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Norman A. Crandell

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COMMENTARY

Two Bills and One Chapter: Potential for Invalidity

In 1986, the Georgia General Assembly passed two bills: House Bill 618 relating to conflicts of interest in zoning actions; and Senate Bill 369 relating to interlocal risk management. Both bills sought to amend Title 36 by creating a new Chapter 85.

House Bill 618 was enacted on April 9, 1986; Senate Bill 369 was enacted two days later on April 11, 1986. The effective date of both bills was July 1, 1986.

Under its presumed authority as granted by O.G.G.A. § 28-9-5, the Code Revision Commission redesignated House Bill 618 as Chapter 67A of Title 36, leaving Senate Bill 369 as the sole remaining Chapter 85 of Title 36. These bills appeared in the 1986 pocket part to the Official Code of Georgia Annotated in this manner.

It is clear that the authority granted to the Code Revision Commission is of a housekeeping nature (correction of misspellings, capitalizations, rearrangement of definitions alphabetically, the making of style and grammar changes, correction of punctuation, et cetera); it is equally clear under O.C.G.A. § 28-9-5 that the Commission has no power to alter the sense, meaning, or effect of laws passed by the General Assembly (this is reflected in the express language of subsections (a) and (c) of § 28-9-5).

Apparently, the Commission operates a year behind. Thus, in 1986, by House Bill 1213, which was passed and became effective on February 11, 1986, corrections authorized by § 28-9-5 relative to 1985 legislation were enacted. It is presumed that in 1987 technical amendments relative to 1986 legislation will be likewise enacted, thus legitimizing corrections (?) which already may have shown up in the 1986 pocket parts of the Official Code of Georgia Annotated.

Initially it should be noted that House Bill 1213 of 1986, 1986 Ga. Laws 10, correcting past deficiencies, is arguably an omnibus bill in violation of Article III, § V, ¶ III of the Georgia Constitution, which mandates that no bill shall have more than one subject matter. Subsection (b) of § 28-9-5 seems to recognize this problem by allowing the legislature to introduce one or more bills for the purpose of making housekeeping corrections to the law.

Secondly, the provisions of § 28-9-5 grant no authority to the

Commission to change the numbering of chapters if such change could alter the effect of an act.

And thirdly, the renumbering could affect the validity of HB 618 as follows: House Bill 618, denominated as Chapter 85 of Title 36, was enacted on April 9, 1986. Two days later a new Chapter 85, containing a repealer provision, was enacted in the guise of Senate Bill 369. It is arguable that Senate Bill 369 either expressly or impliedly repealed House Bill 618. If this is so, then the attempt by the Commission to alter the chapter designation of House Bill 618 in the pocket part to O.C.G.A. Title 36 would have the effect of altering the effect of House Bill 618 since it would serve to hide the fact that House Bill 618, although validly enacted, had been repealed prior to the time the Commission acted.

The effect of the Commission's action relative to House Bill 618 is then to violate Article III, § I, ¶ I of the Georgia Constitution, which vests the legislative power in the General Assembly. Georgia courts have uniformly declared any attempt to delegate such power void (see, e.g., *Phillips v. City of Atlanta*, 210 Ga. 72, 77 S.E.2d 723 (1955)). Likewise, § 28-9-5 clearly indicates no delegation of any such power to the Code Revision Commission. Thus, the actions by the Commission relative to House Bill 618 are clearly repugnant both to the Georgia Constitution and to the statutory law creating the Code Revision Commission.

*Norman A. Crandell,
Professor of Law,
Georgia State University
College of Law*