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A BIBLIOGRAPHY OF TEXTBOOKS ON GEORGIA LAW

By JAMES C. REHBERG*

The primary purpose of this article is to draw attention to the abundance of text materials which are available on Georgia law, and to mention the fields which have not yet been explored by the legal textwriter. No doubt, some of the works mentioned here are unknown to many Georgia lawyers—through no fault of the works themselves or of the lawyers. Some of the books to be discussed were printed for only a limited distribution and, hence, are not generally available. Then, too, some of them are out of print at the present time. Such books are included here, nevertheless, because many lawyers may have access to them even though they have no desire to obtain personal copies.

Most of the books to be discussed were published within about the last thirty years. There are quite a few books on Georgia law which were published at earlier dates and which were well-received by the bench and bar of their day. At the present time, however, most of them are valuable only from a historical standpoint.

For purposes of organization and continuity (if such is possible in a bibliography), the books are grouped into the three classifications of Substantive Law, Procedural Law, and Forms. While every effort has been made to insure completeness, there is a possibility of some inadvertent omission. Failure to mention any book which may have escaped the attention of the writer is certainly not to be construed as an appraisal of such book.

SUBSTANTIVE LAW

(a) Agency

Georgia Annotations to the Restatement of the Law of

*Law Librarian, Walter F. George School of Law, Mercer University; A.B., 1940, Mercer University; LL.B., 1948, Walter F. George School of Law, Mercer University; Member Georgia Bar Association.

Agency.¹ This book was the first publication by the Georgia Bar Association in furtherance of its policy of cooperation with the American Law Institute. The scope of the book is set out by Professor Sellers in the Preface: "These annotations are not designed to set forth all of the Georgia decisions on a given point of the law of agency, but are concerned chiefly with citation of such decisions as are deemed sufficient to confirm or to deny the proposition stated in the Restatement in so far as the latter may appear to express the Georgia law." It is not, then, a digest of Georgia cases on the law of agency. The thoroughness with which these annotations were prepared is evidenced by the small number of Restatement sections for which Georgia cases in point were not found.²

(b) Automobiles

Only two books have been published on automobile law in Georgia. The first one was Vartanian, *The Law of Automobiles in Georgia*.³ Vartanian divides his book into two parts: (1) General law of automobiles, covering the broad subjects of negligence, rights, duties, and liabilities as they apply to automobiles, and (2) Georgia statutes on the subject, as amended through 1927. Gober, *Georgia Laws of Automobiles and the Air*⁴ is a larger book and is more exhaustive in that there is a more detailed discussion of the numerous Georgia cases involving questions of automobile law. A relatively small part of the book is devoted to the law of the air. Since these books are rather outmoded as a result of the great advances in the automotive and aircraft industries, it would be a signal service to the bar of Georgia if some talented textwriter would devote his en-

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1. GEORGIA ANNOTATIONS TO THE RESTATEMENT OF THE LAW OF AGENCY (1938). Prepared by Ashley Sellers, under the auspices of the Georgia Bar Association. Pp. 179. American Law Institute Publishers, St. Paul, Minn.
 2. For a detailed review of this book, see 1 GA. B. J. 42 (May, 1939).
 3. VARTANIAN, THE LAW OF AUTOMOBILES IN GEORGIA (1928). Pp. iv, 489. The Michie Co., Charlottesville, Va.
 4. GOBER, GEORGIA LAWS OF AUTOMOBILES AND THE AIR (1929). Pp. 733. Stein Printing Co., Atlanta, Ga. Out of print.

ergies to an exposition of the present-day law on these subjects.

(c) Contracts

*Georgia Annotations to the Restatement of the Law of Contracts.*⁵ This volume, like its companion volume on agency, is an attempt to group the Georgia cases on contracts under their appropriate section numbers in the *Restatement of the Law of Contracts*. Aside from its intended purpose, this work is valuable simply as a collection of Georgia cases on the law of contracts, expertly arranged under the appropriate topics. These two subjects—agency and contracts—are the only ones covered by the American Law Institute which have been annotated in Georgia. At the time of the publication of this book work was in progress on other subjects in the *Restatements*, but this work was halted by the late war. It is hoped that this interruption will prove to be only a temporary one.⁶

(d) Corporations

Nadler,⁷ *Georgia Corporation Law.*⁸ This book is designed to fill a definite need in Georgia. The only other book on the subject of corporation law was published in 1929.⁹ Since it was in 1938 that Georgia's corporation law was almost completely rewritten,¹⁰ there has elapsed a

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5. GEORGIA ANNOTATIONS TO THE RESTATEMENT OF THE LAW OF CONTRACTS (1940). Prepared by Henry M. Quillian and Dale F. Stansbury, under the auspices of the Georgia Bar Association. Pp. 392. American Law Institute Publishers, St. Paul, Minn. Reviewed in 5 GA. B. J. 15 (Aug., 1942).
 6. The Georgia Bar Association maintains a standing Committee on Conferring and Advising with the American Law Institute.
 7. Also the author of NADLER, THE LAW OF BANKRUPTCY (1948). The Callaghan Co., Chicago, Ill. Since this article is devoted to texts on Georgia law, it will not discuss those of nationwide interest.
 8. NADLER, GEORGIA CORPORATION LAW: PRACTICE, FORMS (1950). Pp. xxvii, 726. The Harrison Co., Atlanta, Ga. Reviewed in 1 MERCER L. REV. 337 (Spring, 1950) and 13 GA. B. J. 65 (Aug., 1950).
 9. VARTANIAN, THE LAW OF CORPORATIONS IN GEORGIA (1929). Pp. xv, 719. The Michie Co., Charlottesville, Va.
 10. Ga. Laws, Ex. Sess. 1937-38, p. 214.

period of thirteen years in which the new law has been subjected to practical application and judicial interpretation. In his book Professor Nadler has done an admirable job in collecting and evaluating this application and interpretation, and in pointing out the extent to which Georgia corporation law has crystallized into a degree of definiteness. A collection of about 300 forms (contributed to the author by several of the leading attorneys in the field and thus actually tested in practice) stands as evidence of the detailed and scholarly preparation which assures a text of immediate and continued acceptance by the profession.

(e) Criminal Law

Molnar, *Georgia Criminal Law*.¹¹ This volume is not a textual treatment of the subject embraced in the title. Indeed, as the author says in his Preface, it is "a collection of cases for quick reference, either in the courtroom or in the office, when a detailed and extensive study is impractical." Dividing his book into three parts—Crimes, Criminal Procedure, and Specific Crimes—he proceeds to break down each of these into the specific legal questions involved. He then gives amply sufficient citations of cases to enable one to make a more detailed study of any specific question. It is surprising that criminal law, which occupies so much of the time of the Georgia courts, has so seldom been the subject of legal textwriters.¹²

(f) Evidence

Gober, *Georgia Evidence*.¹³ Judge Gober's aim in publishing this book was to present the law of evidence in a practical manner. He readily admits in the preface that he is not treating the subject from an academic standpoint. His textual material does not go very far afield from the

11. MOLNAR, *GEORGIA CRIMINAL LAW* (1935). Pp. xii, 673. The Harrison Co., Atlanta, Ga. Out of print.

12. The immediate predecessor of Molnar's book is REED, *A HANDBOOK OF GEORGIA CRIMINAL LAW* (1873). J. W. Burke & Co., Macon, Ga.

language of the Code and of the courts. While the book is well-indexed, it does not contain a table of contents. Because of this fact, it may appear forbidding at first glance; but close scrutiny of the index, together with an understanding of the purpose of the book, will overcome this obstacle. Although the book is quite old, it is of much value for two reasons: (1) It is the only book on Georgia evidence, and (2) Georgia evidence has not been subjected to many changes of any import since the publication of this book.

(g) Property

Powell, *Actions for Land*.¹⁴ Perhaps no other book on Georgia law has received such widespread approval and such general acceptance by the bar of the state as has Powell on *Actions for Land*. The author, one of the great scholars of Georgia law, makes a detailed study of all actions at law respecting land titles. While, as the title suggests, the greatest attention is placed upon pleading, practice, and evidence as involved in real actions, there is a lucid discussion of many of the principles of substantive law. The first edition of this work was published in 1911, while the author was sitting on the Georgia Court of Appeals. One of his objects in publishing the book was ". . . to check the decadence into which the common-law or fictitious form of ejectment, as it is called, seems nowadays (1911) to be falling, and to urge its reinstatement into general professional use in this state."¹⁵ His revised edition of this work,¹⁶ published thirty-five years later, begins with the happy comment that that object seems to have been achieved.

Powell, *A Manual on Land Registration*.¹⁷ Pursuant to a Resolution adopted by the General Assembly of Georgia

14. POWELL, ACTIONS AT LAW RESPECTING TITLES TO LAND (1911). Pp. 753. The Harrison Co., Atlanta, Ga.

15. *Id.* at 30.

16. POWELL, ACTIONS FOR LAND: EJECTMENT AND STATUTORY SUBSTITUTES. Revised Edition by Arthur Gray Powell and Stephens Mitchell (1946). Pp. xxiv, 656. The Harrison Co., Atlanta, Ga.

17. POWELL, A MANUAL ON LAND REGISTRATION (1917). Pp. xv, 449. The Harrison Co., Atlanta, Ga.

in 1903,¹⁸ a commission was appointed to study and put into the form of a bill a system of land registration. The author of this book was named by the Governor to serve on this commission. The work of this group was never completed, but in 1914 a similar commission was appointed,¹⁹ and Powell was again named to served on it. This commission drew the bill which became Georgia's Land Registration Act.²⁰ Since the book was published a short time before the Act went into effect, the few citations are from other jurisdictions. It was simply an effort, by one of the men who drew the bill, to explain the purpose and rationale of the legislation. Because subsequent legislatures have amended this Act only slightly,²¹ Powell's book remains a source of much valuable information on the subject of land registration in Georgia.

Mitchell, *Real Property in Georgia*.²² Begun as notes for use by the author in teaching the subject, this book has expanded through several printings to its present size. Rather than allowing his book to degenerate into a simple digest of numerous decisions, Mitchell has gone into elaborate explanations of the history and reasoning of many of the rules of real property law. Since the book was originally designed for use by law students, some of the material may seem elementary to the experienced property lawyer. Here, again, we must not forget the purpose of the book; it was not designed primarily for the experienced property lawyer. No attempt is made by the author to discuss the subjects of ejectment and wills and administration of estates, because, as he says, these subjects are well-expounded by Powell in *Actions for Land* and Redfearn in *Wills and Administration of Estates in Georgia*. Of especial interest to the student or to the inexperienced lawyer is the chapter on "Abstracts of

18. Ga. Laws 1903, p. 689.

19. Ga. Laws 1914, p. 1248.

20. Ga. Laws 1917, p. 108.

21. Ga. Laws 1931, p. 190; Ga. Laws 1939, p. 341; Ga. Laws 1943, p. 326; and Ga. Laws 1945, p. 140.

22. MITCHELL, *REAL PROPERTY IN GEORGIA* (1945). Assisted by Joseph B. Kilbride. Pp. 698. Curtiss Printing Co., Inc., Atlanta, Ga. Out of print.

Title," wherein are pointed out some of the pitfalls of abstracting and ways of avoiding them.

Cozart, *Georgia Security Deeds*.²³ The security deed was first introduced into Georgia law in 1871.²⁴ This book, the only text devoted exclusively to the subject,²⁵ was published sixty-four years later. This method of transferring interests in real property has been so widely employed in Georgia that few now pause to consider the factors which made the security deed so desirable a form of transfer. This little book gives an excellent explanation of these factors. In addition to this history of the security deed in Georgia, the author devotes a chapter to each of the types of legal problems in which a security deed might be involved. Thus, a separate chapter is given over to each of the following: Enforcement Remedies, Transfers, Priorities, Subrogation, Cancellation, Insurance, Second Security Deeds, Taxes, Year's Support, and Judgments.

(h) Taxation

Income Tax Act of 1931, Including Amendments through 1946.²⁶ Georgia's first income tax law was passed by the General Assembly in 1929,²⁷ the tax being based upon the net income as determined by the Federal income tax statute in force at the time. This law was repealed, and a new state income tax law was enacted in 1931.²⁸ This book is made up of that 1931 Act, as amended through 1946. Following a reprint of each section of the Act, there are printed many Regulations which have been issued by the Department of Revenue in explanation of that particular section.

23. COZART, *GEORGIA SECURITY DEEDS* (1935). Pp. x, 136. Gilbert Printing Co., Columbus, Ga. Out of print.

24. Ga. Laws 1871-72, p. 44.

25. POWELL, *ACTIONS FOR LAND* and MITCHELL, *REAL PROPERTY IN GEORGIA* devote some attention to the subject of security deeds.

26. *INCOME TAX ACT OF 1931, INCLUDING AMENDMENTS THROUGH (1947)*. Pp. 179. Published by the Georgia Department of Revenue, Income Tax Unit, Atlanta, Ga.

27. Ga. Laws 1929, p. 92.

28. Ga. Laws, Ex. Sess. 1931, p. 24.

Lester, *The Revenue Laws of Georgia*.²⁹ How this book came into being is expressed succinctly by the editor in his Foreword: "New demands brought new taxes. The old ones, however, remained. As a result, we have in our state today a hodgepodge, inconsistent and uncoordinated system of taxation which, like 'Topsy' just grew." In 1947 the General Assembly, by resolution, set up a committee to study and suggest a program for a revision of the state's entire tax system.³⁰ As soon as this committee began its work, it realized that much more could be accomplished if all the sections of the Code dealing with taxation were brought together and set down in an orderly manner. This book resulted. It is divided into such parts as Consumer Taxes, Income Taxes, Property Taxes, Estate Taxes, etc., each part containing all of the law dealing with that particular type of tax.

Transcript of Proceedings of the Tax Revision Committee.³¹ The entire proceedings of the Tax Revision Committee mentioned above are collected in this five-volume set of books, covering the period from June 23, 1947 through October 21, 1949. In it is contained the testimony of many tax experts from all parts of the nation. The detailed manner in which the committee elicited information from these experts is a tribute to the zeal with which it accomplished the work which had been assigned to it. Temporary pamphlets have been issued covering the meetings of November 13, 14, 1950, at which were discussed the proposals to be submitted to the recent session of the General Assembly.

(i) Wills and Trusts

Wills and Trusts: Suggested Forms.³² This excellent col-

29. THE REVENUE LAWS OF GEORGIA (1948). Pp. xvi, 971. Compiled and edited by William M. Lester, Director, Tax Revision Committee, Atlanta, Ga.

30. Ga. Laws 1947, p. 1741.

31. TRANSCRIPT OF PROCEEDINGS OF THE TAX REVISION COMMITTEE (1950). 5 vols. Compiled by William M. Lester, Director, Tax Revision Committee, Atlanta, Ga.

32. WILLS AND TRUSTS: SUGGESTED FORMS (1949). Published by the Trust Co. of Ga., Atlanta, Ga.

lection of wills and trust clauses was published in 1949 for distribution to full-time practicing attorneys. The book is bound in a loose-leaf volume in order that it may be kept always abreast of changes in the law. To date, there have been several issues of revised pages. Although the subject matter is set out in the form of a single will and a single trust instrument, it in fact contains many more clauses than would be necessary in any single instrument; indeed, there are clauses which, if in the same instrument, would be inconsistent. The aim of the publisher is to set forth an all-inclusive collection of wills and trust clauses, which may serve as examples to guide the attorney in molding the instrument to meet the individual requirements of his clients.

Redfearn, *Wills and Administration of Estates in Georgia*.³³ Here is what may justly be called a treatise on Georgia law. The first edition was published in 1923, and was immediately recognized by lawyers as a book with which they must be familiar. Shortly after the publication of the first edition of his work, the author moved to Miami, Florida, where he continued the practice of law. The popularity of his book necessitated the publication of a Revised Edition in 1938. In 1933 he had published a similar book for Florida (*Wills and Administration of Estates in Florida*), the second edition of which appeared in 1946.³⁴ Both the Georgia and the Florida texts are kept current by the periodic issuance of pocket supplements, the most recent of which were published in 1950. The Georgia text (with which we are primarily interested) opens with a detailed history of wills, and continues through the entire procedure for drawing a will and for taking a wills case from its beginning in the Court of Ordinary to a final decision on appeal. In the Appendix may be found every form needed in the practice of the law of wills and administration of estates.

33. REDFEARN, *WILLS AND ADMINISTRATION OF ESTATES IN GEORGIA* (1933). Pp. xxi, 829. The Harrison Co., Atlanta, Ga. Second Edition (1938). Pp. xxii, 923. The Harrison Co., Atlanta, Ga.

34. REDFEARN, *WILLS AND ADMINISTRATION OF ESTATES IN FLORIDA* (1933). Pp. xxi, 829. The Harrison Co., Atlanta, Ga. Second Edition (1946). Pp. xxvi, 1073. The Harrison Co., Atlanta, Ga.

PROCEDURAL LAW

The books which have been written on pleading and practice during the period under study far outnumber those on any single field of the substantive law of the state. The oldest work in this group is Cozart, *Georgia Practice Rules*.³⁵ In it the aim of the author is to restate in concise language the rules of practice as developed from the decisions of the appellate courts of Georgia. Included also are the rules of practice in Justice Court, a detailed coverage of the steps in the trial of a case in Superior Court, and, finally, the rules of practice in the Court of Appeals and the Supreme Court. The enthusiastic reception accorded this book resulted in the publication of a second edition in 1924. It was enlarged by the addition of chapters on the Rules of Pleading at Common Law, Practice in County Courts, and Practice in the Court of Ordinary. A third edition, considerably larger than its predecessor, appeared in 1933. New materials in it included chapters on Practice Maxims, Miscellaneous Rules on Married Women's Rights, and Measure of Damage.

Ingram, *Georgia Pleading and Practice*.³⁶ Here was the first textual discussion of practice and procedure, as distinguished from a mere compilation of practice rules. Beginning with the initial steps in the prosecution of an action, the procedure is developed chronologically through the rendition of judgment. Appellate practice and procedure are not included in this work.

Gober, *Georgia Pleading and Practice*.³⁷ When this book was published, the author had completed eight years as Solicitor-General of a superior court circuit, nineteen years as Judge of that circuit, and five years as Professor of Law at the University of Georgia. Certainly, he had the experi-

35. COZART, *GEORGIA PRACTICE RULES* (1918). Pp. xxi, 168. The Harrison Co., Atlanta, Ga. Second Edition (1924). Pp. xxiii, 267. The Harrison Co., Atlanta, Ga. Third Edition (1933). Pp. xxxvii, 524. The Harrison Co., Atlanta, Ga.

36. INGRAM, *GEORGIA PLEADING AND PRACTICE* (1927). Pp. xxxv, 816. The Michie Co., Charlottesville, Va.

37. GOBER, *GEORGIA PLEADING AND PRACTICE* (1930). Pp. xxv, 1138. Stein Printing Co., Atlanta, Ga. Out of print.

ence to qualify him as an authority on his subject. Although, as was true of the other pleading and practice books discussed hitherto, this book was published before the present Georgia Code (1933) went into effect, there remains, nevertheless, much valuable material in Judge Gober's book. It is probably the most complete (and without doubt the longest) book yet published on the subject.

Davis and Shulman, *Georgia Practice and Procedure*.³⁸

This book is the only one on its subject since the adoption of the Georgia Code of 1933. The changes in the Code since 1933, notably those with reference to civil procedure in 1946, had necessitated a more recent treatment of the subject of practice and procedure. Davis and Shulman designed their book to fill that need. It is especially valuable for its treatment of comparatively recent changes in Georgia law, such as its chapters on declaratory judgments and domestic relations. On phases of practice which have not changed materially in the intervening years, the authors have relied quite heavily upon Ingram, *Georgia Pleading and Practice* and Cozart, *Georgia Practice Rules*.

Humphries, *Instructions to Juries*.³⁹ This little book has the distinction of being the only one of its kind in Georgia. When Judge Humphries ascended the bench in 1918, he began the collection of notes which he found helpful in instructing juries. In this book he has revised and enlarged his collection, and has added annotations to substantiate the the validity of the charges. While the body of the book is made up of charges upon specific points of law, the Appendix contains three complete charges, one each for murder, robbery, and automobile damage. Due to the fact that it was printed for only a limited distribution, and not for general sale, there are not many copies of this book available.

FORM BOOKS

Although they have not appeared very frequently, Georgia legal form books have continued to keep abreast of

38. DAVIS AND SHULMAN, *GEORGIA PRACTICE AND PROCEDURE* (1948). Pp. xxiii, 738. The Harrison Co., Atlanta, Ga.

39. HUMPHRIES, *INSTRUCTIONS TO JURIES* (1941). Pp. 160. The J. W. Burke Co., Macon, Ga. Out of print.

the changes in the law which have necessitated changes in forms. Since the older form books were based upon previous Codes, they may be out of date to some extent. They deserve mention, however, because the more recent form books have relied upon them considerably. The most comprehensive form book of its day was Van Epps, *Georgia Form Book*.⁴⁰ Based upon the Georgia Code of 1895, as amended through 1907, it was complete in that forms were furnished for practically every item of business likely to confront a lawyer at that time.

In MacIntyre, *Annotated Georgia Forms*,⁴¹ we find the forms based upon Georgia's next code (Park's Annotated Code, 1914). MacIntyre made liberal use of Van Epps' form book, and has improved on the latter in the number and scope of his annotations. Every Georgia case cited in American Law Reports (up to 1928) is mentioned in MacIntyre's annotations.

What appears to be the most complete form book, at least up to its date, is Gober, *Georgia Form Book and Procedure*.⁴² While annotations and explanatory notes are few in number, their scarcity is offset by the fact that Gober has included every possible form, from the simplest and least commonly used ones to the most elaborate and complicated ones.

The current Georgia form book is Ingram and Parham, *Georgia Legal Forms Annotated*,⁴³ a three-volume set. It is the first form book published since MacIntyre's in 1928, and the only one published since the Georgia Code of 1933 went into effect. Annotations in Ingram and Parham are the best to date in any Georgia form book. Also of peculiar value are the notes, giving the essential elements of a form, the order in which to proceed in the use of certain forms, and

40. VAN EPPS, *GEORGIA FORM BOOK* (1908). Pp. 1025. The Harrison Co., Atlanta, Ga.

41. MACINTYRE, *ANNOTATED GEORGIA FORMS* (1928). Pp. 1153. The Harrison Co., Atlanta, Ga.

42. GOBER, *GEORGIA FORM BOOK AND PROCEDURE* (1917). Pp. 902. The Harrison Co., Atlanta, Ga. Out of print.

43. INGRAM AND PARHAM, *GEORGIA LEGAL FORMS ANNOTATED* (1942). 3 vols. The Harrison Co., Atlanta, Ga.

the times prescribed by law within which the various steps of a given procedure must be taken.

CONCLUSION

While Georgia has had several prolific writers on legal subjects, it is unfortunate that some important fields of Georgia law have not yet been cultivated by the textwriter. In partial explanation, however, it should be pointed out that the Georgia bar has contributed, over the years, much valuable materials to legal periodicals, both in Georgia and in other states. Even a partial listing of these contributions is beyond the scope of this article.

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