

MAKING THE STATUTE BOOK A BETTER TOOL*

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I

MEN ARE a mob until grouped in units, for separate purposes, they are made an executive organization. Facts are miscellaneous nothings until, segregated according to subject matter, they become science and philosophy. Names in an alphabetical directory have only an isolated and general use; but arranged by trades and professions, we have in the classified directory an efficient business tool, which collects all material for the special end in view, and eliminates what is nonessential to the immediate purpose. Each business unit today provides a place or floor where are assembled those that assist in one special department or duty for the whole enterprise. The Illinois Bar Association became effective by arranging itself in Sections.

For like reasons, the time is ripe to have a purpose classification for printed legislation for Illinois. The writer proposes the following physical arrangement for the 1937 one volume book (273 chapters grouped in twenty classes):

PURPOSE CLASSIFICATION FOR PRINTING ILLINOIS REVISED STATUTES 1874 AND LATER LEGISLATION

1. DICTIONARY AND HISTORY OF STATUTES

Codification of General Statutes, Common Law and British Statutes Confirmed, Construction of Statutes, Reprinting of Session Laws, Revision and Publication, Repealing Act, Validating and Curative Acts.

2. CORPORATIONS

Banks and Banking, Building and Loan Associations, Business Corporation Act, Canal Companies, Cemeteries, Cooperative Associations, Corporate Charters by Legislature, Corporations for Private Education, Corporations for Religion, Corporations not for Profit, Hospital Service Corporations, Housing Corporations, Insurance, Public Utilities, Railroads, Small Loans and Lenders, Street Railroads, Telegraph and Telephone, Trust Companies, World Fairs and Expositions.

3. CONTROL OF MARKETS, BUSINESS, AND PROFESSIONS

Accountants, Agriculture and Horticulture, Animals and Flocks, Architects, Athletic Exhibitions, Aviation, Barbers and Beauticians, Blue Sky Law, Securities, Butter and Cheese Factories, Carnivals, Chiropodists, Commercial Fertilizers, Commission Merchants, County Fairs, Dance Halls and Roadhouses, Dental Surgery, Drivers, Employment, Employment Agencies, Foods, Foreign Ex-

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change, Horse Racing, Horseshoers, Innkeepers and Hotels, Intoxicating Liquors, Medicine and Surgery, Mills and Millers, Mines and Miners, Morticians and Embalmers, Motor Vehicles, Oil and Gas Inspection, Optometry, Partnership, Pharmacy, Plumbers, Poultry Dealers and Hatcheries, Private Detectives, Radio, Realtors, Registered Nurses, Structural Engineers, Transient Merchants, Veterinary Medicine, Warehouses, Weights and Measures.

4. REAL ESTATE

Conveyances and Leases, Farm Names Registered, Fences and Barriers, Homesteads, Plats, Surveyors and Surveys, Tax Title Reconveyance, Timber, Torrens Registered Titles, United States Lands, Vacations of Streets, etc., Zoning.

5. PERSONAL PROPERTY

Chattel Rental Contracts, Common Carriers Bills of Lading, Equipment for Transport Contracts, Estrays and Lost Personalty, Negotiable Instruments, Sales and Bulk Sales, Trade Marks and Brands, Warehouse Receipts.

6. HOME AND FAMILY

Adoption of Children, Children, Divorce and Separation by Decree, Husband and Wife, Marriages.

7. LIQUIDATION OF ESTATES

Administration for Decedents, Aliens, Descent, Dower, Escheats, Guardian and Ward, Insolvent Debtor Estates, Public Administrator for Estates, Public Guardian for Minors, Transfer Taxation, Trusts and Fiduciaries, Wills and Probate, Workmen's Compensation Estates, Wrongful Death.

8. CIVIL REMEDIES AND LIMITATIONS

Abatement of Actions, Amendments and Waivers by Record, Arbitration and Awards, Attachments in Courts of Record, Attachment of Water Craft, Bail in Civil Cases, Chancery, Change of Court or Venue, Civil Practice Act, Costs at Court, Court Receivers, Court Reporters, Court Rules, Ejectment, Eminent Domain, Evidence and Depositions, Exemption Procedures, Forcible Entry and Detainer, Frauds and Perjuries, Garnishment, Habeas Corpus, Injunctions, Interest and Usury, Joint Rights, etc., Judgments, etc., Judicial Notice, Landlord and Tenant Disputes, Liens Foreclosure, Limitations (general), Lis pendens, Mandamus, Mortgages Foreclosure, Names of People Recorded, Ne Exeat, Notices of Publication, Nuisance Damages to Land, Oaths and Affirmations, Partition of Real Estate, Quo Warranto, Records Restored, Referees, Replevin of Chattels, Slander and Libel, Suing Officers and Government, Sureties Released, Tender of Money or Personalty, Trial of Right of Property.

9. CONTROL OF CRIME

Abatement of Nuisances, Criminal Code, Criminal Identification and Investigation, Extradition of Fugitives from Justice, Houses of Correction, Jails and Jailers, Pardons, Penitentiaries, Probation System, Public Defender, Reformatories, Sentence and Parole, Societies for the Apprehension of Horse Thieves.

10. PUBLIC HEALTH AND SAFETY

Births and Deaths, Common Drinking Cup, Community Nurses, Fire Marshal, Fire Prevention, Fire Prevention Districts, First Aid to Injured, Health Control, Mosquito Abatement Districts, Narcotic Drugs Control, Safety Appliances, Safety for Public Buildings, Sanitary Water Board, Underwriters Patrol.

11. HUMAN WELFARE

Bastardy and Unwed Mothers, Charities, Civil Rights, Foundlings, Insane People, Juvenile Administration, Paupers, Pensions and Support from Taxes.

12. PUBLIC EDUCATION

Chicago Board of Education, District and High Schools, Libraries, Special State Schools, University of Illinois.

13. PUBLIC FINANCE

Anticipation of Taxes, Auditor of Public Accounts, Contracts with Illinois, Federal Aid, Fees and Salaries, Financial Statement Publicity, Local Improvements, Municipal Bonds, Municipal Debt Limits, Official Bonds, Public Officers, Refunding Public Debts, Revenue Administration, Sinking Funds, State Finance, Warrants for Public Money.

14. LOCAL GOVERNMENT

Chicago Drainage District, Chicago Park District, Cities and Villages, City Charters by Legislature, Drainage Districts, Municipal Planning Districts, Park Districts, Sanitary District of Chicago, Sanitary Districts.

15. COUNTY GOVERNMENT

Board of Tax Appeals, Coroners and Inquests, Counties Administration, County Assessor, County Auditor, County Clerks, County Planning Districts, County Treasurer, Forest Preserve Districts, Recorder of Documents, Township Organization, Sheriffs and Highway Patrols.

16. THE GOVERNMENT SERVICES

Civil Service, Election Administration, Military and Naval Affairs.

17. THE LEGISLATURE

Amendments to Constitution, Commission for Uniformity, General Assembly, Legislative Reference Bureau.

18. EXECUTIVE ADMINISTRATION

Civil Administrative Code, Commissioners of Deeds, Entomologist, Notaries Public, Roads and Bridges, Seat of Government, Secretary of State, Waterways and Harbors (Construction of Levees, Ferries, Harbor Facilities, Improvement of Canals, etc., River Conservancy Districts, Toll Bridges, Water Terminals).

19. PUBLIC DOMAIN

Fish and Game Codes, Forestry Administration, Forests for Illinois, Historic Memorials, Illinois Emblems, Inventory Annually for Illinois, State Parks, Wild Life Preserves.

20. THE JUDICIARY

Attorney General and State's Attorneys, Attorneys and Counselors, Clerks of Courts, Courts and Judges, Jurors and Jury Commissioners, Justices and Constables, Masters in Chancery.

The foregoing classes or groups are applicable to statutes of other American states. Some states would need an additional group: Boundaries. Other states should have a group: Irrigation and Water Power. There may be other local situations.

What, in a word, is the history of printed statutes? Legislative bodies

usually enact single statutes. Each statute is filed away by number and date of passage. Old books of statutes were printed in that order. Some modern session laws are so printed. While statutes are few that plan is satisfactory.

But onrushing time brings confusion to that plan. Legislatures repeal, amend, confirm, and separate former acts or parts thereof so freely that the simple arrangement by date of passage results in intricate confusion of subject matter, and uncertainty as to what is the entire valid law upon any matter upon any given date.

To print in chronological manner the entire statutes now in force in Illinois would certainly be confusing. Amendments would require much turning of pages forward and reverse. Usually legislative bodies give no directions about arrangement for printing. Some plan to classify statutes for printing should be chosen that will separate statutes into groups, named by common terms that are justified by historical use.

ILLINOIS HISTORIC REVISIONS

The Illinois Historic Revisions dated 1833, 1845, and 1874 are landmarks in Illinois legislative history. The edition of 1833 was mostly a collection of individual laws, whose short titles became chapter headings. The edition dated 1845 was under preparation for about seven years. It shows marked change in volume of statutes; and was intended to arrange the statutes then in force in 110 chapters printed alphabetically. The edition of 1874 was in preparation for about six years and was intended to be a comprehensive and complete set of special codes, arranged by names alphabetically. This result was prevented by (1) the adoption of the constitution of 1870 which limited any enactment to one subject, which must be expressed in its title; (2) change in personnel of the Revision Commission by the death of one member and the retirement of another to enter the legislature; (3) the uncertainty of events, and the great burden of the work cast upon Mr. Hurd, the one remaining member originally authorized to do the work; (4) the inability of the legislature to agree in 1874 upon changes to some fifty odd chapters, which remain now mostly as enacted from 1851 to 1873. Thus one-third of the statutes were not revised in 1874.¹

For these and other reasons, the edition of 1874 is less a unit revision and far less official than was the edition of 1845. The contrary is often stated.

¹ See general statutes of Illinois, 1833, 1845, 1874 and preface.

GENERAL STATUTES—1935

Chapter names in both 1935 one volume editions of Illinois statutes start with the headings used in 1874, omitting some whose material has been repealed, and inserting about thirty-five new chapters here and there alphabetically by names chosen without much plan. Most of the new statutes enacted since 1874 have been pigeonholed under old chapter headings, where they are usually hard to find; and their location is always difficult to remember. Calling the 1874 edition "official" does not make it efficient in 1935; and is no justification for failure to give due emphasis to later sixty years of legislation (half the life of Illinois as a state), which vitally affects the daily affairs of our people. Such action is not a cure for burying much of the statute law under remote and unrelated titles.

WHAT WE NEED FOR THE 1937 EDITION

Our one volume general statute book has constant use by bankers, officers and clerks in the government, realtors, executives, notaries, and commissioners, as well as by the legal profession. Statutes are made by representatives particularly to express the will of the people. The people should be able to recognize their will and find it familiar. The statutes ought to be a handbook usable by the people.

The arrangement of such a book properly should be built upon popular and historical lines. It should be flexible and freely make place for new legislation. The task requires use of common sense. There should be division of subject matter easily understood by the people, rather than intricate classification which is the product of acute logic. It is a book in which to find legislation. We ought to find in one place, as nearly as practical convenience will permit, all the legislation provided to control and govern any one class of people, or any separate portion of human activity.

It is not practicable to make a complete division of statutes, as we would for analysis of decisions, nor to attempt a logical final arrangement. Statutes do not cover the whole field of law. The present statutes are remnants of a hundred years of legislation, amendments, and repeals. They present diverse conditions, purposes, and objects. Every act and every group of statutes contains a variety of material. For instance, many statutes about civil matters contain provisions and penalties for misdemeanors. These items by logical analysis belong in the criminal code. We cannot break up or separate the paragraphs of a statute, but must treat each entire statute as a unit. To separate portions of a statute would destroy the unity of legislative purpose and intent.

For any arrangement of statutes, we should choose the general purpose of each statute in making a classification. The philosophical divisions of

law used by legal scholars, such as Blackstone and writers on jurisprudence, would be out of place, if applied to the plan of such a book of law for common and general use. We can arrange only the statutes which exist. Our proper goal is to name each statute by a common name, using words in common use, and then assemble by groups the chapters so named in each important field of activity for which legislation exists. We should choose as group headings, names that most people would recognize at once, words keyed to the business world and the common speech of the time.

For advice to be of value, certainty is important: (1) that one has only the statute in force; and (2) that one has all the statute law pertaining to the matter in question. What arrangement of statutes will best promote that result? Since we must abandon the date of enactment as the means to arrange the modern volume of statutes in one book, some other method should be supplied.

We know that court colloquy and office conversation give short names to statutes for convenience of reference. Many enacting titles are too long for common use in daily life. In recent years, some statutes specify usable short titles. These may or may not pass into current use. Except in those sovereignties where statutes by legislation have been reduced to a series of related codes, the printer of statutes should arrange them by a plan to promote access and clarity.

The writer believes that the arrangement above suggested accomplishes that purpose. It names the statutes in popular language; and classifies chapters in twenty historical groups. This arrangement compels an inventory of existing statutes now and after each legislative session. The citizen and lawyer will have more ready access to statutes in force upon any matter by glancing over the group names 1 to 20, and then going through the alphabetical list of chapters under any group chosen for examination.

As a brief compares with a digest, as a classified directory has many uses not available to an alphabetical directory, as a card index saves laborious search and is superior to a miscellaneous file, so this plan for printing statutes by related groups well known to legal history, seeks to be as useful an arrangement as line production is in an automobile factory.

This plan requires no new legislation.²

² The second part of this article in the next issue will discuss the reasons for which individual chapters are above arranged under the respective group names 1 to 20.