

June 1983

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### Recommended Citation

Harry G. Fins, *Historical and Structural Analysis of the Illinois Revised Statutes - The Major Source of Illinois Law*, 59 Chi.-Kent L. Rev. 761 (1983).

Available at: <https://scholarship.kentlaw.iit.edu/cklawreview/vol59/iss3/2>

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# HISTORICAL AND STRUCTURAL ANALYSIS OF THE ILLINOIS REVISED STATUTES—THE MAJOR SOURCE OF ILLINOIS LAW

HARRY G. FINS\*

*Mr. Fins draws upon his extensive professional experience with the Illinois Revised Statutes to point out that the majority of Illinois law is derived from the statutes. Given this fact, Mr. Fins presents an outline of the Statutes' history and composition, urges a thorough understanding of statutory law, and calls for cooperation between the General Assembly and the Statutes' publisher. Mr. Fins closes by advocating a switch in the emphasis of Illinois law school curriculum from common law to statutory law.*

A careful study of Illinois law discloses that approximately 5% of it is derived from the common law; 8% from the Illinois and Federal constitutions; 2% from Federal statutes and regulations; 5% from municipal and county ordinances; 5% from rules promulgated by the Supreme Court of Illinois and by administrative agencies; and 75% from enactments of the Illinois General Assembly.<sup>1</sup> Thus, statutory law is extremely important to all legislators, members of the legal profession and to the citizenry of this State as a whole. All legislators, lawyers and judges use the *Illinois Revised Statutes* but few know its history or understand its composition. The lack of this information results in a failure to make needed statutory alterations promptly, with the

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1. The percentages shown above were arrived at in the following manner: The author prepared a list bearing the following 6 categories: (1) common law, (2) constitutions, (3) Federal statutes and regulations, (4) municipal and county ordinances, (5) rules of Illinois Supreme Court and administrative agencies, and (6) Illinois statutes. The author then proceeded to examine 1000 Illinois reported cases decided during the decade of 1972-1982, picking at random 100 cases from each of these years and tabulating the respective law sources resorted to in each of the cases. This resulted in the mathematical proportions used herein.

consequence that undesirable features of statutory law remain uncorrected much longer than necessary. Therefore, a dire need exists for knowledge of the history and understanding of the composition of the *Illinois Revised Statutes*. To make this information readily available and to focus attention on needed improvements is the objective of this article.

## I. HISTORY AND STRUCTURE OF THE OFFICIAL ILLINOIS REVISED STATUTES (1827-1874)

Illinois became a State in 1818 and the laws of its First General Assembly appeared in the 1819 Session Laws. From 1819 through 1826 Illinois Acts appeared only in Session Laws in the chronological order of their enactment.

However, in 1827 *The Revised Code of Laws of Illinois* was "Enacted by the Fifth General Assembly." The material was arranged in alphabetical order of subject matter, and without any designated chapters.

In 1833 *The Revised Laws of Illinois* was "published in pursuance of law." As in the 1827 Code, the material was arranged in alphabetical order of subject matter, without any designated chapters.

A major structural change occurred in 1845, when the *Revised Statutes of the State of Illinois* was published "by authority of the General Assembly." As before, the material was arranged alphabetically according to subject matter. However, the subjects were also classified into 110 chapters, thus making numerical reference to the statutes possible.

The last official statutory compilation was published in 1874 as the *Revised Statutes of the State of Illinois*. This edition of the statutory code expanded the 1845 Code format to 148 chapters, still arranged alphabetically by subject matter.

## II. HISTORY AND STRUCTURE OF THE UNOFFICIAL ILLINOIS REVISED STATUTES (1877-1981)

For more than a century, Illinois has had available only unofficially revised statutes, published from time to time by a variety of compilers, including (1) Hurd, (2) Cathran, (3) Hurd and Helmer, (4) Cahill, (5) Smith, (6) Smith and Hurd, (7) Cahill and Jones, (8) Burdette Smith Company, and (9) the West Publishing Company. Frequently, these compilers covered the same periods and were in sharp competition with each other. Nevertheless, they retained the skeletal

outline of the 1874 Code, with chapters arranged from 1 to 148. However, these compilers have seen it fit to supplement that basic schema by adding new chapters, deleting old chapters, and altering the titles and contents of chapters.

*A. Additions of Chapters with Number Designations of ½ and ⅓ds*

Over the last hundred years, the compilers of the Unofficial Revised Statutes have added nineteen new chapters to the compilation. These additions necessitated the use of fractional chapter numbers. The additional chapters were:<sup>2</sup>

Ch. 15½.	Aviation
Ch. 24½.	Civil Service
Ch. 55½.	Fire Escapes
Ch. 56½.	Food and Drugs
Ch. 67½.	Housing and Redevelopment
Ch. 91½.	Mental Health
Ch. 95½.	Motor Vehicles
Ch. 96½.	Natural Resources
Ch. 100½.	Nuisances
Ch. 106½.	Partnership
Ch. 108½.	Pensions
Ch. 110½.	Probate
Ch. 111½.	Public Health and Safety
Ch. 111⅓.	Public Utilities
Ch. 121½.	Sales
Ch. 126½.	Soldiers and Sailors
Ch. 127½.	State Fire Marshal
Ch. 131½.	Street Railroads
Ch. 146½.	Warrants

*B. Chapters with Substantial Changes in Content and Title*

The compilers also made changes in twenty five chapters by altering either the content or titles (or both) of the chapters. These changes were:

Chapter 1 was changed from "Abatement" to "General Provisions."

Chapter 13 was changed from "Attorneys and Counselors" to "Attorneys at Law."

2. The references to chapter and paragraph numbers both here and throughout this article are to ILL. REV. STAT. (1981), except as otherwise expressly stated.

Chapter 15 was changed from "Auditor of Public Accounts" to "Auditor General and State Comptroller."

Chapter 16 was changed from "Bail in Civil Cases" to "Bail."

Chapter 17 was changed from "Bastardy" to "Banking and Finance."

Chapter 19 was changed from "Canal, and Improvement of Illinois and Little Wabash Rivers" to "Canals and Waterways Improvements."

Chapter 21 was changed from "Charities" to "Charities and Public Welfare."

Chapter 24 was changed from "Cities, Villages and Towns" to "Cities and Villages."

Chapter 26 was changed from "Commissioners of Deeds" to "Commercial Code."

Chapter 38 was changed from "Criminal Code" to "Criminal Law and Procedure."

Chapter 40 was changed from "Divorce" to "Domestic Relations."

Chapter 51 was changed from "Evidence and Depositions" to "Evidence."

Chapter 59 was changed from "Frauds and Perjuries" to "Frauds."

Chapter 61 was changed from "Game" to "Wildlife."

Chapter 68 was changed from "Husband and Wife" to "Human Rights."

Chapter 84 was changed from "Limited Partnerships" to "Lincoln Homestead and Monument."

Chapter 85 was changed from "Lunatics" to "Local Government."

Chapter 110 was changed from "Practice" to "Code of Civil Procedure."

Chapter 110½ was changed from "Public Accountants" to "Probate."

Chapter 111 was changed from "Public Buildings" to "Professions and Occupations."

Chapter 127 was changed from "State Contracts" to "State Government."

Chapter 133 was changed from "Surveyors and Surveys" to "Surveys."

Chapter 134 was changed from "Telegraph Companies" to "Telephone and Telegraph Companies."

Chapter 139 was changed from "Township Organization" to "Townships."

Chapter 148 was changed from “Wills” to “Wills and Trusts,” which is clearly a misnomer, because the present contents deal only with “Trusts,” whereas the subject of “Wills” is fully covered by Ch. 110½, entitled “Probate.”

### *C. Empty Chapters*

As a result of the changes by the compilers, as well as the inevitable process of legislative repeal of some statutes, fifty six chapters were left empty:

Ch. 2.	Action of Account
Ch. 3.	Administration of Estates
Ch. 4.	Adoption
Ch. 7.	Amendments and Jeofails
Ch. 9.	Apprentices
Ch. 10½.	Architects
Ch. 10¾.	Assignment for Benefit of Creditors
Ch. 10⅘.	Athletic Exhibitions
Ch. 16½.	Banks
Ch. 16¾.	Barbers and Beauty Culturists
Ch. 17½.	Buildings
Ch. 18.	Canada Thistles and Other Weeds
Ch. 20.	Canal Companies
Ch. 22.	Chancery
Ch. 28.	Common Law
Ch. 39.	Descent
Ch. 41.	Dower
Ch. 44.	Drovers
Ch. 48½.	Engineers and Engineering
Ch. 56¼.	Flags
Ch. 57¼.	Foreign Exchange
Ch. 57½.	Forestry
Ch. 58.	Foundlings
Ch. 64.	Guardian and Ward
Ch. 66.	Horseshoers
Ch. 67.	House of Correction
Ch. 74.	Interest
Ch. 79.	Justices and Constables
Ch. 86.	Lunatics, Idiots, Drunkards and Spendthrifts
Ch. 88.	Marks and Brands

Ch. 89.	Marriages
Ch. 90.	Masters in Chancery
Ch. 91.	Medicine and Surgery
Ch. 92.	Mills and Millers
Ch. 93.	Mines and Miners
Ch. 94.	Mines
Ch. 98.	Negotiable Instruments
Ch. 104.	Oil and Gas
Ch. 104½.	Pardons
Ch. 106¾.	Paternity
Ch. 107½.	Pawnbrokers
Ch. 108½.	Penitentiaries
Ch. 113.	Railroad and Improvement Aid Bonds
Ch. 114½.	Real Estate Brokers and Salesmen
Ch. 117.	Referees
Ch. 118.	Reformatory-State
Ch. 127¼.	State Entomologist
Ch. 131.	Statutory Construction
Ch. 131½.	Structural Engineers
Ch. 136.	Timber
Ch. 138.	Toll Roads
Ch. 142.	Underwriters' Patrol
Ch. 143.	United States
Ch. 145.	Vacation of Highways
Ch. 146.	Venue
Ch. 146¾.	Weather

In addition to these empty chapters, the enactment of the Illinois Code of Civil Procedure, effective July 1, 1982, caused the Acts contained in the following nineteen chapters also to be repealed:

Ch. 11.	Attachments
Ch. 12.	Attachment of Water Craft
Ch. 33.	Costs
Ch. 45.	Ejectment
Ch. 47.	Eminent Domain
Ch. 51.	Evidence
Ch. 52.	Exemptions
Ch. 57.	Forcible Entry and Detainer
Ch. 62.	Garnishment
Ch. 65.	Habeas Corpus
Ch. 69.	Injunctions

- Ch. 72. Insolvent Debtors
- Ch. 77. Judgments
- Ch. 83. Limitations
- Ch. 87. Mandamus
- Ch. 97. Ne Exeat
- Ch. 106. Partition
- Ch. 112. Quo Warranto
- Ch. 119. Replevin

With these nineteen empty chapters added, there are currently seventy five empty chapters in the *Illinois Revised Statutes*.

#### D. Recent Structural Changes

The last 23 editions of *Illinois Revised Statutes*, compiled over a span of almost half a century, have been published by the West Publishing Company, successor in interest to the Burdette Smith Company, under the sponsorship of the Illinois State Bar Association. The West Publishing Company has made some rearrangement in statutory material in practically every edition of the *Illinois Revised Statutes*, which is updated and completely republished every two years. A view of the last three editions indicates the kinds of changes that publishers have made.

#### 1977 Edition

In compiling the *Illinois Revised Statutes, 1977*, West made numerous editorial changes in the Statutes. In that edition, the following transfers of material were effected:

- (a) statutory material formerly contained in Chapter 3 was transferred to Chapter 110½, entitled "Probate";
- (b) statutory material formerly contained in Chapters 17½ and 111 was transferred to Chapter 111½, entitled "Public Health and Safety";
- (c) statutory material formerly contained in Chapters 22 and 146 was transferred to Chapter 110, entitled "Practice";
- (d) statutory material formerly contained in Chapters 57½, 92, 93, 94 and 104 was transferred to a newly created Chapter 96½, entitled "Natural Resources";
- (e) statutory material formerly contained in Chapters 4, 68, 89, 106¼ and 111½ was transferred to Chapter 40, entitled "Domestic Relations"; and
- (f) statutory material formerly contained in Chapters 5, 8, 10½,



16¼, 23, 37, 38, 48, 48½, 56½, 57½, 66, 91, 91½, 110½, 111½, 114½, 121½, 131½, 133 and 146¾ was transferred to Chapter 111, entitled "Professions and Occupations."

#### 1979 Edition

The 1979 Edition saw these further editorial alterations:

- (a) Statutory material formerly contained in Chapters 5, 6, 7½, 23, 28, 40, 56¼, 98, 102, 121, 126½, 127, 131 and 143, was transferred to Chapter 1, entitled "General Provisions";
- (b) The contents of Chapter 18 were transferred to Chapter 5, entitled "Agriculture and Horticulture"; and
- (c) Statutory material formerly contained in Chapter 91 was transferred to Chapters 31, 111, 111½, and 144.

#### 1981 Edition

The 1981 Edition, the last edition published by West, incorporated these changes:

- (a) Statutory material formerly contained in Chapters 16½, 29, 32, 57¼, 74, 95, 98, 107½, 114, 121½, 127 and 148 was transferred to Chapter 17, entitled "Banking and Finance"; and
- (b) The contents of Chapter 55 were transferred to Chapter 121, entitled "Roads and Bridges."

It is obvious that compilers take a certain amount of editorial liberty when putting new editions together. While these editorial changes may produce a more consistent conceptual framework for the *Illinois Revised Statutes*, they have not removed all of the problems from the statutory schema.

### III. STRUCTURAL PROBLEMS WITH THE ILLINOIS REVISED STATUTES

#### *A. Contents and Sizes of Chapters*

The compilers have made great efforts to combine conceptually similar material together in single chapters. Some chapters embrace a number of statutes, having a similar objective, enacted by the Illinois Legislature at one or at a number of General Assemblies. For example, see Chapter 40, entitled "Domestic Relations" and Chapter 111, entitled "Professions and Occupations." On the other hand, some chapters embrace a single all-encompassing Act. For example, see Chapter 26, entitled "Commercial Code," Chapter 43, entitled "Dram Shops," Chapter 68, entitled "Human Rights," and Chapter 110, entitled "Code

of Civil Procedure.” In contrast with these are the following four extremely-short chapters:

- Ch. 27. Common Carriers—consisting of a single section.
- Ch. 84. Lincoln Homestead and Monument—consisting of only two sections.
- Ch. 107. Paupers—consisting of only two sections.
- Ch. 132. Sureties—consisting of only four sections.

In order to effectuate further the editorial policy of consolidation, it is suggested that

- (1) the one-section Chapter 27—“Common Carriers” be transferred to Chapter 114—“Railroads and Warehouses”;
- (2) the two-section Chapter 84—“Lincoln Homestead and Monument” be transferred to Chapter 1—“General Provisions”;
- (3) the two-section Chapter 107—“Paupers” be transferred to Chapter 23—“Charities and Public Welfare”, or to Chapter 120—“Revenue”; and
- (4) the four-section Chapter 132—“Sureties” be transferred to Chapter 29—“Contracts.”

### *B. Numbering of Statutory Sections*

In *Guide to Illinois Code of Civil Procedure*, the author said:

All of the sections of the Illinois Code of Civil Procedure are numbered exactly the same as the Uniform Commercial Code (*Ill. Rev. Stat. 1979, Ch. 26*)—a system employed by all the states which have adopted that Code. The same numbering system is employed by the Illinois Human Rights Act (*Ill. Rev. Stat. 1979 (1980 Cum. Supp.), Ch. 68*), the Illinois Local Governmental and Governmental Employees Tort Immunity Act (*Ill. Rev. Stat. 1979, Ch. 85*), the Illinois Pension Code (*Ill. Rev. Stat. 1979, Ch. 108½*), and the Illinois Highway Code (*Ill. Rev. Stat. 1979, Ch. 121*). This method makes reference to a particular section precise, avoids confusion, and easily accommodates future additions to any segment of the Code.

In this connection, it is appropriate to call attention to the fact that every statutory section which appears in Illinois Revised Statutes bears two numbers—one is the number assigned to it by the Illinois Legislature and the other is the editorial number assigned to it by the publisher of the Illinois Revised Statutes. Sometimes both of these numbers are identical but many times, they are not. Thus, as to the Civil Practice Act, the two numbers were identical, whereas as to the Administrative Review Act, they were never identical. The result was that Section 1 of the Administrative Review Act bore the editorial number 264 of Chapter 110 of the Illinois Revised Statutes, and Section 10 of the same Act bore the editorial number 273 of Chapter 110 of the Illinois Revised Statutes. Since the Administrative Review

Act consists of only 16 sections, it appears awkward to find in a lawyer's brief a reference to "Section 275 of the Administrative Review Act."

Similarly, Section 1 of the Garnishment Act bore the editorial number 33 of Chapter 62 of the Illinois Revised Statutes; Section 1 of the Partition Act bore the editorial number 44 of Chapter 106 of the Illinois Revised Statutes; and Section 1 of the Quo Warranto Act bore the editorial number 9 of Chapter 112 of the Illinois Revised Statutes.

The above described frustrating—and often confusing—situation does not present itself in the Code of Civil Procedure, where the legislative and editorial numbers are identical.<sup>3</sup>

The problems resulting from the use of the two separate numbering systems are brought into sharp focus by the following situations:

1. The Practice Act of 1907 contained 124 sections and was allotted in *Illinois Revised Statutes*, Chapter 110, paragraph numbers of 1 through 124. In 1933, the Civil Practice Act was passed, consisting of sections 1 through 94, and the Practice Act of 1907 was repealed. Nevertheless, *Illinois Revised Statutes* assigned paragraph number 125 to Section 1 of the Civil Practice Act, paragraph number 126 to Section 2 of the Civil Practice Act, etc., down to paragraph number 218. This artificial numerology was continued for more than two decades, until 1955, when *Illinois Revised Statutes* adopted the actual Civil Practice Act section numbers of 1 to 94.

2. *Illinois Revised Statutes*, Chapter 32, is entitled "Corporations." The Business Corporation Act was enacted in 1933 and repealed the 1919 General Corporation Act, which had contained 157 sections. Nevertheless, the repealed 157 section numbers have remained unused for almost five decades, and each section of the 1933 Business Corporation Act remains burdened with a paragraph number preceded by the number of "157," so that Section 1 of the Business Corporation Act is numbered as paragraph "157.1" and Section 2 of the Business Corporation Act is numbered as paragraph "157.2," etc. For the same reason, the General Not for Profit Corporation Act, in Chapter 32 of *Illinois Revised Statutes*, is saddled with a numbering system whereby each section is preceded by a paragraph number of "163a" so that Section 1 of the Act is numbered as paragraph "163a.1" and Section 2 is numbered as paragraph "163a.2," and so forth.

3. Chapter 43 of the *Illinois Revised Statutes* is entitled "Dram Shops." The sections of the previous liquor laws had been assigned, by the prior publisher of the *Illinois Revised Statutes*, paragraph numbers

3. H. FINS, GUIDE TO ILLINOIS CODE OF CIVIL PROCEDURE 3-4 (1982).

1 through 93. These laws were repealed in 1933-34 and the present Liquor Control Act has been in effect since July 1, 1934. Nevertheless, the first section of the present Liquor Control Act (Ch. 43) is editorially designated as paragraph "94" and the paragraph numbers 1 through 93 have remained empty and useless for almost half a century.

4. Chapter 129 of the *Illinois Revised Statutes* is entitled "State Militia." Material which was assigned editorial paragraph numbers 1 through 210 was repealed in 1957; material with editorial paragraph numbers 211 through 213 was repealed in 1949; and material with editorial paragraph numbers 214 through 220 was repealed in 1951. The Military and Naval Code was enacted in 1957 and appears at the beginning of Chapter 129. The Code is numbered from Section 1 through Section 103, but each and every editorial paragraph number of the Code is saddled with a prefix of "220", rendering reference to the text very cumbersome and confusing, although more than two decades have passed since the repeal of the last of 220 sections.

5. In Chapter 15½ "Aviation," the Regulation of Aeronautics Act, which consisted of Sections 1 to 22, was repealed in 1945 by the Illinois Aeronautics Act, which now consists of more than 100 sections. Although more than three decades have passed since the repeal of the 22 sections of the Regulation of Aeronautics Act, each of the more than 100 sections of the Illinois Aeronautics Act of 1945 continues to be saddled with an editorial paragraph number prefixed by a meaningless "22." In the same Chapter 15½, numerous other sections are saddled with meaningless editorial paragraph prefixes of "48" and "68." These are in dire need of renumbering.

6. Chapter 73 of the *Illinois Revised Statutes*, is entitled "Insurance". Material which had been assigned editorial paragraph numbers 1 through 9 was superseded. Material assigned editorial paragraph numbers 10 through 204 was repealed in 1925, 1936, and 1937. Material assigned editorial paragraph numbers 205 through 280 was repealed in 1937. Material assigned editorial paragraph numbers 281 through 301 was superseded. Material assigned editorial paragraph numbers 302 through 477 was repealed in 1936 and 1937. Material assigned editorial paragraph numbers 488 through 503e was repealed in 1937. Material assigned editorial paragraph number 504 became obsolete. Material assigned editorial paragraph numbers 505 through 534 was repealed in 1937. Material assigned editorial paragraph numbers 535 through 539 was repealed in 1949. Material assigned editorial paragraph numbers 540 to 579 was repealed in 1936. Material assigned editorial paragraph numbers 580 through 586 expired. Material as-

signed editorial paragraph numbers 587 through 612 was repealed in 1949. The Insurance Code was enacted in 1937 and contains legislative Section numbers of 1 through 1024, but, in direct contrast with the legislative numbering, the publisher assigned to the Insurance Code editorial numbers of 613 through 1065.724. The difficulty of handling legal references bearing seven digits is too obvious to need further comment. A cure is needed and it is easily available (1) by the elimination of fictional paragraph numbers whose ghosts have been encouraged to roam freely for more than three decades, and (2) by using paragraph numbers 1 to 600 which lie empty at the beginning of Chapter 73, before reaching Section 1 of the "Illinois Insurance Code."

Very many other similar situations are present in *Illinois Revised Statutes, 1981*, but the above example suffice to illustrate the need for prompt action in the correction of unnecessary confusion and inconvenience to the users of Illinois statutes.<sup>4</sup>

Considering the many hundreds of changes in editorial paragraph numbers which the publisher has made in the editions of the *Illinois Revised Statutes* of 1977, 1979 and 1981 upon transferring materials from one chapter to another (as above set out in detail), it is obvious that changing editorial paragraph numbers is not an insurmountable task.

Perhaps the best evidence of this facility for change lies in the fact that many chapters of *Illinois Revised Statutes* contain Acts wherein the legislative section numbers and the editorial paragraph numbers are identical, among which are the following:

Uniform Commercial Code (Ch. 26, Par. 1-101 et seq.)

Code of Civil Procedure (Ch. 110, Par. 1-101 et. seq.)

Probate Act of 1975 (Ch. 110½, Par. 1-1 et seq.)

Public Aid Code (Ch. 23, Par. 1-1 et seq.)

Criminal Code of 1961 (Ch. 28, Par. 1-1 et seq.)

Code of Criminal Procedure of 1963 (Ch. 28, Par. 100-1 et seq.)

Marriage and Dissolution of Marriage Act (Ch. 40, Par. 101 et seq.)

Drainage Code (Ch. 42, Par. 1-1 et seq.)

Human Rights Act (Ch. 68, Par. 1-101 et seq.)

4. The problem arising from editorial decisions is not restricted to the numbering of statutory sections. In the case of *Matter of Disconnection of Certain Territory*, 111 Ill. App. 3d 339, 344, 443 N.E.2d 1079, 1082 (1982), the Court said: "The District's reference to section 9-2-5 as the 'ordinance authorizing improvements' is inaccurate. That title was supplied by the West Publishing Co. and not by the legislature, and its language does not appear in the text of the provision."

Fair Invention Development Standards Act (Ch. 29, Par. 101 et seq.)

Vehicle Code (Ch. 95½, Par. 1-100 et seq.)

Pension Code (Ch. 108½, Par. 1-101 et seq.)

School Code (Ch. 122, Par. 1-1 et seq.)

Municipal Code (Ch. 24, Par. 1-1-1 et seq.)

Clerks of Courts Act (Ch. 25, Par. 1 et seq.)

County Clerks Act (Ch. 35, Par. 1 et seq.)

Election Code (Ch. 46, Par. 1-1 et seq.)

Estrays and Lost Property Act (Ch. 50, Par. 1 et seq.)

Fences Act (Ch. 54, Par. 1 et seq.)

Fish Code of 1971 (Ch. 56, Par. 1.1 et seq.)

Wildlife Code (Ch. 61, Par. 1.1 et seq.)

Innkeepers Act (Ch. 71, Par. 1 et seq.)

Local Library Act (Ch. 81, Par. 1-1 et seq.)

Mechanics' Liens Act (Ch. 82, Par. 1 et seq.)

Local Governmental and Governmental Employees Tort Immunity Act (Ch. 85, Par. 1-101 et seq.)

Mental Health and Developmental Disabilities Code (Ch. 91½, Par. 1-100 et seq.)

Notaries Public Act (Ch. 99, Par. 1 et seq.)

Oaths and Affirmations Act (Ch. 101, Par. 1 et seq.)

Park District Code (Ch. 105, Par. 1-1 et seq.)

Uniform Partnership Act (Ch. 106½, Par. 1 et seq.)

Plats Act (Ch. 109, Par. 1 et seq.)

Recorders Act (Ch. 115, Par. 1 et seq.)

Highway Code (Ch. 121, Par. 1-101 et seq.)

Sheriffs Act (Ch. 125, Par. 1 et seq.)

Tender Act (Ch. 135, Par. 1 et seq.)

To facilitate the use of the *Illinois Revised Statutes*, it is suggested that a system be established whereby the Illinois Legislature and the publisher cooperate closely in the numbering of statutory sections so that the legislative section numbers and the editorial paragraph numbers be identical.

On the other hand, there are a number of chapters which—although embracing many Acts—could be easily codified by the legislature through the appropriate renumbering of the sections from the beginning to the end of the chapter. Such legislative renumbering was carried out in 1982 with regard to Chapter 43, the Liquor Control Act of 1934 (Public Act 82-783, Art. VI, Section 2) and with regard to

Chapter 139, the Township Law of 1874 (Public Act 82-783, Art. X, Section 2).

It is suggested that Chapter 40—"Domestic Relations," Chapter 96½—"Natural Resources," Chapter 111—"Professions and Occupations," and Chapter 120—"Revenue" are all ripe for codification. A close examination of *Illinois Revised Statutes* would no doubt reveal many more chapters which are ready for this needed improvement.

In this connection, it is appropriate to note that Section 8(d) of Article IV of the Illinois Constitution of 1970 expressly provides that the requirement that a bill "shall be confined to one subject" does not apply where the purpose of the change is (1) codification, (2) revision, or (3) rearrangement of laws.

### C. *Need for Unification of Closely-Related Materials*

While the editorial decisions in the compilation processes of the past several editions of the *Illinois Revised Statutes* have helped to consolidate various statutes into single chapters of closely-related material there is still a need for more unification. The execution of the following recommendations will improve the next edition of the *Illinois Revised Statutes*.

#### 1. Creation of New Chapter Entitled "State Officers"

This chapter should embrace the material now contained in:

Chapter 14—"Attorney General"

Chapter 15—"Auditor General"

Chapter 15—"State Comptroller"

Chapter 124—"Secretary of State"

Chapter 130—"State Treasurer"

As to Chapter 127½—"State Fire Marshal": the Office of the State Fire Marshal belongs in the same category as a Department of the State Government, such as the Department of Agriculture or the Department of Conservation, and should be included in Chapter 127—"State Government."

Some of the matters contained in Chapter 127½ belong in Chapter 111½—"Public Health and Safety."

Incidentally, Chapter 127½ is not in correct alphabetical arrangement of chapters, because Chapter 127 is entitled "State Government," the second word beginning with a "G," whereas in Chapter 127½—"State Fire Marshal," the second word begins with an "F."

*Illinois Revised Statutes* does not have any chapter devoted to the

Governor or Lieutenant Governor. The duties and functions of these officers are contained in the Illinois Constitution and some are scattered throughout the *Illinois Revised Statutes*. Future research may reveal the desirability of placing some gubernatorial functions in the proposed chapter to be entitled "State Officers."

## 2. Creation of New Chapter Entitled "County Officers"

This chapter should embrace the material now contained in:

Chapter 14—"State's Attorney"

Chapter 31—"Coroners"

Chapter 35—"County Clerks"

Chapter 36—"County Treasurer"

Chapter 115—"Recorders"

Chapter 125—"Sheriffs"

Chapter 25—"Clerks of Court" should be transferred to Chapter 37—"Courts," because the Supreme Court of Illinois recently held that clerks of the circuit courts are part of the judicial system and are not county officials.<sup>5</sup>

## 3. Transfer of Short Chapters to Larger Substantively-Related Chapters

Several short chapters could be transferred to larger chapters that are substantively similar. Among these are:

Chapter 16—"Bail" should be transferred to Chapter 38—"Criminal Law and Procedure."

Chapter 27—"Common Carriers"—consisting of only one section— should be transferred to Chapter 114—"Railroads and Warehouses."

Chapter 49—"Escheats" is directly connected with probate and should be transferred to Chapter 110½—"Probate."

Chapter 55½—"Fire Escapes" is intended for public safety and should be transferred to Chapter 111½—"Public Health and Safety," wherein the following Acts are located dealing with building safety: Safety Glazing Materials Act (Pars. 3101 through 3115); Boiler Safety Act (Pars. 3201 through 3217); Protection of Adjacent Landowners (par. 3303); Violation of Building Codes (Pars. 3401 and 3402); Public Buildings—Egress (Pars. 3501 through 3504); Public Buildings—Natural Gas Odor (Pars. 3601 and 3602); Facilities for Handicapped Act (Pars. 3701 through

5. *Drury v. County of McLean*, 89 Ill. 2d 417, 433 N.E.2d 666 (1982).



3709); Tactile Identification on Certain Elevators (Pars. 3901 through 3903); and Installation of Elevators (Pars. 4001 through 4010).

Chapter 59—"Frauds" should be transferred to Chapter 29—"Contracts," as the statute of frauds is a part of the law of contracts. It is of interest to observe that Section 2-201 of the Uniform Commercial Code, which deals with the formation of a contract, is entitled "Formal Requirements—Statute of Frauds" (Chapter 26, Par. 2-201).

Chapter 60—"Fugitives from Justice" should be transferred to Chapter 38—"Criminal Law and Procedure."

Chapter 61—"Wildlife" should be transferred to Chapter 56—"Fish," and Chapter 56 should be entitled "Fish and Wildlife."

Both are closely related and are under the supervision of the Department of Conservation. Furthermore, the term "Wildlife" does not belong between the letters "F" and "G" in the alphabetical arrangement of chapters in *Illinois Revised Statutes*.

Chapter 75—"Jails and Jailers" should be transferred to Chapter 38—"Criminal Law and Procedure."

Chapter 84—"Lincoln Homestead and Monument" should be transferred to Chapter 1—"General Provisions."

Chapter 107—"Paupers" deals purely with taxation, and should be transferred to Chapter 23—"Charities and Public Welfare," or to Chapter 120—"Revenue." The term "Pauper" has become an indelicate word and the text of the two sections contained in Chapter 107 does not employ the term "pauper."

Chapter 128—"State Library" should be transferred to Chapter 81—"Libraries."

Chapter 131¼—"Street Railroads" should be transferred to Chapter 114—"Railroads and Warehouses."

Chapter 132—"Sureties" should be transferred to Chapter 29—"Contracts."

Chapter 134—"Telephone and Telegraph Companies" should be transferred to Chapter 111½—"Public Utilities."

Chapter 137—"Toll Bridges" should be transferred to Chapter 121—"Roads and Bridges." It is to be specially noted that Chapter 55—"Ferries", was already transferred to Chapter 121 (Par. 701 et seq.).

#### IV. THE ROLE OF STATUTORY LAW IN LEGAL EDUCATION

While the problems of the current *Illinois Revised Statutes* are worthy of immediate change, there is at least one change which is needed almost as much as the renumbering and recodification suggested above: an increased emphasis on statutory law in the law school curriculum. At present, great effort is made to teach the rudiments of legal process and substance by reference to the common law. Cases of other jurisdictions, as well as the statutes those cases interpret, are presented as examples of legal principles. The result is often that the student knows the "New York Rule" but is ignorant of the "Illinois Rule." Since the statistics at the beginning of this article show that 75% of Illinois law comes from the statutes, then Illinois law schools are failing to prepare the student for the reality of Illinois practice.

It is certainly true that the common law principles gleaned from law school textbooks play an important part in educating the student. One learns how to "think like a lawyer" by closely examining the rationale behind the great decisions of the past. But to focus exclusively on the common law is to show the student only a small portion of the complete picture. It elucidates general principles, but fails to give the student the concrete reality of how those principles have been translated by legislature and court. By focusing on Illinois law, the student has a point of reference from which to understand and build upon the general common law principles.

In order to develop that point of reference, the student must have a working knowledge and understanding of statutory law and process—the major source of Illinois law. Such knowledge must come from the law schools; to expect the student to study general common law principles for three years, enter private practice, and then begin learning to read and interpret the statutes is to ignore the fact that mastering the statutes is a time-consuming process which should not be undertaken at a client's expense. By training students to be proficient with the statute book, a law school can feel confident that its graduates will be able to serve their clients better upon graduation.

Finally, education in statutory law would help to alert young lawyers to the current condition of Illinois law. The continuing process of reform calls for constant vigilance. Such awareness cannot be expected from lawyers who do not understand and appreciate the fruits of the legislative process. In order to guarantee that the reform work now in full progress is carried on to completion, it is incumbent upon the law schools to provide the legal community and society at large with com-

petent practitioners who appreciate the task of reform. By educating the students of today, the law schools can shape the lawyers of tomorrow into the practitioners needed to continue this improvement of the law. Only then will it be possible for the laws of tomorrow to be better than the laws of today.

#### CONCLUSION

The *Illinois Revised Statutes* have undergone significant structural changes in the century and a half of their existence. While the processes of change have worked to combine and simplify the statutes, many problems remain which demand immediate attention. By making both lawyers and students aware of the need for continued reform, the processes of amendment and clarification can continue to improve the major source of Illinois law—the statutes of this State.