The Court Archive:
Illinois Civil Practice Act of 1933

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Illinoisans witnessed significant changes in the 1930s. The end of prohibition, the Great Depression, and new social services defined that generation and beyond. In the Illinois legal community, perhaps one of the most dramatic changes in the practice of law also occurred in the 1930s with the passage of the Illinois Civil Practice Act of 1933.

By the turn of the twentieth century, Illinois had become one of the most important states in the country due to its unprecedented population growth, transportation networks, and geography. One area that lagged behind was Illinois's antiquated legal system based on the old English Common Law. This system required very specific forms of action in two distinct divisions of court: Law and Chancery (or Equity). Overlap between the divisions was not possible, and pleadings within them were complex with prayers for relief, joinders, and general issues.

Civil practice reform began as early as the 1840s in New York, but according to England's Lord Chief Justice Charles Russell, when visiting Chicago in the 1890s, noted that Illinois "had provided the only park in the world for the preservation of ancient species of pleading and procedure." Resistance to change in Illinois was strong because opponents of merging law and equity claimed that "legal and equitable remedies were inherently different and that our law of rights grew out of our law of remedies."

While this history was accurate, proponents argued, it did not solve how to get the issues in more modern cases efficiently and effectively before the court. "The daily grist of a trial court is composed largely of contract and negligence cases wherein it little boots anyone to puzzle over the ancient distinctions among debt, covenant, account and assumpsit, general and special, or between trespass and case" in which one mistake in choosing an action would cause unnecessary delay and expense.

A 1907 Practice Act made some accomplishments, but in general, Illinois continued to function under a legal system that suited a growing frontier in the 19th century and failed to provide a speedy and adequate court system for the nation's third largest state. The 1933 Act gave Illinois

the best practice act in the entire country, partly because Illinois was able to learn from the issues that arose in other states that modernized practice and procedure.

While the most dramatic changes occurred at the circuit level, the Illinois Supreme Court also saw a few improvements. Most notable was that the new act eliminated the subtle—and not fully understood—difference between an appeal and a writ of error. Every case moving to the Supreme Court would be a broader "appeal," and the appellate court could now petition for leave to appeal (PLA), which functioned the same as a certiorari in other jurisdictions.

The Civil Practice Act of 1933 moved Illinois into a more modern system of practice. Additional changes occurred with another Civil Practice Act in the 1950s, which corrected some overlooked aspects of the 1933 law, and the complete disintegration of the differences between law and chancery cases finally occurred with the new 1964 Judicial Article.