they are subject to the legislative body and the court. There has to be a law, a valid law, for subject matter jurisdiction to exist.

The current corrupt legal system has in effect sown its own seeds of destruction by arbitrarily forming codes and revised statutes. All complaints or indictments today cite laws from these codes or revised statute books which contain no enacting clauses. Laws which lack an enacting clause are not laws of the legislative body to which we are constitutionally subject. Thus if a complaint or information charges one with a violation of a law which has no enacting clause, then no valid laws is cited. If it cites no valid law then the complaint charges no crime, and the court has no subject-matter jurisdiction to try the accused.

No complaint or indictment can allege that a criminal act has been committed when there is no law which makes the act a crime. When common law crimes were prosecuted in state courts, there were many cases that arose where the accused claimed the act was not a crime at common law. Thus when issued a complaint or indictment, the accused would, before trial, demurrer to the complaint or file a motion to quash the complaint based on the fact that the complaint failed to cite anything that was a crime. It therefore might be held that the act

19 22 *Corpus Juris Secundum*, “Criminal Law,” § 324, p. 390.

20 *Ex parte Waldock*, 286 Pac. 765, 766 (Okla. 1930).

21 *People v. Hardiman*, 347 N.W.2d 460, 462, 132 Mich.App. 382 (1984); 22 *Corpus Juris Secundum*, “Criminal Law,” § 157, p. 188; citing, *People v. McCarty*, 445 N.E.2d 298, 94 Ill.2d 28.

22 *Honomichl v. State*, 333 N.W.2d 797, 798 (S.D. 1983).