Illinois Supreme Court History:
The First Appellate Court Cases

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Prior to the Civil War, the Illinois Supreme Court was able to manage its case load. Because there were only two levels of court, the Supreme Court was not able to pick and choose its cases. It dealt with all of the appeals and writs of error coming from all of the circuit courts in the state (and several municipal and criminal courts, which possessed the same jurisdiction as circuit courts).

Several factors led to an overburdened Supreme Court. First, the population explosion in the state, and particularly in Chicago, caused more conflict and numerous new trials—and, as a result, appeals. Second, since 1848, the Court consisted of only three members and more cases led to more work for fewer justices. Third, there was no mechanism in the 1848 state constitution to create an appellate court, and amending the constitution was nearly impossible.

The new 1870 Constitution expanded the Supreme Court to seven members and allowed for the creation of appellate courts after 1874. Despite more justices, the burdensome travel and excessive workload caused two of the justices—Anthony Thornton and William McAllister—to resign after only a few years, Thornton in 1873 and McAllister in 1875. In 1877, the General Assembly passed a law creating the Appellate Courts of Illinois.

The Appellate Court consisted of four districts, the first district being Cook County, and the remaining three districts corresponding with the three grand divisions of the Supreme Court (roughly equal geographic areas of northern Illinois counties, central Illinois counties, and southern Illinois counties). Three appellate justices from each of the four districts would hear appeals from the circuits within its district. Appellate judges were appointed by the Supreme Court from the pool of statewide circuit judges. A Rockford circuit judge, for example, may be appointed to the Appellate Court in Mt. Vernon.

On October 16, 1877, the Appellate Court for the First District (Cook County) met to organize and to create rules for the Court with eighteen cases on the docket. On October 23, it heard its very first case, *Matteson v. People*. In the case, there was a motion to strike the record from the file; the three justices sustained the motion and dismissed the appeal. The *Matteson* case does not appear in the Illinois Appellate Reports because the Act that created the appellate courts required reported opinions in cases in which the judgment of the lower court was reversed. This remained the policy until 1885, when both affirmed and reversed cases became published in the Appellate Reports.

Even though there were eighteen cases that first term, only five were published in 1 Illinois Appellate Court Reports. The first reported case was *Village of South Evanston v. Lynch*, 1 Ill.

App. 63 (1877). The *Lynch* case was one of three appeals by the Village of South Evanston, but since the *Lynch* appeal was the only one that was reversed, the other two were not reported. The case began at the justice of the peace when South Evanston sued Lynch in an action of debt to recover a penalty for violating a village ordinance. The JP ruled for the village and fined Lynch $100. Lynch appealed to the Criminal Court of Cook County, where a jury found for Lynch. The Village appealed to the Appellate Court. Judge Theodore Murphy, writing for the three-man court, reversed and remanded the case because one of the jury instructions on behalf of Lynch stated that the village "procured the defendant to violate the ordinance." After examining the record, Murphy found no evidence that such procurement occurred and that the jury instruction mislead the jury.