952. Where undivided mineral interest
bject to outstanding mortgage, which was
ly foreclosed, was conveyed by mineral
aining a general warranty of title and
bsequently reacquired the title from pur-
oreclosure sale, such after-acquired title
he benefit of grantee in mineral deed
table doctrine of "estoppel by deed".—
ox Oil Co., 242 P.2d 739, 206 Okla. 232,
8.—Estop 47.

52. Where mortgagors, by deed con-
rranty of title, conveyed to third party
ne-half mineral interest in land subject
ng real estate mortgage and, following
foreclosure of mortgage and purchase
mortgagee at sheriff's sale, mortgagors
itle to the land from purchaser's grant-
r-acquired title to mineral interest in-
benefit of grantee in mineral deed
ble doctrine of "estoppel by deed". 16
17, 19.—Hanlon v. McLain, 242 P.2d
, 227, 1952 OK 127.—Estop 47.

"Estoppel by deed" precludes a party
m asserting as against the other any
in derogation of the deed or from
ruth of any material fact asserted in
Richland County Historic Preservation
S.E.2d 876, 341 S.C. 15, rehearing
p 12.

"Estoppel by deed" is affirmative
on representations made by party in
ntially provides that representations
to deed cannot be denied later by
his privies.—Bilbrey v. Smithers, 937
Estop 12.

"Estoppel by deed" is a bar which
party to a deed and his privies from
ainst the other party and his privies
le in derogation of the deed or from
ath of any material facts asserted in
Wilson County, 281 S.W.2d 671, 198
top 12.

Where owner of land, in order to
hereon, entered into written agree-
fixing boundary between such land
and formerly owned by him, though
ed to therein as owner of adjoining
agreement did not operate as an
ed" to preclude former owner or his
ting title to such land to which bank
ecord title only as security for a
it. Bank v. Eidson, 340 S.W.2d 483,
Estop 14.

pus Christi 2005. "Estoppel by
r the general proposition that all
d are bound by the recitals therein,
an estoppel, working on the inter-
f it be a deed of conveyance, and
rties and privies; privies in blood,
and privies in law.—Sauceda v.
3d 892, rehearing overruled, and
n granted.—Estop 22(2), 26.

Tex.App.–Corpus Christi 2005. "Estoppel by deed" is a bar that precludes a party from denying the truth of a deed.—Sauceda v. Kerlin, 164 S.W.3d 892, rehearing overruled, and rule 53.7(f) motion granted.—Estop 12.

Tex.Civ.App.–Eastland 1943. Where grantee in deed, conveying land with exception of mineral rights therein, assumed payment of balance due on grantor's indebtedness secured by trust deed lien on land, lien was foreclosed and land purchased by lienholder after default in payment of indebtedness, and holder conveyed land, with exception of specified mineral interest, to original grantee, who subsequently joined with lienholder in executing mineral lease on land and conveyed mineral and other interest therein subject to lease, there was no "estoppel by deed" precluding grantee and his assigns from denying title of deceased grantor's heirs to minerals, as no "covenant running with land" on grantee's part was involved.—Talley v. Howsley, 170 S.W.2d 240, affirmed 176 S.W.2d 158, 142 Tex. 81.—Estop 23.

Tex.Civ.App.–Eastland 1943. "Estoppel by deed" is a bar precluding party from denying truth of his deed and may be invoked only in suit on deed or concerning a right arising therefrom.—Talley v. Howsley, 170 S.W.2d 240, affirmed 176 S.W.2d 158, 142 Tex. 81.—Estop 32(1).

Tex.Civ.App.–Eastland 1941. One sort of "estoppel by contract" is estoppel to deny truth of facts agreed upon and settled by force of entering into contract, and such estoppel by written contract is analogous to certain phases of "estoppel by deed" and not in strict propriety a species of "estoppel in pais".—Masterson v. Bouldin, 151 S.W.2d 301, writ refused.—Estop 78(2).

Tex.Civ.App.–Eastland 1941. Where a mother and son conveyed land except one-half of minerals therein, to third parties, and son, at time of his death, owned a one-fourth interest in minerals, and third parties thereafter reconveyed land to mother, mother and son's widow became "tenants in common" as to mineral estate, the mother owning three-fourths and the widow one-fourth, and a subsequent simultaneous exchange of deeds between widow and mother whereby each conveyed to the other an undivided one-half interest in land reunited mineral interest with rest of land and constituted parties "tenants in common" of all land, each having an undivided one-half interest therein, by operation of principle of "estoppel by deed".—Greene v. Smith, 148 S.W.2d 909.—Estop 24.

ESTOPPEL BY ELECTION

Ala. 1938. The doctrine of "estoppel by election" exists when there is by law or by contract a choice between the remedies, which proceed upon opposite or irreconcilable claims of right, and the taking of one must exclude and bar the prosecution of the other.—Aladdin Temple Ben. Ass'n, D. O. K. K. v. American Standard Life Ins. Co., 179 So. 243, 235 Ala. 431.—Elect of Rem 1.

S.D. 1942. Where employer by failing to insure under Workmen's Compensation Act, or to secure relief from insurance provisions of act, elected not to operate under act, only remedy available to injured employee was an action at law, and acceptance by employee of a part of the benefits provided by the act did not invoke principle of "estoppel by election". Rev.Code 1919, § 9482(d), as amended by Laws 1931, c. 271.—Utah Idaho Sugar Co. v. Temmey, 5 N.W.2d 486, 68 S.D. 623.—Work Comp 403, 2100.

Tex.Civ.App.–Dallas 1944. The doctrine of "estoppel by election" against beneficiary who has elected to take favorable provisions of will from objecting to other provisions of will applies only where will undertakes to bestow a gift and also deprive donee of a prior existing right, thus confronting devisee with alternative of accepting devise and renouncing prior right or of retaining latter and renouncing devise.—Mason & Mason v. Brown, 182 S.W.2d 729, writ refused w.o.m.—Wills 718.

ESTOPPEL BY FORMER JUDGMENT

Okla. 1974. There may be two types of estoppel, where a judgment in a cause of action bars other actions on the same cause, described as "estoppel by former judgment," and where verdict and judgment of a previously tried case bars further litigation of particular facts on which the jury necessarily made findings essential to its judgment, described as "estoppel by former verdict" or "collateral estoppel."—Anco Mfg. & Supply Co., Inc. v. Swank, 524 P.2d 7, 1974 OK 78.—Judgm 540, 725(1).

ESTOPPEL BY FORMER VERDICT

Okla. 1974. There may be two types of estoppel, where a judgment in a cause of action bars other actions on the same cause, described as "estoppel by former judgment," and where verdict and judgment of a previously tried case bars further litigation of particular facts on which the jury necessarily made findings essential to its judgment, described as "estoppel by former verdict" or "collateral estoppel."—Anco Mfg. & Supply Co., Inc. v. Swank, 524 P.2d 7, 1974 OK 78.—Judgm 540, 725(1).

ESTOPPEL BY JUDGMENT

App.D.C. 1940. An interference determination settles not only the claims made but all that could have been presented, and such rule is a "rule of law," not merely a procedural rule of Patent Office, and is an adaptation, for patent cases, of doctrine of "res judicata" and "estoppel by judgment."—Daniels v. Coe, 116 F.2d 941, 73 App.D.C. 54.—Pat 112.4.

C.A.5 1955. The principle of res judicata when applied to matters actually litigated and determined in a prior proceeding between same parties on different cause is more accurately referred to as "estoppel by judgment" or "collateral estoppel".—Alexander v. C.I.R., 224 F.2d 788, on remand 1956 WL 268.—Judgm 634.

C.A.5 (Fla.) 1952. Where cause of action set up in subsequent suit is different from cause set up in

prior suit, judgment in prior suit is an estoppel only as to particular rights or questions actually litigated and determined in the prior suit, or as to rights or questions which were necessarily involved in the conclusions reached; and such principle is "estoppel by judgment."—Peckham v. Family Loan Co., 196 F.2d 838.—Judgm 720, 725(1).

C.A.7 (Ill.) 1968. "Collateral estoppel" and "estoppel by judgment" are synonymous terms.—Canaan Products, Inc. v. Edward Don & Co., 388 F.2d 540.—Judgm 713(1).

Cust. & Pat.App. 1941. Where applicants' only application for a patent involved in interference when award of priority was made to them was an application which did not disclose invention involved in ex parte proceeding for issuance of a patent, and that application had been substituted for an application which did disclose invention involved, the substitution was equivalent to dissolution of interference so far as application disclosing invention involved was concerned, and hence the award or priority to applicants did not constitute "estoppel by judgment" or "res judicata" against other parties to interference whose patent was cited as a reference.—In re Prutton, 120 F.2d 332, 28 C.C.P.A. 1221.—Pat 106(5), 112.4.

Ct.Cl. 1966. Principle of res judicata, when applied to matters actually litigated and determined in a prior proceeding between same parties on different cause, is more accurately referred to as "estoppel by judgment" or "collateral estoppel".—CBN Corp. v. U.S., 364 F.2d 393, 176 Ct.Cl. 861, certiorari denied 87 S.Ct. 1284, 386 U.S. 981, 18 L.Ed.2d 228.—Judgm 634.

C.C.A.2 1943. Assessments made by Commissioner of Internal Revenue do not create an "estoppel by judgment".—Bennet v. Helvering, 137 F.2d 537, 149 A.L.R. 1146.—Int Rev 4555.

C.C.A.5 (Fla.) 1941. An "estoppel by judgment" existed in suit on another cause of action only as to those issues necessarily or actually decided in final decree in prior action.—Olds v. Town of Belleair, 120 F.2d 492.—Judgm 720, 725(1).

C.C.A.5 (Fla.) 1941. Where Florida trial court originally decreed that municipal bonds were issued and proceeds thereof used for primary object of benefiting private corporations in violation of Constitution but Supreme Court determined that the municipality had no power to vote the bonds and that decree of validation did not protect against such want of power, and thereupon trial court entered new decree in which there was no mention of an unconstitutional private purpose or private use of proceeds of bonds, if there was any relief available under Florida law growing out of the retention or use of bondholder's money for municipal purposes, resort thereto was not precluded by doctrine of "estoppel by judgment". Sp.Acts Fla. 1923, c. 9686; F.S.A.Const. art. 9, § 7.—Olds v. Town of Belleair, 120 F.2d 492.—Judgm 828.9(7).

C.C.A.5 (Fla.) 1935. Where causes of action involved in prior and subsequent suits are not identical but have common fact or issue, applicable rule of conclusiveness, usually known as "estoppel by judgment" as distinguished from "res judicata," is that, to conclude such issue or fact, record of prior suit, either by itself or with extrinsic evidence, must show litigation thereof and decision on merits, though parol evidence, if used, cannot contradict record.—Kelliher v. Stone & Webster, 75 F.2d 331.—Judgm 634.

C.C.A.5 (Fla.) 1931. "Estoppel by judgment" arises with respect to particular rights or questions actually litigated, though cause of action is different.—American Trust Co. v. Butler, 47 F.2d 482.—Judgm 720.

C.C.A.7 (Ill.) 1946. The essence of "estoppel by judgment" is that some like question or fact in dispute has been judicially determined by court of competent jurisdiction between the same parties or their privies.—June v. George C. Peterson Co., 155 F.2d 963.—Judgm 634.

C.C.A.7 (Ill.) 1946. Where pledgor's action to enjoin sale of pledged stock by pledgee was dismissed solely because of pledgor's failure to pay taxes for which he was liable under agreement with pledgee, defense of "estoppel by judgment" was not available in subsequent action by pledgor against pledgee for damages for sale of stock in alleged violation of agreement and for less than actual value.—June v. George C. Peterson Co., 155 F.2d 963.—Judgm 828.16(4).

C.C.A.7 (Ill.) 1940. The essence of "estoppel by judgment" is that some like question or fact in dispute has been judicially determined by court of competent jurisdiction between the same parties or their privies.—McVeigh v. McGurren, 117 F.2d 672, certiorari denied 61 S.Ct. 960, 313 U.S. 573, 85 L.Ed. 1531.—Judgm 634.

C.C.A.6 (Mich.) 1940. The facts conclusively determined by a judgment include not only the ultimate facts, but the material facts necessary in arriving at the conclusion, but such facts must be properly in issue for them to give rise to the doctrine of "estoppel by judgment".—Paine & Williams Co. v. Baldwin Rubber Co., 113 F.2d 840.—Judgm 725(1).

C.C.A.6 (Mich.) 1940. In royalty action by owner of patents against licensee, neither novelty nor invention, as bearing upon patentability, was properly in issue since the licensee was "estopped" from contesting validity and, therefore, determination in favor of owner of patents did not operate as an "estoppel by judgment" on question of validity.—Paine & Williams Co. v. Baldwin Rubber Co., 113 F.2d 840.—Pat 129(3).

C.C.A.6 (Mich.) 1940. In royalty action by owner of patents where licensee's answer alleged that patents were restricted and limited in scope because of prior art and at trial licensee offered exhibits, showing the state of prior art, for sole purpose of limiting scope of patents, questions of novelty and invention were not in issue and trial court's determination that patents exhibited patentable differences over prior art was surplusage and dictum and did not operate as "estoppel by judgment" in subsequent patent infringement action.—Paine &

Williams Co. v. Baldwin Rubber Co
840.—Pat 327(13).

C.C.A.6 (Mich.) 1940. "Estoppel b
extends only to the matters litigated or
have been litigated in former case,
estoppel to be effective the issues of
must be the same.—Paine & Williams
win Rubber Co., 113 F.2d 840.—Ju
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C.C.A.2 (N.Y.) 1941. Where plai
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claims sued on by plaintiff's assignor
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by plaintiff on the assigned claim.—T
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C.C.A.2 (N.Y.) 1941. An "estop
ment" is no mere technicality, but is
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from the waste and burden of relitig
sues.—Tillman v. National City Bank
118 F.2d 631, certiorari denied 62 S.Ct
650, 86 L.Ed. 521.—Judgm 634.

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651.

C.C.A.2 (N.Y.) 1941. Where value
creditor against bankrupt estate
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tained by the Circuit Court of Appea
firmed the order of adjudication, the
fected an "estoppel by judgment" aga
who were parties to the prior proceed
District Court was justified in valuing
$50,000 for purpose of participation
election of trustee in bankruptcy.—
118 F.2d 198.—Bankr 3004.1.

C.C.A.6 (Ohio) 1939. "Estoppel
extends not only to every matter offer
to sustain or defeat claim, but to every
which might properly have been litigat
mined in the action.—Fifth-Third Uni
v. Cist, 105 F.2d 282, 15 O.O. 423.

C.C.A.5 (Tex.) 1932. Under "estop
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Life Ins. Co., 55 F.2d 205, certiorari d
9, 287 U.S. 604, 77 L.Ed. 525.—Judgm

N.D.Ill. 1950. "Res judicata" and
judgment" are inapplicable, unless the
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iveness, usually known as "estoppel by as distinguished from "res judicata," is ıclude such issue or fact, record of prior by itself or with extrinsic evidence, must ıtion thereof and decision on merits, ol evidence, if used, cannot contradict elliher v. Stone & Webster, 75 F.2d m 634.

(Fla.) 1931. "Estoppel by judgment" respect to particular rights or questions igated, though cause of action is differ- rican Trust Co. v. Butler, 47 F.2d 482.—

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(Mich.) 1940. In royalty action by own- nts against licensee, neither novelty nor as bearing upon patentability, was prop- ıe since the licensee was "estopped" from validity and, therefore, determination in wner of patents did not operate as an by judgment" on question of validity.— Williams Co. v. Baldwin Rubber Co., 113 -Pat 129(3).

(Mich.) 1940. In royalty action by own- nts where licensee's answer alleged that re restricted and limited in scope because rt and at trial licensee offered exhibits, ıe state of prior art, for sole purpose of ope of patents, questions of novelty and were not in issue and trial court's deter- hat patents exhibited patentable differ- prior art was surplusage and dictum and erate as "estoppel by judgment" in subse- tent infringement action.—Paine &

Williams Co. v. Baldwin Rubber Co., 113 F.2d 840.—Pat 327(13).

C.C.A.6 (Mich.) 1940. "Estoppel by judgment" extends only to the matters litigated or which might have been litigated in former case, and for the estoppel to be effective the issues of law and fact must be the same.—Paine & Williams Co. v. Baldwin Rubber Co., 113 F.2d 840.—Judgm 713(2), 715(1).

C.C.A.2 (N.Y.) 1941. Where plaintiff's claim was owned by plaintiff's assignor at time suit was brought by plaintiff's assignor against defendant on claims substantially identical with claim assigned to plaintiff, judgment rendered against validity of claims sued on by plaintiff's assignor was available as an "estoppel by judgment" to defendant in suit by plaintiff on the assigned claim.—Tillman v. National City Bank of New York, 118 F.2d 631, certiorari denied 62 S.Ct. 96, 314 U.S. 650, 86 L.Ed. 521.—Judgm 683.

C.C.A.2 (N.Y.) 1941. An "estoppel by judgment" is no mere technicality, but is a reasonable measure calculated to save individuals and courts from the waste and burden of relitigating old issues.—Tillman v. National City Bank of New York, 118 F.2d 631, certiorari denied 62 S.Ct. 96, 314 U.S. 650, 86 L.Ed. 521.—Judgm 634.

C.C.A.2 (N.Y.) 1941. That certain facts upon which judgment was rendered were stipulated did not make judgment any the less effective as an "estoppel by judgment".—Tillman v. National City Bank of New York, 118 F.2d 631, certiorari denied 62 S.Ct. 96, 314 U.S. 650, 86 L.Ed. 521.—Judgm 651.

C.C.A.2 (N.Y.) 1941. Where value of claim of a creditor against bankrupt estate was fixed at $50,000 in adjudication proceeding, and was sustained by the Circuit Court of Appeals which confirmed the order of adjudication, the decision effected an "estoppel by judgment" against creditors who were parties to the prior proceedings, and the District Court was justified in valuing the claim of $50,000 for purpose of participation by creditor in election of trustee in bankruptcy.—In re Brown, 118 F.2d 198.—Bankr 3004.1.

C.C.A.6 (Ohio) 1939. "Estoppel by judgment" extends not only to every matter offered or received to sustain or defeat claim, but to every other matter which might properly have been litigated and determined in the action.—Fifth-Third Union Trust Co. v. Cist, 105 F.2d 282, 15 O.O. 423.

C.C.A.5 (Tex.) 1932. Under "estoppel by judgment," parties litigating particular issue to judgment are estopped to relitigate such issue respecting another cause of action.—Vogel v. New York Life Ins. Co., 55 F.2d 205, certiorari denied 53 S.Ct. 9, 287 U.S. 604, 77 L.Ed. 525.—Judgm 720.

N.D.Ill. 1950. "Res judicata" and "estoppel by judgment" are inapplicable, unless the same parties have had their day in court touching the same litigation and the judgment is equally available to both parties as an estoppel.—De Luxe Theatre Corp. v. Balaban & Katz Corp., 88 F.Supp. 311.—Judgm 665, 666.

N.D.Ind. 1942. The essence of "estoppel by judgment" is that there has been a judicial determination of a fact and the question always is, has there been such a determination and not upon what evidence or by what means it was reached.—Monteith Bros. Co. v. U.S., 48 F.Supp. 210, reversed 142 F.2d 139.—Judgm 713(1).

D.Neb. 1946. "Estoppel by judgment," when interposed in a second suit on a different cause of action, extends only to matters of ultimate fact as distinguished from matters of evidence or evidentiary facts and is restricted to matters directly in issue and actually litigated in former action, and the finding of which facts was necessary to up-hold the judgment.—U.S. v. Cathcard, 70 F.Supp. 653.—Judgm 724.

N.D.Ohio 1941. In licensor's action for royalties allegedly due under patent licensing agreement although privity between defendant licensee, and defendant licensee in prior royalty action, had not been established, the rulings, findings, conclusions and decisions in the prior action by District Court and Circuit Court of Appeals in same district and circuit were entitled to little, if any, less weight than "estoppel by judgment" under the circumstances, as a matter of comity.—Swan Carburetor Co. v. General Motors Corp., 43 F.Supp. 499.—Pat 219(7).

W.D.Okla. 1948. The doctrine of "res judicata" applies only to the tax proceedings involving the same claim and the same tax period, whereas the doctrine of "collateral estoppel" or "estoppel by judgment" applies to the tax proceedings involving similar claims containing the same legal points, or different tax years, when there has been no change in the controlling facts or applicable legal principles.—Continental Oil Co. v. Jones, 80 F.Supp. 340, affirmed 176 F.2d 519.—Judgm 604.

Bkrtcy.S.D.Fla. 2000. Under Florida law, the terms "estoppel by judgment" and "collateral estoppel" are synonymous.—In re Itzler, 247 B.R. 546.—Judgm 634.

Bkrtcy.N.D.Ga. 1997. Under Georgia law, theory of issue preclusion, known as "estoppel by judgment," applies when parties or others in privity with them necessarily must have adjudicated the same issue in order for previous judgment to have been entered, or when that matter actually was litigated and determined.—Matter of Pope, 209 B.R. 1015.—Judgm 668(1), 720, 724.

Cust.Ct. 1971. Principle of "res judicata" when applied to matters actually litigated and determined in prior proceeding between same parties on different cause is more accurately referred to as "estoppel by judgment" or "collateral estoppel".—J.E. Bernard & Co. v. U.S., 324 F.Supp. 496.—Judgm 634.

Alaska 1964. Under doctrine of "collateral estoppel" or "estoppel by judgment", judgment in prior action which was between same parties as in subsequent action but was upon a different cause or demand operates as an estoppel only as to those

matters in issue or points controverted in prior action and upon determination of which finding or verdict in prior action was rendered.—State v. Baker, 393 P.2d 893.—Judgm 724.

Cal.App. 2 Dist. 1968. "Collateral estoppel," or "estoppel by judgment," is the secondary aspect of res judicata.—Howard Townsite Owners, Inc. v. Mills, 73 Cal.Rptr. 715, 268 Cal.App.2d 223.—Judgm 713(1).

Fla. 1956. The principle of "estoppel by judgment" is applicable where two causes of action are different, in which case the judgment of the first suit only estops the parties from litigating in the second suit issues common to both causes of action and which were actually adjudicated in the prior litigation.—Field v. Field, 91 So.2d 640.—Judgm 720.

Fla. 1956. "Estoppel by judgment" comes into play when the parties are the same in both actions, but the causes of action are different, and the points and questions raised in the second suit were actually presented and adjudicated in the former suit.—Shearn v. Orlando Funeral Home, Inc., 88 So.2d 591.—Judgm 720.

Fla. 1953. "Estoppel by judgment" applies only where the parties to both suits are the same, but different causes of action are involved, and technically the doctrine of "res judicata" is not a branch of the law of estoppel.—Universal Const. Co. v. City of Fort Lauderdale, 68 So.2d 366.—Judgm 634.

Fla. 1952. The difference between "res judicata" and "estoppel by judgment" is that under res judicata final decree or judgment bars subsequent suit between same parties based upon same cause of action and is conclusive as to all matters germane thereto that were, or could have been, raised, while principle of estoppel by judgment is applicable where two causes of action are different, in which case judgment in first suit only estops parties from litigating in second suit issues, that is to say, points in question, common to both causes of action and actually adjudicated in prior litigation.—Gordon v. Gordon, 59 So.2d 40, certiorari denied 73 S.Ct. 165, 344 U.S. 878, 97 L.Ed. 680.—Judgm 713(2), 720.

Fla. 1943. It is the essence of "estoppel by judgment" that it be made certain that precise facts were determined by former judgment, and if there is uncertainty to matter formerly adjudicated, burden of showing it with sufficient certainty by record or extrinsically is upon party claiming benefit of former judgment.—Bagwell v. Bagwell, 14 So.2d 841, 153 Fla. 471.—Judgm 956(1).

Fla. 1942. Identity of relief sought is not essential to the application of "res judicata" and "estoppel by judgment", but the test is identity of cause of action.—Murphy v. Murphy, 10 So.2d 136, 151 Fla. 370.—Judgm 585(1).

Fla. 1942. An essential element of "estoppel by judgment" is identity of parties suing in same capacity.—Ford v. Dania Lumber & Supply Co., 7 So.2d 594, 150 Fla. 435.—Judgm 665.

Fla. 1942. A suit by the state on relation of private party to abate a public nuisance was not "res judicata" and did not constitute an "estoppel by judgment" so as to preclude the private party from thereafter maintaining a suit for damages for maintenance of such nuisance as a private nuisance.—Ford v. Dania Lumber & Supply Co., 7 So.2d 594, 150 Fla. 435.—Judgm 668(2).

Fla.App. 1 Dist. 1965. Under doctrine of "estoppel by judgment" where second action between same parties is upon different claim or demand, judgment in prior action operates as estoppel only as to those matters in issue upon determination of which finding or verdict was rendered.—Wise v. Quina, 174 So.2d 590.—Judgm 720.

Fla.App. 2 Dist. 1992. Doctrine of "estoppel by judgment" applies when parties in present lawsuit are same as or in privity with parties in former suit and when relevant issue between same parties was litigated and determined fully in case which resulted in final decision.—Meyers v. Shore Industries, Inc., 597 So.2d 345.—Judgm 668(1), 678(1), 720.

Fla.App. 2 Dist. 1977. "Estoppel by judgment" is a principle of law which recognizes within concept of res judicata that once an identical, relevant issue as between the same parties has been decided by a prior valid judgment, that issue can never again be retried between them.—Zurich Ins. Co. v. Bartlett, 352 So.2d 921, certiorari denied 359 So.2d 1210.—Judgm 634.

Fla.App. 2 Dist. 1958. Difference between "res judicata" and "estoppel by judgment" is that under "res judicata" final decree or judgment bars subsequent suit between same parties based on same cause of action and is conclusive as to all matters germane thereto that were or could have been raised, while principle of "estoppel by judgment" is applicable where two causes of action are different, in which case the judgment in first suit only estops parties from litigating in second suit issues, that is to say points and questions, which were common to both causes of action, and which were actually adjudicated in prior litigation.—Shirley v. Shirley, 100 So.2d 450.—Judgm 713(2), 720.

Fla.App. 3 Dist. 1979. "Estoppel by judgment" differs from res judicata in that while there must be identity of the persons or parties to the actions there need not be identity of the cause of action.—Burleigh House Condominium, Inc. v. Buchwald, 368 So.2d 1316, certiorari denied 379 So.2d 203.—Judgm 585(1), 665.

Fla.App. 3 Dist. 1978. "Collateral estoppel" or "estoppel by judgment" is a judicial doctrine under which identical parties are prevented from relitigating issues that have previously been decided between them.—Coplan Pipe & Supply Co., Inc. v. Central Bank Co., 362 So.2d 447.—Judgm 713(1).

Fla.App. 3 Dist. 1976. Under doctrine of "estoppel by judgment," even where different causes of action are involved, parties are nevertheless estopped by judgment from thereafter litigating issues that are common to both causes of action and were actually adjudicated in prior litigation.—Simco Operating Corp. v. City Nat. Bank of

341 So.2d 232, certiorari denied 34
Judgm 720.

Fla.App. 3 Dist. 1963. Under "est
ment" doctrine, applicable where di
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to both causes of action and actually
prior litigation.—Smith v. Florida E
Co., 151 So.2d 70, certiorari disch
East Coast Pailway Company v. Sm
663.—Judgm 720.

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law could have been put in issue
judgment applies as between same pa
cause of action to matters which
decided in former suit.—Brown v. Br
495, 212 Ga. 202.—Judgm 720.

Ga. 1947. Under doctrine of "est
ment", a mandamus order affirmed
Court requiring city officials to issue
permit to operate taxicabs was con
defendant officials in a subsequent
contempt.—Settle v. McWhorter, 4
203 Ga. 93.—Mand 186.

Ga. 1946. The doctrine of "esto
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parties on different cause of action.
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litigated and determined. Code.
110-504.—Powell v. Powell, 37 S.E.2
379.—Judgm 634.

Ga. 1946. A husband, contending
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divorce suit, that he was not subject to
such alimony because he had made
settlement by contract with wife, w
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that judgment awarding it was void b
never wife's lawful husband. Code.
110-504.—Powell v. Powell, 37 S.E.2d
379.—Divorce 255.

Ga. 1945. The doctrine of "estop
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actually determined. Code, §§ 110-50
Thompson v. Thompson, 35 S.E.2d
692.—Judgm 634.

942. A suit by the state on relation of party to abate a public nuisance was not cata" and did not constitute an "estoppel ient" so as to preclude the private party reafter maintaining a suit for damages for ince of such nuisance as a private nui- Ford v. Dania Lumber & Supply Co., 7 4, 150 Fla. 435.—Judgm 668(2).

p. 1 Dist. 1965. Under doctrine of "es- judgment" where second action between rties is upon different claim or demand, in prior action operates as estoppel only se matters in issue upon determination of nding or verdict was rendered.—Wise v. 74 So.2d 590.—Judgm 720.

p. 2 Dist. 1992. Doctrine of "estoppel by " applies when parties in present lawsuit as or in privity with parties in former suit relevant issue between same parties was and determined fully in case which result- al decision.—Meyers v. Shore Industries, So.2d 345.—Judgm 668(1), 678(1), 720.

p. 2 Dist. 1977. "Estoppel by judgment" ciple of law which recognizes within con- es judicata that once an identical, relevant etween the same parties has been decided or valid judgment. that issue can never retried between them.—Zurich Ins. Co. v. 352 So.2d 921, certiorari denied 359 So.2d dgm 634.

p. 2 Dist. 1958. Difference between "res and "estoppel by judgment" is that under ata" final decree or judgment bars subse- it between same parties based on same action and is conclusive as to all matters thereto that were or could have been hile principle of "estoppel by judgment" is e where two causes of action are different, case the judgment in first suit only estops om litigating in second suit issues, that is ints and questions, which were common to ses of action, and which were actually ed in prior litigation.—Shirley v. Shirley, l 450.—Judgm 713(2), 720.

p. 3 Dist. 1979. "Estoppel by judgment" om res judicata in that while there must be of the persons or parties to the actions d not be identity of the cause of action.— House Condominium, Inc. v. Buchwald, d 1316, certiorari denied 379 So.2d 203.— 35(1), 665.

p. 3 Dist. 1978. "Collateral estoppel" or l by judgment" is a judicial doctrine under entical parties are prevented from relitigat- s that have previously been decided be- em.—Coplan Pipe & Supply Co., Inc. v. Bank Co., 362 So.2d 447.—Judgm 713(1).

p. 3 Dist. 1976. Under doctrine of "es- judgment," even where different causes of re involved, parties are nevertheless es- y judgment from thereafter litigating issues common to both causes of action and were adjudicated in prior litigation.—Simco Op-

erating Corp. v. City Nat. Bank of Miami Beach, 341 So.2d 232, certiorari denied 348 So.2d 952.—Judgm 720.

Fla.App. 3 Dist. 1963. Under "estoppel by judgment" doctrine, applicable where different causes of action are involved, parties are estopped by judgment from thereafter litigating issues common to both causes of action and actually adjudicated in prior litigation.—Smith v. Florida East Coast Ry. Co., 151 So.2d 70, certiorari discharged Florida East Coast Pailway Company v. Smith, 162 So.2d 663.—Judgm 720.

Ga. 1956. The doctrine of "estoppel by judgment" differs from doctrine of res judicata in that, while res judicata applies only as between same parties and upon same cause of action to matters which were actually in issue or which under rules of law could have been put in issue, estoppel by judgment applies as between same parties upon any cause of action to matters which were directly decided in former suit.—Brown v. Brown, 91 S.E.2d 495, 212 Ga. 202.—Judgm 720.

Ga. 1947. Under doctrine of "estoppel by judgment", a mandamus order affirmed by Supreme Court requiring city officials to issue to plaintiff a permit to operate taxicabs was conclusive against defendant officials in a subsequent proceeding for contempt.—Settle v. McWhorter, 45 S.E.2d 210, 203 Ga. 93.—Mand 186.

Ga. 1946. The doctrine of "estoppel by judgment" refers to previous litigation between same parties on different cause of action, in which case such estoppel arises only as to such matters within scope of previous pleadings as necessarily had to be adjudicated in order to render previous judgment or are shown by aliunde proof to have been actually litigated and determined. Code, §§ 110–503, 110–504.—Powell v. Powell, 37 S.E.2d 191, 200 Ga. 379.—Judgm 634.

Ga. 1946. A husband, contending in wife's proceeding for temporary alimony pending husband's divorce suit, that he was not subject to judgment for such alimony because he had made final alimony settlement by contract with wife, was concluded, under doctrine of "estoppel by judgment", from contending, in wife's subsequent proceeding against him for contempt in failing to pay such alimony, that judgment awarding it was void because he was never wife's lawful husband. Code, §§ 110–503, 110–504.—Powell v. Powell, 37 S.E.2d 191, 200 Ga. 379.—Divorce 255.

Ga. 1945. The doctrine of "estoppel by judgment" refers to previous litigation between same parties based upon a different cause of action and estoppel exists only as to such matters within scope of previous pleadings as necessarily had to be adjudicated in order for previous judgment to be rendered, or as to matters within scope of pleadings as might or might not have been adjudicated but which are shown by aliunde proof to have been actually determined. Code, §§ 110–503, 110–504.—Thompson v. Thompson, 35 S.E.2d 262, 199 Ga. 692.—Judgm 634.

Ga. 1945. In suit by former wife to set aside divorce decree which she allegedly applied for under duress and which was entered after she had withdrawn amendment asking for alimony and settlement of property rights, and to cancel conveyance of realty to husband allegedly obtained by threats and coercion, verdict that divorce should not be set aside did not under doctrine of res judicata or "estoppel by judgment," preclude determination of property rights of the parties. Code, §§ 110–501, 110–503, 110–504.—Thompson v. Thompson, 35 S.E.2d 262, 199 Ga. 692.—Divorce 255.

Ga. 1940. The doctrine of "estoppel by judgment" is applied only as to such matters within scope of the pleadings in previous litigation as had to be adjudicated in order that previous judgment be rendered or as to such matters within scope of the pleadings as might or might not have been adjudicated but which are shown by aliunde proof to have been actually litigated and determined. Code 1933, § 110–501.—Slaughter v. Slaughter, 9 S.E.2d 70, 190 Ga. 229, 129 A.L.R. 156.—Judgm 634.

Ga. 1937. An "estoppel by judgment" concludes only such matters as necessarily had to be adjudicated in order for judgment to have been rendered, or such matters within scope of pleadings as might or might not have been adjudicated, but are shown by aliunde proof to have been actually litigated and determined.—Sheldon & Co. v. Emory University, 191 S.E. 497, 184 Ga. 440.—Judgm 720, 725(1).

Ga.App. 1998. Doctrine of "estoppel by judgment" refers to previous litigation between same parties, based upon different cause of action; in such cases, there is estoppel by judgment only as to such matters within scope of previous pleadings as necessarily had to be adjudicated in order for previous judgment to be rendered, or as to such matters within scope of pleadings as might or might not have been adjudicated, but which are shown by aliunde proof to have been actually litigated and determined.—Gutherie v. Ford Equipment Leasing Co., 498 S.E.2d 797, 231 Ga.App. 350.—Judgm 634.

Ga.App. 1995. Doctrine of "estoppel by judgment" prevents relitigation in subsequent suit involving different cause of action on matter which was actually adjudicated in former case.—Winding River Village Condominium Ass'n, Inc. v. Barnett, 459 S.E.2d 569, 218 Ga.App. 35, reconsideration denied, and certiorari denied.—Judgm 634.

Ga.App. 1985. "Res judicata" bars relitigation of any matter or cause of action that was, or could have been, put in issue and adjudicated in a prior proceeding between the same parties, while "estoppel by judgment" prevents relitigation in a subsequent suit, involving a different cause of action, a matter which was actually adjudicated in a former case. O.C.G.A. §§ 9–12–40, 9–12–42.—Wehunt v. Wren's Cross of Atlanta Condominium Ass'n, Inc., 332 S.E.2d 368, 175 Ga.App. 70.—Judgm 713(2), 720.

Ga.App. 1984. Under plea of "estoppel by judgment," sometimes referred to as "collateral estop-

pel" or as "estoppel by verdict," former adjudication is a bar if same issues were litigated by the parties or their privies in the previous action, though it is not essential that it be upon the same cause of action.—Greene v. Transport Ins. Co., 313 S.E.2d 761, 169 Ga.App. 504.—Judgm 713(1).

Ga.App. 1982. Plea of "estoppel by judgment" stems from doctrine of res judicata where there has been a former adjudication of the same issues by same parties or their privies, even though adjudication may not have been on the same cause of action.—Lowe Engineers, Inc. v. Royal Indem. Co., 297 S.E.2d 41, 164 Ga.App. 255.—Judgm 634.

Ga.App. 1973. Plea of "estoppel by judgment" stems from doctrine of res judicata and is available when there has been a former adjudication of the same issues by the parties or their privies, even though the adjudication may not have been upon the same cause of action. Code, § 110–501.—Blakely v. Couch, 200 S.E.2d 493, 129 Ga.App. 625.—Judgm 585(1).

Ga.App. 1965. Doctrine of "estoppel by judgment" refers to previous litigation between same parties based upon different cause of action and extends only to such matters as were necessarily or actually adjudicated in former litigation.—Banks v. Employees Loan & Thrift Corp., 143 S.E.2d 787, 112 Ga.App. 38.—Judgm 720.

Ga.App. 1962. Doctrine of "estoppel by judgment" refers to previous litigation between same parties based on different cause of action and there is estoppel only to such matters within scope of previous pleadings as necessarily had to be adjudicated in order for previous judgment to be rendered, or as to such matters within scope of pleadings as might or might not have been adjudicated but which are shown by aliunde proof to have been actually litigated and determined. Code, §§ 110–503, 110–504.—King Sales Co. v. McKey, 125 S.E.2d 684, 105 Ga.App. 787.—Judgm 634.

Ga.App. 1942. "Res judicata" and "estoppel by judgment" can only be set up in a subsequent suit between the same parties or their privies.—Harris v. Jacksonville Paper Co., 21 S.E.2d 537, 67 Ga. App. 759.—Judgm 678(1).

Ga.App. 1942. Where employer to which claim against employee had been assigned, credited employee with amount of commissions owing to employee and then transferred claim back to assignor, which recognized the credit and brought suit against employee for the balance, judgment in that suit was not "res judicata," and was not available as an "estoppel by judgment" in subsequent suit by employee to recover commissions from employer, since the parties were not the same.—Harris v. Jacksonville Paper Co., 21 S.E.2d 537, 67 Ga.App. 759.—Judgm 683.

Ga.App. 1941. In suit to recover damages for alleged conversion of stock certificate, defendant's plea setting up a final judgment in a former suit showing that identical certificate was the subject matter of that suit, that it had been adjudicated that plaintiff was estopped from asserting any claim or title to certificate and that title was in a certain company, that defendant was in privity with company, and that plaintiff was likewise estopped from asserting title as against defendant was a sufficient plea of "estoppel by judgment" or "plea in bar" and was not subject to a general demurrer. Code, § 110–501.—Morris v. Georgia Power Co., 15 S.E.2d 730, 65 Ga.App. 180.—Judgm 949(2).

Ga.App. 1933. "Estoppel by judgment" operates only as to matters necessarily or actually adjudicated in former litigation.—Capps v. Toccoa Falls Light & Power Co., 167 S.E. 530, 46 Ga.App. 268.—Judgm 720.

Ga.App. 1930. "Estoppel by judgment" operates only as to matters necessarily or actually adjudicated in former litigation.—Hamlin v. Johns, 151 S.E. 815, 41 Ga.App. 91.—Judgm 720.

Ill. 1944. A Federal District Court order, denying judgment creditor's petition to set aside order discharging debtor in bankruptcy and to reopen bankruptcy proceeding on ground that debtor had no such interest in property, which petition alleged had not been administered in such proceeding, as would pass to bankruptcy trustee, was final and conclusive of such issue in subsequent action to collect judgment by execution and operated as "estoppel by judgment" against levy under such execution.—Normal State Bank v. Killian, 54 N.E.2d 539, 386 Ill. 449.—Bankr 3444.30(2).

Ill. 1941. The burden of establishing an "estoppel by judgment" is upon him who invokes it, and to so operate it must either appear upon the face of the record or be shown by extrinsic evidence that the precise question was raised in determining the former suit.—City of Geneseo v. Illinois Northern Utilities Co., 39 N.E.2d 26, 378 Ill. 506, certiorari denied 62 S.Ct. 1046, 316 U.S. 670, 86 L.Ed. 1746, certiorari denied Central Illinois Electric & Gas Co v. Village of Heyworth, Ill. 62 S.Ct. 1046, 316 U.S. 670, 86 L.Ed. 1746.—Judgm 951(1).

Ill.App. 1 Dist. 1999. Under doctrine of "res judicata," or "estoppel by judgment," a final judgment may be asserted in bar of a second action where the parties and causes of action are identical; former judgment bars not only questions actually decided, but those which might properly have been litigated.—Peregrine Financial Group, Inc. v. Martinez, 238 Ill.Dec. 757, 712 N.E.2d 861, 305 Ill. App.3d 571, rehearing denied, appeal denied 242 Ill.Dec. 150, 720 N.E.2d 1105, 185 Ill.2d 664.—Judgm 585(1), 668(1), 713(2).

Ill.App. 1 Dist. 1993. Doctrine of "res judicata," also known as "estoppel by judgment," provides that final judgment rendered by court of competent jurisdiction on merits is conclusive as to rights of parties and their privies and, as to them, constitutes absolute bar to subsequent action involving same claim, demand, or cause of action.—Horwitz, Schakner & Associates, Inc. v. Schakner, 192 Ill. Dec. 515, 625 N.E.2d 670, 252 Ill.App.3d 879.—Judgm 540.

Ill.App. 1 Dist. 1985. "Res judicata" or "estoppel by judgment" provides that final judgment rendered on merits by court of competen bars subsequent action between parti action and their privies on same claim, cause of action.—Pfeiffer v. William Co., 92 Ill.Dec. 332, 484 N.E.2d 11 App.3d 320.—Judgm 634.

Ill.App. 1 Dist. 1948. Under "estopp ment" doctrine, where parties and sut are the same, prior adjudication is bind with respect to issues actually decide respect to all issues which could have be the particular proceeding as it was act ed.—Skidmore v. Johnson, 79 N.E.2d 7 App. 347.—Judgm 713(2).

Ill.App. 1 Dist. 1942. The rule of "c judgment" does not apply where the po was not controverted in the prior action have been.—Haumesser v. Woodrich, 193, 315 Ill.App. 475.—Judgm 713(2).

Ill.App. 1 Dist. 1942. A judgment claimant in action against decedent for contract to sell stock did not bar claimant rules of "res judicata" or "estoppel by from filing a claim against decedent's amount paid under option agreement, wh were not the same, and issue raised in p on claim was not raised or controverted action.—Haumesser v. Woodrich, 43 N. 315 Ill.App. 475.—Judgm 715(3).

Ill.App. 2 Dist. 2004. "Res judicata," pel by judgment," holds that a final judg dered by a court of competent jurisdicti merits is conclusive as to the rights of t and their privies, and as to them, it cons absolute bar to a subsequent action inv same claim, demand, or cause of actio Roe, 288 Ill.Dec. 186, 817 N.E.2d 544 App.3d 1155, rehearing denied.—Judgm

Ill.App. 2 Dist. 1969. Doctrine of "res or "estoppel by judgment" provides that p ment will be complete bar against seco both as to matters actually adjudicated action and to matters which could have be therein if there is an identity of parties, matter, and of cause of action.—In re Estate, 248 N.E.2d 539, 109 Ill.App.2d 243 713(2), 720.

Ill.App. 2 Dist. 1955. That where caus tion in first suit is not same as cause of second suit, court's determination in first s questions actually decided is final and estop and their privities from relitigating ques second suit, is normally denominated as " by verdict" or "estoppel by judgment" an another branch of res judicata, resting up principles.—Rose v. Dolejs, 129 N.E.2d 2 App.2d 267.—Judgm 634.

Ill.App. 3 Dist. 1984. "Estoppel by ju applies in all cases where the second suit the same cause of action and is between t parties or their privies; this doctrine exte only to questions actually litigated and deci to all grounds of recovery or defense whic

certificate and that title was in a certain
ıy, that defendant was in privity with compa-
that plaintiff was likewise estopped from
g title as against defendant was a sufficient
"estoppel by judgment" or "plea in bar"
not subject to a general demurrer. Code,
501.—Morris v. Georgia Power Co., 15
30, 65 Ga.App. 180.—Judgm 949(2).

)p. 1933. "Estoppel by judgment" oper-
as to matters necessarily or actually adju-
n former litigation.—Capps v. Toccoa Falls
Power Co., 167 S.E. 530, 46 Ga.App.
dgm 720.

p. 1930. "Estoppel by judgment" oper-
as to matters necessarily or actually adju-
n former litigation.—Hamlin v. Johns, 151
41 Ga.App. 91.—Judgm 720.

4. A Federal District Court order, deny-
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ıg debtor in bankruptcy and to reopen
y proceeding on ground that debtor had
ıterest in property, which petition alleged
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of such issue in subsequent action to
gment by execution and operated as "es-
udgment" against levy under such execu-
mal State Bank v. Killian, 54 N.E.2d 539,
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). 668(1), 713(2).

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n merits is conclusive as to rights of
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to subsequent action involving same
nd, or cause of action.—Horwitz,
Associates, Inc. v. Schakner, 192 Ill.
5 N.E.2d 670, 252 Ill.App.3d 879.—

)ist. 1985. "Res judicata" or "estop-
ent" provides that final judgment ren-

dered on merits by court of competent jurisdiction bars subsequent action between parties in initial action and their privies on same claim, demand or cause of action.—Pfeiffer v. William Wrigley Jr. Co., 92 Ill.Dec. 332, 484 N.E.2d 1187, 139 Ill. App.3d 320.—Judgm 634.

Ill.App. 1 Dist. 1948. Under "estoppel by judgment" doctrine, where parties and subject matter are the same, prior adjudication is binding not only with respect to issues actually decided but with respect to all issues which could have been raised in the particular proceeding as it was actually litigated.—Skidmore v. Johnson, 79 N.E.2d 762, 334 Ill. App. 347.—Judgm 713(2).

Ill.App. 1 Dist. 1942. The rule of "estoppel by judgment" does not apply where the point at issue was not controverted in the prior action but might have been.—Haumesser v. Woodrich, 43 N.E.2d 193, 315 Ill.App. 475.—Judgm 713(2).

Ill.App. 1 Dist. 1942. A judgment adverse to claimant in action against decedent for breach of contract to sell stock did not bar claimant under the rules of "res judicata" or "estoppel by judgment", from filing a claim against decedent's estate for amount paid under option agreement, where issues were not the same, and issue raised in proceedings on claim was not raised or controverted in damage action.—Haumesser v. Woodrich, 43 N.E.2d 193, 315 Ill.App. 475.—Judgm 715(3).

Ill.App. 2 Dist. 2004. "Res judicata," or "estoppel by judgment," holds that a final judgment rendered by a court of competent jurisdiction on the merits is conclusive as to the rights of the parties and their privies, and as to them, it constitutes an absolute bar to a subsequent action involving the same claim, demand, or cause of action.—In re Roe, 288 Ill.Dec. 186, 817 N.E.2d 544, 352 Ill. App.3d 1155, rehearing denied.—Judgm 540, 584.

Ill.App. 2 Dist. 1969. Doctrine of "res judicata" or "estoppel by judgment" provides that prior judgment will be complete bar against second action both as to matters actually adjudicated in first action and to matters which could have been raised therein if there is an identity of parties, of subject matter, and of cause of action.—In re Garrett's Estate, 248 N.E.2d 539, 109 Ill.App.2d 243.—Judgm 713(2), 720.

Ill.App. 2 Dist. 1955. That where cause of action in first suit is not same as cause of action in second suit, court's determination in first suit on all questions actually decided is final and estops parties and their privities from relitigating questions in second suit, is normally denominated as "estoppel by verdict" or "estoppel by judgment" and is but another branch of res judicata, resting upon same principles.—Rose v. Dolejs, 129 N.E.2d 281, 7 Ill. App.2d 267.—Judgm 634.

Ill.App. 3 Dist. 1984. "Estoppel by judgment" applies in all cases where the second suit is upon the same cause of action and is between the same parties or their privies; this doctrine extends not only to questions actually litigated and decided but to all grounds of recovery or defense which might have been presented in the first suit.—Reynolds Metals Co. v. V.J. Mattson Co., 80 Ill.Dec. 905, 466 N.E.2d 357, 125 Ill.App.3d 554.—Judgm 634, 713(2), 720.

Ill.App. 4 Dist. 1986. "Estoppel by judgment" is bar to relitigation between same parties of same cause of action.—Ely v. National Super Markets, Inc., 102 Ill.Dec. 498, 500 N.E.2d 120, 149 Ill. App.3d 752, appeal denied 108 Ill.Dec. 416, 508 N.E.2d 727, 114 Ill.2d 544.—Judgm 585(1).

Ill.App. 4 Dist. 1983. Under doctrine of "estoppel by judgment," final judgment may be asserted in bar of second action where parties and cause of action are identical.—Decatur Housing Authority for Use and Benefit of Harlan E. Moore and Co., Inc. v. Christy-Foltz, Inc., 73 Ill.Dec. 519, 454 N.E.2d 379, 117 Ill.App.3d 1077.—Judgm 540.

Ill.App. 4 Dist. 1982. "Estoppel by judgment" (res judicata) provides that a valid judgment in a previous action between the parties bars subsequent action between those parties on same claim or cause of action; the doctrine applies not only to those issues which were actually raised in first proceeding, but also to any issues which might have been raised in that proceeding.—Redfern v. Sullivan, 67 Ill.Dec. 166, 444 N.E.2d 205, 111 Ill.App.3d 372.—Judgm 540, 713(2), 720.

Ill.App. 4 Dist. 1974. Under doctrine of "res judicata" or "estoppel by judgment," if a former judgment is raised as a complete bar against the second action, both as to those matters actually adjudicated in the first action and as to those matters which could have been raised therein, there must be, as between the actions, identity of parties, of subject matter, and of cause of action.—Hinkle v. Tri-State Transit, Inc., 315 N.E.2d 289, 21 Ill. App.3d 134.—Judgm 634.

Ind.App. 1 Dist. 1989. "Estoppel by judgment" takes place when prior adjudication on merits by court of competent jurisdiction acts as bar to subsequent action on same claim between parties or those in privity with them.—Watson Rural Water Co., Inc. v. Indiana Cities Water Corp., 540 N.E.2d 131, rehearing denied, and transfer denied.—Judgm 540.

Ind.App. 1 Dist. 1982. "Estoppel by judgment" is distinguished from collateral estoppel in that estoppel by judgment occurs when a prior adjudication by a court of competent jurisdiction is a complete bar to a subsequent action on the same claim from the same parties or their privies.—Cox v. Indiana Subcontractors Ass'n, Inc., 441 N.E.2d 222.—Judgm 540, 634.

Ind.App. 2 Dist. 1979. "Estoppel by judgment" takes place when a prior adjudication on the merits by court of competent jurisdiction acts as a bar to a subsequent action on the same claim between the same parties or those in privity with them.—South Bend Federation of Teachers v. National Ed. Association--South Bend, 389 N.E.2d 23, 180 Ind.App. 299.—Judgm 540.

Ind.App. 1951. Under the rule of res judicata known as "estoppel by judgment", a cause of action

finally determined between parties on merits by court of competent jurisdiction, cannot again be litigated by new proceedings before the same or any other tribunal, except by way of review according to law, and judgment rendered is a complete bar to any subsequent action on same claim or cause of action, between same parties, or those in privity with them.—Beatty v. McClellan, 96 N.E.2d 675, 121 Ind.App. 242.—Judgm 540.

Ind.App. 1933. Rule of "estoppel by judgment," or "estoppel by verdict," or "conclusiveness of verdict," is part of doctrine of res judicata and is that final adjudication of any issue by court of competent jurisdiction binds parties and privies in any subsequent proceeding, irrespective of difference in forms or causes of action.—Citizens' Loan & Trust Co. of Washington, Ind. v. Sanders, 187 N.E. 396, 99 Ind.App. 77.—Judgm 634.

Iowa 1959. The term "res judicata" usually refers to (1) the effect of a judgment as a bar to prosecution of a second action upon same claim, demand or cause of action, or (2) its effect to preclude the litigation of particular facts or issues in another action between the same parties on a different claim or cause of action, and the second is also often referred to as "estoppel by judgment" or "collateral estoppel".—Lynch v. Lynch, 94 N.W.2d 105, 250 Iowa 407.—Judgm 540, 634.

Iowa 1941. For "estoppel by judgment" to arise, matter must necessarily have been decided, and it will not be enough that it may have been decided, but the inference must be necessary and irresistible, excluding all doubt.—Band v. Reinke, 298 N.W. 865, 230 Iowa 515.—Judgm 720.

Iowa 1941. A plea of "estoppel by judgment" is not sustained by showing a dismissal without showing which defense prevailed, since all defenses are not presumed to have been sustained, and in absence of a proper showing it is a pure matter of conjecture as to what issue was determined.—Band v. Reinke, 298 N.W. 865, 230 Iowa 515.—Judgm 956(5).

Kan. 1940. The rule of "estoppel by record" or "estoppel by judgment" bars a second action between the same parties on an issue necessarily raised and decided in the first action, and an issue of ownership of property and its incidents thus adjudicated cannot be relitigated in a second action between the same parties.—Woods v. Duval, 99 P.2d 804, 151 Kan. 472.—Estop 1, 10; Judgm 720.

Kan. 1940. Where heirs of testatrix' deceased brother brought action against testatrix' sole beneficiary to recover half of oil royalties which he had collected from trustee after testatrix' death, and judgment was entered against testatrix' sole beneficiary, sole beneficiary was precluded by the rule of "estoppel by record" and "estoppel by judgment" from thereafter maintaining an action against trustee, wherein heirs of testatrix' deceased brother intervened, to recover judgment for entire amount of royalties collected by trustee after testatrix' death.—Woods v. Duval, 99 P.2d 804, 151 Kan. 472.—Estop 10; Judgm 720.

La.App. 4 Cir. 1976. Where employee, who was injured by machine during course of his employment, brought products liability claim against manufacturer and negligence claim against certain of employer's executives, executives brought third-party petition against manufacturer, and executives were not parties to employee's prior products liability suit against manufacturer and were thus deprived of choice of attorneys, arguments, and methods of procedure and of presentation of evidence, fact that trial court dismissed claim against manufacturer on basis of prior federal suit did not mean that executives' third-party petition against manufacturer was barred under doctrine of "estoppel by judgment," since executives had not yet had their day in court. LSA-C.C. art. 2286.—Brown v. Globe Tool & Engineering Co., 337 So.2d 894.—Judgm 696.

Md.App. 1978. "Estoppel by judgment" comes into play when person seeks not to attack the existence or validity of a judgment or decree, but rather to question effect of that judgment or decree on him, while prohibition against collateral attack prevents a person attacking the judgment itself rather than merely its scope or effect.—Klein v. Whitehead, 389 A.2d 374, 40 Md.App. 1, certiorari denied 283 Md. 734.—Judgm 634.

Mass. 1950. In a subsequent action between the same parties on a different cause of action, an "estoppel by judgment" applies only to all facts which were actually put in issue in prior action, and not to those that might have been tried and settled in previous action.—Wishnewsky v. Town of Saugus, 89 N.E.2d 783, 325 Mass. 191.—Judgm 713(2), 717.

Mass. 1943. The "estoppel by judgment" entered upon sustaining of a demurrer is an estoppel arising where a party litigant attempts to assume inconsistent and contradictory positions with respect to same matter.—Elfman v. Glaser, 47 N.E.2d 925, 313 Mass. 370.—Judgm 656.

Mass.App.Ct. 1973. "Estoppel by judgment" will operate where issue attempted to be raised in second case was so necessarily involved in first case that judgment which was entered therein could not possibly have been entered without that issue having been adjudicated adversely to the party later attempting to raise it.—City of Boston v. Pagliaro, 294 N.E.2d 531, 1 Mass.App.Ct. 117.—Judgm 725(1).

Mich. 1942. Where husband had appealed from dismissal of bill for divorce on ground of extreme cruelty, he was not precluded from instituting second suit for divorce on ground of extreme cruelty based on acts that occurred subsequent to hearing on original action, under principle of "res judicata" or "estoppel by judgment", and the second action was not barred by the appeal pending in the first action.—Dowhan v. Dowhan, 6 N.W.2d 483, 303 Mich. 197.—Divorce 82, 171.

Mich. 1942. The doctrine of "estoppel by judgment" is applied only as to such matters within the scope of the pleadings in the previous litigation as necessarily had to be adjudicated in order for the

previous judgment to be rendered
matters within the scope of the plea
or might not have been adjudicated
shown by aliunde proof to have bee
gated and determined.—Dowhan v
N.W.2d 483, 303 Mich. 197.—Judgm

Minn. 1965. "Estoppel by judgm
as an absolute bar to a subsequent su
cause of action concluding the par
privies not only as to every matter tha
but also as to any other claim or
might have been litigated.—Howe v
N.W.2d 687, 271 Minn. 296.—Judgm

Minn. 1946. "Estoppel by verdi
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its application to the issues of fact a
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though different forms and causes
involved.—Wolfson v. Northern St
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720.

Minn. 1941. The doctrine of "es
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Beighley, 300 N.W. 445, 211 Minn.
584, 720.

Minn. 1881. "Estoppel by judgme
same as "res adjudicata."—State of
Torinus, 9 N.W. 725, 28 Minn. 175.

Mo. 1965. A former adjudication
of action between same parties is co
second proceeding as to every issue
was or might have been litigated in
under doctrines of "res judicata" or
judgment."—Smith v. Preis, 396 S.
Judgm 713(2).

Mo. 1964. Former adjudication or
between same parties is conclusive i
proceedings as to every issue of fact
might have been litigated in first proc
what is called "estoppel by judgmen
rel. Ward v. Stubbs, 374 S.W.2d 40.—J

Mo. 1948. Judgment determining
dent entered by probate court, which h
jurisdiction of decedent's realty or mac
with reference thereto, was not res judi
of whether realty had escheated to t
was insufficient to constitute either
judgment" or "verdict", since state wa
or privy to probate court proceeding a
no jurisdiction to determine title to
V.A.M.S. §§ 462.280, 462.290, 463.1
470.010 et seq., 470.060, 470.110.—Stat

. 4 Cir. 1976. Where employee, who was
v machine during course of his employ-
ught products liability claim against man-
and negligence claim against certain of
s executives, executives brought third-par-
n against manufacturer, and executives
arties to employee's prior products liabil-
gainst manufacturer and were thus de-
hoice of attorneys, arguments, and meth-
cedure and of presentation of evidence,
rial court dismissed claim against manu-
basis of prior federal suit did not mean
tives' third-party petition against manu-
is barred under doctrine of "estoppel by
since executives had not yet had their
urt. LSA-C.C. art. 2286.—Brown v.
l & Engineering Co., 337 So.2d 894.—

1978. "Estoppel by judgment" comes
when person seeks not to attack the
r validity of a judgment or decree, but
uestion effect of that judgment or decree
ile prohibition against collateral attack
person attacking the judgment itself
merely its scope or effect.—Klein v.
389 A.2d 374, 40 Md.App. 1, certiorari
Md. 734.—Judgm 634.

50. In a subsequent action between the
s on a different cause of action, an
y judgment" applies only to all facts
actually put in issue in prior action, and
that might have been tried and settled
action.—Wishnewsky v. Town of Sau-
2d 783, 325 Mass. 191.—Judgm 713(2),

3. The "estoppel by judgment" en-
sustaining of a demurrer is an estoppel
e a party litigant attempts to assume
and contradictory positions with re-
e matter.—Elfman v. Glaser, 47 N.E.2d
ss. 370.—Judgm 656.

Ct. 1973. "Estoppel by judgment"
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t which was entered therein could not
been entered without that issue hav-
judicated adversely to the party later
raise it.—City of Boston v. Pagliaro,
531, 1 Mass.App.Ct. 117.—Judgm

2. Where husband had appealed from
bill for divorce on ground of extreme
as not precluded from instituting sec-
divorce on ground of extreme cruelty
s that occurred subsequent to hearing
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Divorce 82, 171.

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ied only as to such matters within the
pleadings in the previous litigation as
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previous judgment to be rendered or as to such matters within the scope of the pleadings as might or might not have been adjudicated but which are shown by aliunde proof to have been actually litigated and determined.—Dowhan v. Dowhan, 6 N.W.2d 483, 303 Mich. 197.—Judgm 634.

Minn. 1965. "Estoppel by judgment" operates as an absolute bar to a subsequent suit on the same cause of action concluding the parties and their privies not only as to every matter that was litigated but also as to any other claim or defense which might have been litigated.—Howe v. Nelson, 135 N.W.2d 687, 271 Minn. 296.—Judgm 713(2).

Minn. 1946. "Estoppel by verdict", as distinguished from "estoppel by judgment", is limited in its application to the issues of fact actually adjudicated in the prior action, and such adjudication of questions of fact, so placed in issue and determined, is res judicata and conclusive on the parties and their privies in all subsequent litigation although different forms and causes of action are involved.—Wolfson v. Northern States Management Co., 22 N.W.2d 545, 221 Minn. 474.—Judgm 720.

Minn. 1941. The doctrine of "estoppel by verdict" is the doctrine that previous adjudication of an issue of fact is conclusive between the parties as to the existence of that fact when it arises in a subsequent action premised on a different claim or demand, and is distinguished from "estoppel by judgment" which applies where a new action is brought on the same cause of action as was involved in the previous adjudication.—Holtz v. Beighley, 300 N.W. 445, 211 Minn. 153.—Judgm 584, 720.

Minn. 1881. "Estoppel by judgment" means the same as "res adjudicata."—State of Wisconsin v. Torinus, 9 N.W. 725, 28 Minn. 175.

Mo. 1965. A former adjudication on same cause of action between same parties is conclusive in a second proceeding as to every issue of fact which was or might have been litigated in first action under doctrines of "res judicata" or "estoppel by judgment."—Smith v. Preis, 396 S.W.2d 636.—Judgm 713(2).

Mo. 1964. Former adjudication on same cause between same parties is conclusive in subsequent proceedings as to every issue of fact which was or might have been litigated in first proceeding, under what is called "estoppel by judgment".—State ex rel. Ward v. Stubbs, 374 S.W.2d 40.—Judgm 713(2).

Mo. 1948. Judgment determining heirs of decedent entered by probate court, which had not taken jurisdiction of decedent's realty or made any orders with reference thereto, was not res judicata on issue of whether realty had escheated to the state and was insufficient to constitute either "estoppel by judgment" or "verdict", since state was not a party or privy to probate court proceeding and court had no jurisdiction to determine title to the realty. V.A.M.S. §§ 462.280, 462.290, 463.170, 468.010, 470.010 et seq., 470.060, 470.110.—State ex inf. Kell v. Buchanan, 210 S.W.2d 359, 357 Mo. 750.—Judgm 707.

Mo. 1948. Identity of the thing sued for, identity of cause of action, identity of persons and parties to action and identity as to quality of the person for or against whom claim is made are generally essential to a plea of "estoppel by judgment".—State ex inf. Kell v. Buchanan, 210 S.W.2d 359, 357 Mo. 750.—Judgm 634.

Mo. 1943. Under the rule of "estoppel by judgment", a former adjudication is conclusive in subsequent proceeding on the same cause of action between the same parties as to every issue of fact which was or might have been litigated in former proceeding.—Kimpton v. Spellman, 173 S.W.2d 886, 351 Mo. 674.—Judgm 713(2).

Mo. 1942. "Estoppel by judgment" must be mutual and bind both parties, and, if the judgment is not binding on both, it binds neither.—Stewart v. City of Springfield, 165 S.W.2d 626, 350 Mo. 234.—Judgm 666.

Mo. 1927. "Res judicata" may result from "estoppel by judgment."—State ex rel. Gott v. Fidelity & Deposit Co. of Baltimore, Md., 298 S.W. 83, 317 Mo. 1078.—Judgm 584.

Mo.App. 1972. Under what is called "estoppel by judgment," a final adjudication is conclusive in subsequent proceedings not only as to every issue of fact which was actually litigated but also as to every issue of fact which might have been litigated.—Munday v. Thielecke, 483 S.W.2d 679.—Judgm 713(2).

Mo.App. 1960. The principle "res judicata", when applied to matters actually litigated and determined in a prior proceeding between the same parties in a prior case, is more accurately referred to as "estoppel by judgment" or "collateral estoppel".—Ratermann v. Ratermann Realty & Inv. Co., 341 S.W.2d 280.—Judgm 634.

N.J. 1958. The doctrine of "collateral estoppel" or "estoppel by judgment" is an extension of principle of res adjudicata, but there is a distinction in that "estoppel by judgment" applied in suit upon different cause of action operates only as to matters in issue or points controverted, upon determination of which the finding or verdict was rendered.—Mazzilli v. Accident & Cas. Ins. Co. of Winterthur, Switzerland, 139 A.2d 741, 26 N.J. 307.—Judgm 724.

N.J.Co. 1949. Where a valid and final personal judgment is rendered on the merits in favor of defendant, plaintiff cannot thereafter maintain an action on the original cause of action, and this is known as "direct estoppel" or an "estoppel by judgment"; and in such a case the original cause of action is merged in the judgment.—Stone v. William Steinen Mfg. Co., 70 A.2d 803, 7 N.J.Super. 321, affirmed 70 A.2d 809, 6 N.J.Super. 178.—Judgm 582, 634.

N.J.Dist.Ct. 1942. Where trial court had found that bus operator was not negligent in collision with motorist, when motorist and automobile owner had

sued operator's employer for operator's alleged negligence and failed on the merits, the doctrine of "estoppel by judgment" precluded subsequent action by motorist and owner against operator for the same alleged negligence.—Canin v. Kesse, 28 A.2d 68, 20 N.J.Misc. 371.—Judgm 696.

N.Y.Sup. 1932. Determination of material issue will, as between parties, be conclusive in another case based on different cause of action. "Estoppel by judgment," or what is commonly known as "res judicata," has two distinct branches, first, where two suits are on the same cause of action between the same parties, and, second, where suits or proceedings are on different causes of action, but common material issues are involved.—Guaranty Trust Co. of New York v. International Trust Co., 258 N.Y.S. 465, 144 Misc. 127.

N.Y.Sur. 1943. A final order or decree is binding as to issues litigated and decided, and as to matters which might have been litigated and decided, and an order denying application to vacate accounting decree operates as "estoppel by judgment" against attack made in subsequent proceeding upon such accounting decree.—In re Gibson's Will, 40 N.Y.S.2d 727.—Ex & Ad 513(3); Judgm 713(2).

N.Y.Sur. 1943. Where later action is different from earlier action not only in form but in the rights and interests affected, the "estoppel by judgment" rendered in earlier action is limited to the point actually determined in earlier action.—In re Moran's Will, 39 N.Y.S.2d 929, 180 Misc. 469.—Judgm 720.

N.C. 2004. Under "collateral estoppel," also known as "estoppel by judgment" or "issue preclusion," the determination of an issue in a prior judicial or administrative proceeding precludes the relitigation of that issue in a later action, provided the party against whom the estoppel is asserted enjoyed a full and fair opportunity to litigate that issue in the earlier proceeding; collateral estoppel precludes the subsequent adjudication of a previously determined issue, even if the subsequent action is based on an entirely different claim.—Whitacre Partnership v. Biosignia, Inc., 591 S.E.2d 870, 358 N.C. 1.—Admin Law 501; Judgm 713(1).

N.C. 2000. Doctrine of "collateral estoppel," also referred to as "issue preclusion" or "estoppel by judgment," precludes relitigation of a fact, question or right in issue when there has been a final judgment or decree, necessarily determining the fact, question or right in issue, rendered by a court of record and of competent jurisdiction, and there is a later suit involving an issue as to the identical fact, question or right theretofore determined, and involving identical parties or parties in privity with a party or parties to the prior suit.—State v. Summers, 528 S.E.2d 17, 351 N.C. 620.—Judgm 634.

N.C. 1957. An "estoppel by judgment" means that when a fact has been agreed on, or decided in a court of record, neither of the parties shall be allowed to call it in question, and have it tried over again at any time thereafter, so long as judgment or decree stands unreversed.—Humphrey v. Faison, 100 S.E.2d 524, 247 N.C. 127.—Judgm 634.

N.C. 1955. Generally, to constitute "estoppel by judgment", there must be identity of parties, subject matter and issues.—Queen City Coach Co. v. Burrell, 85 S.E.2d 688, 241 N.C. 432.—Judgm 665, 714(1), 715(1).

N.C. 1927. Identity of parties, subject-matter, and issues is essential to "estoppel by judgment."—McInturff v. Gahagan, 136 S.E. 339, 193 N.C. 147.—Judgm 584.

N.C. 1926. Identity of parties, subject-matter, and issues is essential to "estoppel by judgment."—Hardison v. Everett, 135 S.E. 288, 192 N.C. 371.—Judgm 584.

Ohio 1995. "Estoppel by judgment" prevents party from relitigating same cause of action after final judgment has been rendered on merits as to that party.—State ex rel. Scripps Howard Broadcasting Co. v. Cuyahoga Cty. Court of Common Pleas, Juv. Div., 652 N.E.2d 179, 73 Ohio St.3d 19.—Judgm 540.

Ohio 1989. "Estoppel by judgment" prevents party from litigating cause of action after prior court has rendered final judgment on merits of that cause as to that party.—Krahn v. Kinney, 538 N.E.2d 1058, 43 Ohio St.3d 103.—Judgm 634.

Ohio 1953. "Estoppel by judgment" means that final adjudication of material issue by a court of competent jurisdiction binds parties in any subsequent proceeding between or among them, irrespective of difference in forms or causes of action.—Mansker v. Dealers Transport Co., 116 N.E.2d 3, 160 Ohio St. 255, 52 O.O. 119.—Judgm 634.

Ohio App. 2 Dist. 1941. Where right of deceased's widow to use of mansion house of the deceased beyond the year allowed by the law was considered by probate court on exceptions to account of widow as administratrix and on motion by heirs for widow's removal as administratrix, but it did not appear that any judgment entry of probate court directly adjudicated widow's right, widow's defense of "res judicata" or "estoppel by judgment", in suit by heirs to recover reasonable value of use of mansion house of deceased beyond the year allowed by law, could not be sustained.—Hodapp v. Hodapp, 37 N.E.2d 101, 34 Ohio Law Abs. 305.—Ex & Ad 35(20), 513(9).

Ohio App. 4 Dist. 1996. "Estoppel by judgment" prevents party from relitigating same cause of action after final judgment has been rendered on merits as to that party.—Phillips v. Rayburn, 680 N.E.2d 1279, 113 Ohio App.3d 374.—Judgm 634.

Ohio Com.Pl. 1965. "Estoppel by judgment" arises only when the earlier judgment made an adjudication of an issue which was material in the attempted later court action.—Beerman v. City of Kettering, 237 N.E.2d 641, 14 Ohio Misc. 144, 43 O.O.2d 351.—Judgm 715(1).

Ohio Com.Pl. 1959. Under doctrine of "estoppel by judgment", only those issues actually litigated and determined are foreclosed so

quent determination is concerned Braskett, 162 N.E.2d 922, 10 O.O.2d Law Abs. 161.—Judgm 720.

Okla. 1980. "Res judicata" bars a s where the parties and two causes of a same; "estoppel by judgment" is appl the two causes of action are differen only those matters which are comm suits.—Wabaunsee v. Harris, 610 P.2 OK 52.—Judgm 540, 634.

Okla. 1973. Doctrine of "collateral "estoppel by judgment" requires an id ties and subject matter in the two though identity of causes of action is sary element in such doctrine, it is n the point on which the plea of estoppel judgment is based be in issue in the la have been in issue and decided in th Laws v. Fisher, 513 P.2d 876, 1973 OK 634.

Okla. 1960. Under "res judicata" d judgment on the merits bars subseque same cause of action, but where act different causes of action, "estoppel b operates only as to those issues comm actions which were expressly or by nec cation adjudicated in first action.—Bru 360 P.2d 508, 1960 OK 266.—Judgm 725(1).

Okla. 1958. Term "res judicata" i the use of a former adjudication as an to a second action upon the same cau and term "estoppel by judgment" is ap more restricted use of a former adjud conclusive adjudication of some issue. ter material to the determination of a tion.—Runyan v. City of Henryetta, 3 1958 OK 3.—Judgm 540, 634.

Okla. 1955. Principle of "res judi second suit between same parties on s matter resolving same issues betwee same capacity, while "estoppel by j limited to issues common to different a were expressly, or by necessary implica cated in the first action or judgment Briggs, 292 P.2d 385, 1955 OK 349.— 634.

Okla. 1947. Where two deeds conv ent parcels of real property were mad and delivered at same time and as part transaction, issue of grantor's intent t trust was not necessarily the identical is rate actions on the deeds, and judgm action that deed was delivered in tr conclusive under the doctrine of "estop ment," as to grantor's intent with resp deed.—Dusbabek v. Boland, 189 P.2 Okla. 614, 1947 OK 371.—Judgm 714(1

Okla. 1942. Under the doctrine of " judgment", a fact once litigated and de a court of competent jurisdiction may n called in question or litigated by the sam

ıds unreversed.—Humphrey v. Faison, 524, 247 N.C. 127.—Judgm 634.

5. Generally, to constitute "estoppel by there must be identity of parties, subject issues.—Queen City Coach Co. v. Bur-2d 688, 241 N.C. 432.—Judgm 665, 1).

7. Identity of parties, subject-matter, is essential to "estoppel by judg-Inturff v. Gahagan, 136 S.E. 339, 193 Judgm 584.

). Identity of parties, subject-matter, is essential to "estoppel by judg-rdison v. Everett, 135 S.E. 288, 192 Judgm 584.

5. "Estoppel by judgment" prevents relitigating same cause of action after ent has been rendered on merits as to -State ex rel. Scripps Howard Broad-v. Cuyahoga Cty. Court of Common Div., 652 N.E.2d 179, 73 Ohio St.3d 540.

). "Estoppel by judgment" prevents litigating cause of action after prior ndered final judgment on merits of that that party.—Krahn v. Kinney, 538 43 Ohio St.3d 103.—Judgm 634.

3. "Estoppel by judgment" means that ation of material issue by a court of urisdiction binds parties in any subse-eding between or among them, irre-difference in forms or causes of ac-ker v. Dealers Transport Co., 116 0 Ohio St. 255, 52 O.O. 119.—Judgm

2 Dist. 1941. Where right of de-ow to use of mansion house of the ond the year allowed by the law was y probate court on exceptions to ac-ow as administratrix and on motion by low's removal as administratrix, but it ar that any judgment entry of probate y adjudicated widow's right, widow's "res judicata" or "estoppel by judg-it by heirs to recover reasonable value ansion house of deceased beyond the l by law, could not be sustained.—Hodapp, 37 N.E.2d 101, 34 Ohio Law x & Ad 35(20), 513(9).

4 Dist. 1996. "Estoppel by judg-nts party from relitigating same cause er final judgment has been rendered on that party.—Phillips v. Rayburn, 680 113 Ohio App.3d 374.—Judgm 634.

Pl. 1965. "Estoppel by judgment" when the earlier judgment made an of an issue which was material in the ter court action.—Beerman v. City of 7 N.E.2d 641, 14 Ohio Misc. 144, 43 -Judgm 715(1).

Pl. 1959. Under doctrine of "estop-ent", only those issues actually litigat-

ed and determined are foreclosed so far as subsequent determination is concerned.—State v. Braskett, 162 N.E.2d 922, 10 O.O.2d 497, 82 Ohio Law Abs. 161.—Judgm 720.

Okla. 1980. "Res judicata" bars a second action where the parties and two causes of action are the same; "estoppel by judgment" is applicable where the two causes of action are different and denies only those matters which are common to both suits.—Wabaunsee v. Harris, 610 P.2d 782, 1980 OK 52.—Judgm 540, 634.

Okla. 1973. Doctrine of "collateral estoppel" or "estoppel by judgment" requires an identity of parties and subject matter in the two actions and, though identity of causes of action is not a necessary element in such doctrine, it is necessary that the point on which the plea of estoppel by the prior judgment is based be in issue in the later case, and have been in issue and decided in the former.—Laws v. Fisher, 513 P.2d 876, 1973 OK 69.—Judgm 634.

Okla. 1960. Under "res judicata" doctrine, final judgment on the merits bars subsequent action on same cause of action, but where actions involve different causes of action, "estoppel by judgment" operates only as to those issues common to both actions which were expressly or by necessary implication adjudicated in first action.—Bruce v. Miller, 360 P.2d 508, 1960 OK 266.—Judgm 564(1), 720, 725(1).

Okla. 1958. Term "res judicata" is applied to the use of a former adjudication as an absolute bar to a second action upon the same cause of action, and term "estoppel by judgment" is applied to the more restricted use of a former adjudication as a conclusive adjudication of some issue, fact or matter material to the determination of a second action.—Runyan v. City of Henryetta, 321 P.2d 689, 1958 OK 3.—Judgm 540, 634.

Okla. 1955. Principle of "res judicata" bars a second suit between same parties on same subject matter resolving same issues between parties in same capacity, while "estoppel by judgment" is limited to issues common to different actions which were expressly, or by necessary implication, adjudicated in the first action or judgment.—Brown v. Briggs, 292 P.2d 385, 1955 OK 349.—Judgm 540, 634.

Okla. 1947. Where two deeds conveying different parcels of real property were made, executed and delivered at same time and as part of the same transaction, issue of grantor's intent to deliver in trust was not necessarily the identical issue in separate actions on the deeds, and judgment in one action that deed was delivered in trust was not conclusive under the doctrine of "estoppel by judgment," as to grantor's intent with respect to other deed.—Dusbabek v. Boland, 189 P.2d 173, 199 Okla. 614, 1947 OK 371.—Judgm 714(1).

Okla. 1942. Under the doctrine of "estoppel by judgment", a fact once litigated and determined by a court of competent jurisdiction may not again be called in question or litigated by the same parties or their privies in a subsequent action.—In re Hunter's Estate, 122 P.2d 1017, 190 Okla. 284, 1942 OK 91.—Judgm 720.

Okla. 1940. The essence of "estoppel by judgment" is that there has been a judicial determination of a fact, and the question always is, has there been such determination, and not on what evidence or by what means was it reached.—Price v. Clement, 102 P.2d 595, 187 Okla. 304, 1940 OK 160.

Okla. 1940. The principle of "estoppel by judgment" is not dependent on the form or the object of the litigation in which the adjudication was made, but it is only essential that there should have been a judicial determination of rights in controversy with a final decision thereon.—Poarch v. Finkelstein, 99 P.2d 871, 186 Okla. 523, 1940 OK 13.—Judgm 644.

Okla. 1940. Where issue of location of center line of driveway between realty of plaintiffs and defendant and property line was limited in injunction suit to that portion of the realty extending only up to front end of garage, "estoppel by judgment" did not bar maintenance of a subsequent action by the former defendant for ouster of former plaintiffs and to quiet title to strip of property occupied by garage.—Johnson v. Whelan, 98 P.2d 1103, 186 Okla. 511, 1940 OK 68.—Judgm 715(1).

Okla. 1940. Where "estoppel by judgment" is sought to be applied to matters arising in one suit because of a judgment rendered in a prior suit, the inquiry is whether the question of fact in issue in the subsequent suit is the question of fact actually determined in the former, and not what might have been litigated and determined therein.—Johnson v. Whelan, 98 P.2d 1103, 186 Okla. 511, 1940 OK 68.—Judgm 715(1).

Okla. 1935. "Res judicata" is distinguished from "estoppel by judgment," in that under res judicata a judgment bars a second action on the same cause of action, but under estoppel by judgment, where the two causes of action are different, a judgment only estops the parties from denying matters common to both causes of action.—McKee v. Producers' & Refiners' Corp., 41 P.2d 466, 170 Okla. 559, 1935 OK 160.—Judgm 540, 634.

Okla. 1924. The essence of "estoppel by judgment" is that there has been a judicial determination of a fact, and the question always is, Has there been such determination, and not upon what evidence or by what means was it reached? * * *—Fulsom v. Mason, 229 P. 1072, 107 Okla. 70, 1924 OK 948.

Or. 1942. Under doctrine of "estoppel by judgment", a declaratory judgment, although not set up by any pleading in subsequent litigation between the same parties but relied on only for evidentiary purposes as establishing certain issues involved in the later litigation, was conclusive upon such issues as were decided in declaratory judgment and again involved in subsequent litigation.—In re Patton's Estate, 132 P.2d 402, 170 Or. 186.—Judgm 720.

Or. 1942. The rule that an "estoppel by judgment" to be available must be pleaded does not

apply where the judgment instead of being relied upon in bar of the action is introduced in evidence merely as conclusive of some particular fact formerly adjudicated.—In re Patton's Estate, 132 P.2d 402, 170 Or. 186.—Judgm 948(1).

Or. 1942. Where executrix sought to set off against claim against estate, claimant's alleged liability for proportionate share of partnership indebtedness remaining after liquidation of assets of partnership in which claimant allegedly was a copartner with testator, under doctrine of "estoppel by judgment" declaratory judgment in prior action between executrix and claimant that claimant was not a member of the partnership nor liable for debts of partnership business by virtue of any alleged partnership was conclusive on the issue of claimant's liability for debts by virtue of partnership, even though declaratory judgment was not set up in pleadings, but relied on only for evidentiary purposes.—In re Patton's Estate, 132 P.2d 402, 170 Or. 186.—Judgm 948(1).

Or. 1936. Doctrine of "res judicata" rests on maxims that man should not be twice vexed for same cause and that it is for public good that there should be end to litigation, and is broad enough to include "merger in judgment" and "estoppel by judgment." since both are grounded on fundamental precepts that it is for benefit of society that there be end to litigation and that no litigant should be vexed twice over same dispute.—Winters v. Bisaillon, 57 P.2d 1095, 153 Or. 509, 104 A.L.R. 968.—Judgm 540.

Or. 1904. As a general rule, an "estoppel by judgment" resides in the judgment itself, and not in the reason for rendering it, and when the decree is definite and certain the opinion of the court cannot be used to show what matters were considered or determined.—Gentry v. Pacific Live Stock Co., 77 P. 115, 45 Or. 233.

S.C. 1944. "Estoppel by judgment" rests upon equitable principles, as distinguished from "res judicata", which rests upon the maxims "nemo debet bis vexari pro eadem causa" and "interest reipublicae ut sit finis litium", meaning, respectively, that no one ought to be twice sued for the same cause of action and that it is the interest of the state that there should be an end of litigation.—Watson v. Goldsmith, 31 S.E.2d 317, 205 S.C. 215.—Judgm 540, 713(1).

Tenn. 1965. Under doctrine of "collateral estoppel", commonly referred to as "estoppel by judgment", only those issues actually litigated are conclusive on parties in subsequent litigation.—A. L. Kornman Co. v. Metropolitan Government of Nashville and Davidson County, 391 S.W.2d 633, 216 Tenn. 205, on remand 417 S.W.2d 793, 57 Tenn.App. 230.—Judgm 720.

Tex. 1971. Rule of "collateral estoppel" or "estoppel by judgment" bars relitigation in a subsequent action upon a different cause of action of fact issues actually litigated and essential to prior judgment.—Benson v. Wanda Petroleum Co., 468 S.W.2d 361.—Judgm 720.

Tex.Civ.App.–Austin 1927. "Res judicata" and "estoppel by judgment" rest on separate grounds.—Cauble v. Cauble, 2 S.W.2d 967, writ dismissed w.o.j.—Judgm 584, 713(1).

Tex.Civ.App.–San Antonio 1973. Rule of "collateral estoppel" or, as sometimes phrased, "estoppel by judgment," bars relitigation in subsequent suit on different cause of action of fact issues actually litigated and essential to prior judgment.—City of San Antonio v. Terrill, 501 S.W.2d 394, ref. n.r.e.—Judgm 720.

Tex.Civ.App.–San Antonio 1935. "Estoppel by judgment," arises in later action on different claim or demand as to matters actually litigated and conclusively established by former adjudication, and essential to or necessarily involved in judgment.—Balcom v. Cain, 81 S.W.2d 827, reversed 109 S.W.2d 1044, 130 Tex. 497.—Judgm 725(1).

Tex.Civ.App.–Dallas 1937. Determination of issues of fact necessary to judgment in former suit creates "estoppel by judgment" against determination again of same issues in subsequent suit between same parties on different cause of action.—McDowell v. Harris, 107 S.W.2d 647, writ dismissed.—Judgm 725(1).

Tex.Civ.App.–Texarkana 1943. Judgment in prior suit involving substantially the same parties determining that a partition had been consummated, created an "estoppel by judgment" to subsequent action in trespass to try title involving issue necessarily determined in prior suit.—Humble Oil & Refining Co. v. Webb, 177 S.W.2d 218, writ refused w.o.m.—Judgm 725(4).

Tex.Civ.App.–Waco 1942. Where judgment debtor sought to enjoin sale of his land under levy of writ of execution on ground that land was his homestead, and judgment creditor answered by general denial without pleading or proving his abstract of judgment, issues limited court to an adjudication of the homestead status as of the date of the levy and thereafter, but not previously and was not an "estoppel by judgment" so as to prevent judgment creditor from subsequently litigating issue of homestead status of land as of date of filing and recording abstract of judgment which was previous to the levy.—Stevenson v. Wilson, 163 S.W.2d 1063.—Judgm 715(3).

Tex.Civ.App.–Waco 1942. An issue of fact necessary for a determination of issues in a prior case, and a judgment entered therein, create an "estoppel by judgment" against relitigation of the same issue.—Stevenson v. Wilson, 163 S.W.2d 1063.—Judgm 725(1).

ESTOPPEL BY JUDGMENT OR VERDICT

Va. 1954. It is essential in a plea of "estoppel by judgment or verdict" that the identical question upon which it is invoked was in issue in former proceeding.—Petrus v. Robbins, 80 S.E.2d 543, 195 Va. 861, reversed 83 S.E.2d 408, 196 Va. 322.—Judgm 715(1).

ESTOPPEL BY LACHES

C.A.4 (Va.) 2004. "Estoppel by lach
ly applies in a trademark infringemen
preclude relief for an owner of a ma
unreasonably slept on his rights.—Wh
Of Virginia, Inc. v. Whataburger, Inc.
Christi, Texas, 357 F.3d 441, on r
F.Supp.2d 407.—Trademarks 1534, 1540

C.C.A.4 (N.C.) 1928. "Estoppel by
failure to do something which should b
enforce right at proper time.—Hutchin
ney, 27 F.2d 254.—Equity 67.

S.D.N.Y. 1999. "Abandonment" is l
as against whole world, which may
trademark owner's failure to sue other
"estoppel by laches," on the other hand
defense which may be asserted when le
to initiate litigation against any particul
causes prejudice to that defendan
Trade-Mark Act, § 45, 15 U.S.C.A
Hermes Intern. v. Lederer De Paris F
Inc., 50 F.Supp.2d 212, affirmed in par
part 219 F.3d 104.—Trademarks 1153.

N.D.Ohio 1997. "Estoppel by lac
when trademark holder inexcusably c
tempts to prevent infringing use to
innocent users. Lanham Trade-Mark
15 U.S.C.A. § 1114(1).—Freed v.
F.Supp. 887.—Trademarks 1534, 1540.

S.D.Ohio 1989. "Estoppel by lac
when trademark holder inexcusably c
tempts to prevent infringing use to the
innocent users. Lanham Trade-Mark
15 U.S.C.A. § 1114(1).—Central Bene
Co. v. Blue Cross and Blue Shiel
F.Supp. 1423.—Trademarks 1540.

M.D.Tenn. 1984. Defense of "esto
es" denies relief to litigant who has b
unreasonable delay in enforcing his rig
delay results in prejudicial reliance
party.—Tandy Corp. v. Malone & H
F.Supp. 1124, reversed 769 F.2d 3
denied 777 F.2d 1130, certiorari den
2277, 476 U.S. 1158, 90 L.Ed.2d 7
denied 106 S.Ct. 2277, 476 U.S. 115
719.—Equity 72(1).

Ky. 1940. Delay alone, though
will not sustain defense of "estopp
unless it further appears that party
rights, has not sought to enforce th
condition of the party pleading lache
faith become so changed that he cann
to his former state, if the rights be t
due to loss of evidence, change of titl
of equities, and other causes.—Wisd
Sims, 144 S.W.2d 232, 284 Ky. 25
72(1).

Ky. 1940. To create "estoppel b
party sought to be estopped must w
of the transaction in question have d
to mislead the other party to his pr
dom's Adm'r v. Sims, 144 S.W.2d
258.—Equity 70, 72(1).