ADMINISTRATIVE LAW

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This fourth annual report and analysis of the judicial and legislative developments in the field of administrative law presents less judicial material than any of the previous studies.[1] The decisions of the courts during this survey period, while numerous, mainly reaffirmed a number of well-established principles regarding a limited number of agencies, and present no greatly significant developments in the field.

There was more progress in the legislative development of administrative law and procedure, though this was done on a piecemeal basis[2] and applied principally to new governmental activities or to the redefinition of functions previously assigned to existing administrative authorities.

It should be emphasized, as in the past, that this is a report on the judicial and legislative developments in the subject and is not a discussion of specific rules, regulations or orders of specific administrative agencies. Agency-made law is discussed only in connection with specific litigated matters which have come before the appellate courts during the survey period.

In order that this study may conform to the organization used by this

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1. See Culp, *Administrative Law*, 2 MERCER L. REV. 1 (1950); 3 MERCER L. REV. 1 (1951); 4 MERCER L. REV. 1 (1952).
2. If some editorializing may be indulged, it seems obvious that this haphazard development of administrative procedure on an agency by agency basis is not conducive to the uniform development of administrative practices. This factor alone is one of the strongest arguments for the adoption of some uniform procedural statute which will be applicable to administrative procedure and practice before the mass of Georgia agencies.

   Another defect in this type of development is the lack of any general requirement of the publication of the rules and regulations of the administrative agencies which vitally affect the rights and interests of the general public. For example, of the various statutes passed in the January-February, 1953 session of the General Assembly not one requires the publication of the rules and regulations of any administrative agency. It is true, however, that a beginning may have been made in Ga. Laws 1953, p. 480, requiring that a copy of all rules and regulations issued pursuant to the provisions of this Act must be furnished each member of the General Assembly as issued. From the context, however, it appears that this provision was inserted so that the legislature might make any changes deemed necessary at the next session rather than out of solicitude for the interests of the general public.

   Under the present system persons affected by agency rules have no way of knowing what the agency is doing except upon direct inquiry from each agency. There is thus great need for some place where these rules and regulations are required to be published before they become constructivly binding upon members of the public. The present situation finds the same position as were the U. S. citizens with reference to the rules of the federal administrative agencies prior to the required publication of such materials in the Federal Register.

writer in discussing the same subject for the three previous Surveys, the subdivisional analysis is set forth in its entirety below:

1. The attitude of legislature and court toward administrative finality;
2. Delegation of initial power to administrative agencies;
3. Notice and Hearing;
4. Pleading;
5. Investigative powers, including the subpoena power;
6. Hearing procedure;
7. Evidence;
8. Decision process, including rules as to responsibility for decisions and the necessity of findings to support such decisions;
9. Rule-making, both as to power, including legislative reservation of power of disapproval, and the necessity for publication;
10. Judicial review of administrative action.

It should be noted, however, that this present survey does not discuss all ten topics, and covers only those subdivisions where there was either judicial or legislative development, or both, during the survey.

DELEGATION OF INITIAL POWER

One court decision[3] reaffirmed the judicial position that a criminal prosecution may be maintained against a person who violates a regulation of an administrative agency which is in conformity with a statute enacted under express constitutional authority to delegate such authority. It was emphasized that it was not the administrative rule or regulation which created the crime but that it was the basic statute which made a violation of the rule or regulation a criminal act.

There are numerous examples of express delegations of rule-making authority to specific agencies produced by the 1953 session of the General Assembly:

(1) Superintendent of Banks;[4]
(2) State Bridge Authority;[5]
(3) State Board of Health;[6]
(4) State Toll Bridge Authority;[7]

3. Flynn v. State, 88 Ga. App. 52, 76 S.E.2d 38 (1953), distinguishing Glustrom v. State, 206 Ga. 734, 58 S.E.2d 534 (1950), which held that there was no legislative power to delegate to an administrative body the power to make penal laws concerning conduct not made illegal by the enabling act. See comment, Culp, *Administrative Law*, 2 MERCER L. REV. 1 (1950).
4. Ga. Laws 1953, p. 70.
5. Ga. Laws 1953, p. 83 (Reasonable regulations regarding relationships of public utilities to projects).
6. Ga. Laws 1953, p. 140 (All regulations necessary to regulate the disposal, transportation, interment and disinterment of dead human bodies to insure the requirements of vital registration and promote the public health).
7. Ga. Laws 1953, p. 302 (Reasonable regulations regarding public utility installations).

(5) Livestock Development Authority;[8]
(6) Board of Examiners of Practical Nurses;[9]
(7) Secretary of State, acting as Commissioner of Securities;[10]
(8) Commissioner of Agriculture;[11]
(9) Commissioner of Insurance;[12]
(10) State Bridge Building Authority.[13]

The same session of the legislature delegated important licensing authority to the following agencies:

(1) Board of Examiners of Practical Nurses;[14]
(2) Secretary of State as Commissioner of Securities;[15]
(3) Commissioner of Agriculture;[16]
(4) Commissioner of Insurance.[17]

Also the Superintendent of Banks was authorized to approve the conversion of national banks into state banks[18] and of trust companies into state banks.[19] The State Literature Commission was authorized to investigate and prohibit sales of literature found detrimental to the morals of the citizens of the state.[20] The State Livestock Development Authority was vested with power to approve "farm plans" and to issue "loan insurance certificates."[21] The Commissioner of Agriculture may permit sellers of concentrated feeding stuffs to change from a stamp usage to a reporting system and to revoke such permits for a failure to make the proper reports.[22] Under the new Securities Act the Commissioner may forbid the sale of covered securities which he considers will work or tend to work a fraud on the purchaser.[23] Finally, under the Livestock Act,[24] the Commissioner of Agriculture may "take whatever steps necessary" in conjunction with the U. S. Department of Agriculture in the eradication of animal disease.

8. Ga. Laws 1953, p. 337 (Reasonable and necessary regulations and requirements regarding procedure for insurance of loans).
9. Ga. Laws 1953, p. 333 (Rules and regulations regarding the training of Practical Nurses).
10. Ga. Laws 1953, p. 423 (Such rules and regulations as he deems necessary and proper for the enforcement of the law).
11. Ga. Laws 1953, p. 480 (Rules and regulations regarding animal quarantine).
12. Ga. Laws 1953, p. 626 (Rules and regulations regarding examinations); Sec. 15 (Rules and regulations necessary for the administration of the law).
13. Ga. Laws 1953, p. 626 (Regulations regarding utility construction); Sec. 13 (Rules and regulations for the operation of projects).
14. Ga. Laws 1953, p. 333.
15. Ga. Laws 1953, p. 423.
16. Ga. Laws 1953, p. 480.
17. Ga. Laws 1953, p. 497.
18. Ga. Laws 1953, p. 67.
19. Ga. Laws 1953, p. 240.
20. Ga. Laws 1953, p. 135.
21. Ga. Laws 1953, p. 337.
22. Ga. Laws 1953, p. 418.
23. Ga. Laws 1953, p. 423.
24. Ga. Laws 1953, p. 480.

NOTICE AND HEARING

As previously indicated, the legislature enacted no general statute dealing with the fundamentals of administrative procedure, but it continued its policy of prescribing more or less specific procedure for special situations whenever it deemed such measures necessary.

The new State Literature Commission is empowered to hold hearings and make findings, but there is no provision requiring that the seller be notified of the hearing. The law permits the respondent to appear and give evidence at the hearing.[25] By way of contrast the new Securities Act[26] requires that the Commissioner when issuing an order forbidding the sale of any securities or proposing to refuse to register a dealer or sales, or suspending or revoking the registration of any person, must send notices of the opportunity for a hearing by registered return receipt mail, setting forth (1) the order issued or proposed; (2) the grounds for issuance; (3) notice that a hearing will be granted on a request made within 10 days after receipt of the notice. The Commissioner, upon receipt of the request must set a reasonable time and place for the hearing. In the exercise of his licensing power, the Commissioner of Insurance is subject to specific statutory requirements for notice and hearing. When an application has been denied, the Commissioner shall notify the applicant and the insurer in writing that a license will not be issued.[27] Upon receipt of this notice, the applicant has 10 days within which to make a written request for a hearing.[28] Also before any license may be suspended or revoked or the renewal refused, the Commissioner must give notice of his intention so to do, by registered mail, setting a reasonable date for a hearing at which the applicant may appear to be heard and produce evidence.[29] The notice and hearing problem is not handled uniformly, however, in the various licensening procedures considered. For example, the Board of Examiners of Practical Nurses[30] is simply authorized for "good cause and after notice and hearing revoke the license of any person licensed," but there is no provisions for notice and hearing as to an applicant who fails to pass the examination. Likewise, the Commissioner of Agriculture is not expressly required to give any notice or accord any hearing to persons whose applications for feeding permits or operating rendering plants are rejected, although in revoking licenses already granted, he may proceed only after a notice and hearing.[31] Both statutes therefore differentiate between the notice and hearing accorded the applicant for the initial license and that accorded to the licensee whose permit is threatened with revoca-

25. Ga. Laws 1953, p. 135.
26. Ga. Laws 1953, p. 423.
27. Ga. Laws 1953, p. 497.
28. Ga. Laws 1953, p. 497.
29. Ga. Laws 1953, p. 497.
30. Ga. Laws 1953, p. 333.
31. Ga. Laws 1953, p. 480, § 5 (feeders); § 14 (rendering plants).

tion or cancellation. Under an earlier statute[32] it would appear that in a licensing proceeding under any statute administered by the Commissioner of Agriculture a hearing is in fact obtainable upon demand, in those cases where the statute does not provide specifically for notice and hearing. However, this hearing is obtainable only after demand and is set out as a condition precedent to obtaining judicial relief.

INVESTIGATIVE POWER AND HEARING PROCEDURES

There are no judicial decisions in this area to report. However, there is considerable legislative development. The Superintendent of Banks was accorded investigative powers in the matter of approving application by national banks[33] and trust companies[34] for conversion to state banks. Under a section of the Act creating the State Literature Commission,[35] it is given power to investigate sales of literature suspected of being detrimental to the morals of the citizens of Georgia. The Secretary of State, in conjunction with the new Securities Act, is given investigative authority of any securities described in a notice of intention to sell filed with him, in order to determine whether the sale would work or tend to work a fraud on the purchasers,[36] and to make investigations and examinations in connection with the suspension or revocation of a dealer's or salesman's registration.[37] In the administration of the Act licensing insurance agents,[38] the Commissioner of Insurance may make such investigations as he may deem necessary for the proper administration of the Act, and in such cases, he or his deputy specially designated for the purpose, is invested with inquisi-

32. Ga. Laws 1953, 184, incorporated by reference into the 1953 law by Secs. 7 and 15. Under this procedure a hearing is obtainable by a person who has been denied a license, and indeed it would appear that such a person would have to ask for a hearing before resorting to judicial remedies in the case of a rejection of his application.

The section of the 1952 Laws cited appears in an act regarding the licensing and regulation of livestock dealers, and its scope apparently is much broader than the terms of the remainder of the Act. It stipulates that any person affected by any rule or regulation adopted by the Commission of Agriculture pursuant to any statute conferring authority upon him or in the enforcement thereof who believes that the rule or regulation goes beyond the authority conferred or which could be conferred upon the Commissioner, may protest or object in writing to such rule or regulation or any act done pursuant thereto by the Commissioner. Thereupon the Commissioner is required to consider such objections and afford the protestant an opportunity to submit evidence and argument in support of his protest, and if in his judgment, the protest is in whole or in part well-founded, the Commissioner shall take corrective measures. This section concludes with the following statement: "The foregoing is expressly by any rule, regulation or act of the Commissioner is required to exhaust this remedy before pursuing any other remedy, provided, however, nothing contained in this Act shall be construed to deny any applicant for a license any existing right to review by the courts of the Commissioner's action as now provided by law."

33. Ga. Laws 1953, p. 67.
34. Ga. Laws 1953, p. 240.
35. Ga. Laws 1953, p. 135.
36. Ga. Laws 1953, p. 423, § 3(e).
37. Ga. Laws 1953, p. 423.
38. Ga. Laws 1953, p. 497.

torial power, including authority to subpoena witnesses and to examine them under oath.[39]

If summoned under this specific authority, witnesses are granted certain immunity; the act specifically provides that all testimony, documents and other evidence required to be submitted to the Commissioner shall be privileged and shall not be admissible as evidence in any other proceeding.[40]

HEARING

Two of the agencies affected by the recent legislation have their hearing procedure specified in some detail. Under the new Securities Act the Commissioner may call any party to testify under oath, require the attendance of witnesses, the production of books, records and papers authorize depositions, and may issue subpoenas for witnesses and subpoenas *duces tecum*. A party or affected person is entitled to appear in his own behalf or may be represented by counsel. A stenographic record of the proceeding is required unless dispensed with by mutual consent. The Commissioner passes upon the admissibility of evidence, with the right of a party to object, and in the case of a refusal to admit, the party offering has a right to make a proffer thereof which is made a part of the record.

The Commissioner is authorized to appoint a referee to hold these administrative hearings. Such referee must be a licensed attorney. At the conclusion of hearings before a referee, he must submit a written report of his findings of fact and conclusions of law, with a recommendation of the action to be taken. A copy of this report and recommendation is served upon the party requesting the hearing or his attorney, by registered mail. He has within 10 days after receipt of this copy to file written objections to the document which must be considered by the Commission before final decision. A formal hearing must be followed by the issuance of a written order.[41]

Provisions, less elaborate but on a somewhat similar basis, are set forth to govern the hearing which must be held upon demand of applicants for licenses or licensees in danger of suspension or loss of license by action of the Commissioner of Insurance,[42] except that there is no provision for a referee, nor any specific reference to the right of counsel.

The Act relative to licensing of feeders of garbage and rendering plants[43] incorporates by reference the hearing provisions of a 1952 statute.[44] Presumably any person who has been denied a license or had his license revoked could utilize this hearing procedure. While not elaborate, it simply provides that the Commissioner of Agriculture, upon objection, must consider every objection and afford opportunity to submit evidence and

39. Ga. Laws 1953, p. 497.
40. Ga. Laws 1953, p. 497.
41. Ga. Laws 1953, p. 423.
42. Ga. Laws 1953, p. 497.
43. Ga. Laws 1953, p. 480.
44. Ga. Laws 1952, p. 184.

argument in support of the protest. There is, however, no grant of any subpoena power, right of counsel or right to compulsory process in favor of the demanding party, in conjunction with such hearing.[45]

EVIDENCE

As in former years, the courts have been almost exclusively concerned in this area with the problems of evidence in proceedings before the State Board of Workmen's Compensation. Settled principles, largely statutory, were reaffirmed.

In two cases the Court of Appeals relied on the rule that the findings of fact of the Board are conclusive on the courts if supported by evidence.[46] Other cases dealing with evidence relate to the judicial examination of the record to determine whether there was sufficient evidence to support the findings of the State Board. Most of the cases found sufficient evidence.[47] A few determined that there was insufficient evidence.[48]

DECISION PROCESS

Two Supreme Court decisions were concerned with reviewing the action taken by administrative bodies within the scope of a discretion vested in these respective bodies. One case involved the determination of a county board of education to enter into long term contracts. Therein the court stated[49] that a court of equity will not interfere with the administration of the public school laws unless it is made clearly to appear that the school board is acting in violation of law or is grossly abusing its discretion. The other case reviewed the determination of a county board of commissioners[50] in deciding the location of a convict camp and declined to interfere because there was no showing of an abuse of discretion, declaring that the court will not interfere in such matters unless it is clear and manifest that the agency is abusing the discretion vested in it by law.

Two interesting decisions were concerned with the matter of an administrative appeal from a single director to the full Board of Workmen's

45. See discussion of the hearing requirement in n. 32 *supra*.
46. Adams v. Johnson; Johnson v. Adams, 88 Ga. App. 94, 76 S.E.2d 135 (1953), Usury v. Hadden, 87 Ga. App. 710; 75 S.E.2d 275 (1953).
47. Lockheed Aircraft Corp. v. Marks, 88 Ga. App. 167, 76 S.E.2d 507 (1953); St. Paul-Mercury Indemnity Co. v. Robinson, 88 Ga. App. 217, 76 S.E.2d 512 (1953); American Mutual Liability Insurance Co. v. King, 88 Ga. App. 176, 76 S.E.2d 81 (1953); Daniel v. Ford Motor Co., 88 Ga. App. 58, 76 S.E.2d 66 (1953); B. F. Goodrich Co. v. Arnold, 88 Ga. App. 64, 76 S.E.2d 20 (1953); Georgia Power Co. v. Reid, 87 Ga. App. 621, 74 S.E.2d 672 (1953); Fowler v. Holloway, 87 Ga. 453, 74 S.E.2d 376 (1953); City of Brunswick v. Edenfield, 87 Ga. App. 434, 74 S.E.2d 133 (1953); Butler v. Hartford Accident & Indemnity Co., 87 Ga. App. 113, 73 S.E.2d 86 (1952); General Acc. Fire and Life Assurance Corp. v. Worley, 86 Ga. App. 794, 72 S.E.2d 560 (1952); Etheridge v. Liberty Mutual Ins. Co., 86 Ga. App. 369, 71 S.E.2d 562 (1952), wherein the full board had reversed the findings and award of a single director.
48. Alexander-Bland Lumber Co. v. Jenkins, 87 Ga. App. 678, 75 S.E.2d 355 (1953); Aetna Gas & Sur. Co. v. McCullum, 87 Ga. App. 686, 75 S.E.2d 357 (1953).
49. Walker v. McKenzie, 206 Ga. 653, 74 S.E.2d 870 (1953).
50. Moore v. Baldwin, 209 Ga. 541, 74 S.E.2d 449 (1953).

Compensation. The first[51] held that an appeal from a single director could not be dismissed on the part of the appellant, without the consent of the other party, so as to divest the Board of jurisdiction, pointing out that the appeal to the full board is a *de novo* proceeding and opens the entire case for review or a hearing before the full board as a fact finding body.

The other[52] involved the effect, upon a reviewing court, of a decision of the full board not to hold a *de novo* hearing but to accept the findings of fact of a single director. The court pointed out that the Board has the discretion to consider the claim entirely anew by hearing evidence, making findings of fact and findings of law even though the findings of fact of the single director are supported by some evidence. However, if the Board decides not to review the case appealed to them as an entirely new proceeding, accepting the findings of the single director, and reverses his decision as a matter of law, the superior court upon appeal considers the facts found by the single director, and it is the duty of that court to sustain the findings of the single director if supported by competent evidence.

Two other Court of Appeals decisions considered the res judicata effect of a former decision of the Board of Workmen's Compensation. In *Miller v. Independent Life and Accident Insurance Co.*,[53] the court stated generally that "all facts of an agreement or award are res adjudicata except the condition of the claimant." In the other case[54] the court held that a previous award is also res judicata as to condition, in the absence of any evidence that the claimant's condition had worsened during the interval between the award and the second hearing, there having been no appeal from the first hearing.

Two of the statutes passed during the survey period go into considerable detail in regulating the manner of reaching a final decision. The Insurance Agent Licensing Act[55] requires the Commissioner or his specially designated deputy, upon the termination of a hearing to make findings which shall be reduced to writing, filed in his office and notice of the findings sent by registered mail to the persons affected.

Under the new Securities Act, the Secretary of State will probably have to utilize the services of a referee. If this is done, the referee will hold the hearing, at the conclusion of which he will be required to submit to the Commissioner a written document which has been previously described.[56] It is clear that this action of the referee is advisory only, and the decision must be that of the Secretary.[57] A full transcript of the proceedings both before the referee and the Secretary is required by law unless

51. Rose City Foods, Inc. v. Usry, 86 Ga. App. 307, 71 S.E.2d 649 (1952).
52. Automatic Sprinkler Corp. of America v. Rucker, 87 Ga. App. 375, 73 S.E.2d 609 (1952).
53. 86 Ga. App. 538, 71 S.E.2d 705 (1952).
54. Miller v. Hartford Accident and Indemnity Co., 86 Ga. App. 503, 71 S.E.2d 782 (1952).
55. Ga. Laws 1953, p. 497.
56. Ga. Laws 1953, p. 423.
57. Ga. Laws 1953, p. 423.

waived by mutual agreement.[58] Finally, the Secretary, after a hearing has been conducted in accordance with law, is required to issue a written order which shall (1) set forth his findings on the matters involved and (2) enter a specific order in accordance with his findings.[59]

This General Assembly continues a trend indicated by action taken at the 1952 session, designed to obtain a sound and prompt decision on the part of the administrative body concerned.[60]

JUDICIAL REVIEW OF ADMINISTRATIVE ACTION

As previously indicated under the topic of evidence, the courts are bound by the findings of fact of the Board of Workmen's Compensation if supported by competent evidence. Therefore, judicial review of the findings of fact of that agency is limited to determining whether there is competent evidence to support the findings.[61]

However, the reviewing court is not bound by the Board's determination of the law, and it is competent for a judge of the superior court to correct an award in accordance with the proper law applicable.[62] Also it is a question of law whether the Board of Workmen's Compensation has jurisdiction.[63] The Supreme Court thus reversed the Court of Appeals[64] for having affirmed an award where the relationship of employer and employee did not exist.

One decision of the Supreme Court of Georgia[65] concerns itself with the necessity for exhausting administrative appeals before resorting to judicial remedies for the review of legislative action. The specific question was whether, under a zoning ordinance, the right of an applicant for a permit to appeal from an order of the Planning Board constituted an adequate remedy, where the ordinance creating a Board of Adjustment or Appeals is being attacked as unconstitutional and void. It was held that the right of appeal did not constitute an adequate remedy since the Board could not pass upon the validity or invalidity of the ordinance and that therefore a writ of mandamus would lie to determine the valdity.

One significant statutory provision limiting judicial review is set forth in the Act dealing with the licensing of garbage feeders and rendering plants.[66] Under sections 7 and 15 of this Act, persons affected by parts one and two, respectively, must comply with section 8 of the Act dealing with livestock dealers and brokers, passed at the 1952 session,[67] before resort-

58. Ga. Laws 1953, p. 423.
59. Ga. Laws 1953, p. 423.
60. Ga. Laws 1952, p. 55; Culp, *Administrative Law*, 4 MERCER L. REV. 1, 5 (1952).
61. See cases cited in n. 46, 47, 48, *supra.*
62. Standard Accident Ins. Co. v. Gulledge, 86 Ga. App. 493, 71 S.E.2d 571 (1952).
63. Fidelity and Casualty Co. of N. Y. v. Windham, 209 Ga. 592, 74 S.E.2d 835 (1953).
64. 87 Ga. App. 198, 73 S.E.2d 517 (1952), the case in the Court of Appeals prior to the writ of certiorari; the case in the Court of Appeals after the Supreme Court decision on certiorari, 87 Ga. App. 815, 75 S.E.2d 288 (1953).
65. Gay v. City of Lyons, 209 Ga. 599, 74 S.E.2d 839 (1953).
66. Ga. Laws 1953, p. 480.
67. Ga. Laws 1952, p. 184, 186.

ing to judicial action. This is a statutory declaration that certain administrative applications must be made and utilized in these instances before judicial remedies may be invoked. Among the statutes surveyed there are four instances of some specific reference to judicial review. Under the Vital Statistics Act Amended[68] the decisions of the custodians of vital statistics records regarding inspections thereof are reviewable in the alternative by the State Board of Health or the superior court of the county in which the question arises. The Livestock Development Act[69] impliedly recognizes the right of judicial review by providing that all actions to protect or enforce any rights under the provisions of this Act shall be brought in the Superior Court of Fulton County. The new Securities Act provides an appeal from any order of the Commissioner by any person adversely affected thereby to the Superior Court of Fulton County, by serving upon the Commissioner within 20 days after the entry of the order a written notice of appeal.[70]

The State Bridge Building Authority Act[71] provides that any action to protect or enforce any rights under its provisions shall be brought in Fulton County Superior Court.

Methods of Review

As indicated in a previous survey[72] judicial review of administrative action will usually be available, even though there is no specific statutory provision for such review. In individual cases there are many possibilities and usually the resourcefulness and ingenuity of counsel can be relied upon to find an available remedy.

In addition to the legislative provisions for review already discussed above, the decisions during the survey period afford examples of at least three of the more frequently used non-statutory methods of obtaining judicial review of administrative action: the injunction;[73] writ of mandamus;[74] defensive pleading in criminal prosecutions.[75]

68. Ga. Laws 1953, p. 140.
69. Ga. Laws 1953, p. 337.
70. Ga. Laws 1953, p. 423.
71. Ga. Laws 1953, p. 626.
72. Culp, *Administrative Law*, 3 MERCER L. REV. 1, 11 (1952).
73. Moore v. Baldwin County, 209 Ga. 541, 74 S.E.2d 449 (1953).
74. Gay v. City of Lyons, 209 Ga. 599, 74 S.E.2d 839; Walker v. McKenzie, 209 Ga. 653, 74 S.E.2d 870 (1953), wherein the petition was for injunctive relief and mandamus.
75. Flynn v. State, 88 Ga. App. 52, 76 S.E.2d 38 (1953), demurrer to an indictment.