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Appeal and Error - Notice - Whether Filing of Notice of Appeal with Reviewing Court Is Necessary to Confer Jurisdiction

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CIVIL PRACTICE ACT CASES

APPEAL AND ERROR—NOTICE—WHETHER FILING OF NOTICE OF APPEAL WITH REVIEWING COURT IS NECESSARY TO CONFER JURISDICTION.—The confusion heretofore existing in respect to the steps required for perfecting an appeal in order that jurisdiction may attach has been substantially removed by the recent Supreme Court decision in the case of *Francke v. Eadie*.¹ The Appellate Court had dismissed an appeal therein on the ground that jurisdiction had not attached because the averment of notice of appeal did not appear in the transcript of record nor in the abstract, although an additional transcript was filed with the consent of the court which showed that a notice of appeal had been filed with the trial court in apt time.² On appeal, the Illinois Supreme Court decided that “an appeal is perfected when a notice thereof is filed in the trial court in the form and the time prescribed.”³ Errors or omissions in the Appellate record which tend to indicate lack of jurisdiction may thus be cured if the jurisdictional facts exist.

L. LEIDER

¹ 373 Ill. 500, 26 N.E. (2d) 853 (1940).

² *Francke v. Eadie*, 301 Ill. App. 254, 22 N.E. (2d) 720 (2d. Dist., 1939).

³ Ill. Rev. Stat. 1939, Ch. 110, § 128. For further discussion see 18 CHICAGO-KENT LAW REVIEW 89-92, advocating the reasons supporting the instant decision.