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# Court System - Historical Notes

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Sincerely,

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# Court System - Historical Notes

## **Board of Jury Commissioners - Jurors**

The following acts once affected jurors or boards of jury commissioners in McNairy County, but are no longer operative. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Private Acts of 1907, Chapter 538, was the first act found which set up this Board for McNairy County. The Circuit Judge of the county would appoint three citizens and householders of the county to hold this office for six years. The members could not be attorneys or have a suit pending in the courts. Vacancies would be filled in the same way. The members were required to take an oath and select one of their number as a chairman. The Circuit Court Clerk who was also required to take an oath of secrecy from the tax rolls or other sources of public information a list of names of reputable citizens equal to one-fifth of the number voting in the last presidential election but no more than 1500 nor less than 250 which would constitute the jury list for the next two years. The names chosen would be entered into a special book with the initials of the Commissioner selecting him by its side and all the commissioners would certify the whole list as being correct. The names were also placed on individual cards or scrolls, and placed in a box which was locked, sealed, and kept in the clerk's custody. Ten to fifteen days before court would start, the box would be entered and a child under ten years of age would draw the required number of names from the box which would be the jury list for that term of court. This list would be kept by the Clerk who would turn it over to the Sheriff at least five days before court. The Sheriff would summon these people from whose number the grand and petit juries would be selected. One could be excused but only by the judge and only for those causes stated in the act. Procedures for summoning special panels of jurors were in the act also.
2. Private Acts of 1913 (Ex. Sess.), Chapter 56, stated that any person in McNairy County, using population figures, in attendance before any court as a juror in obedience to a duly issued and properly served summons, who is excused or who does not serve for some reason, shall be entitled to and receive one day's pay as other jurors get.
3. Private Acts of 1915, Chapter 454, amended Chapter 225, Private Acts of 1911, which also created a Board of Jury Commissioners, to make that act apply to counties with no less than 16,336, and no more than 16,350. These population figures would not, as some authorities state, make the act apply to McNairy County whose population according to the 1910 Federal Census was 16,356.
4. Private Acts of 1939, Chapter 463, repealing all laws in conflict with it, established a Board of Jury Commissioners for McNairy County. Most of the provisions in this act were similar to the older one with the following exceptions: The Commission terms were for four years and J. B. Huggin, Lee Basinger, and H. E. Erwin were named in the Act as the first Board. The Board would select at least 200 names as the jury list and a child under ten years of age would draw 40 names from the box who would constitute the grand and petit jury list for that term of court. From there the procedures paralleled the earlier act. Any extra list which might be needed would be drawn from the box in the same way in open court in the presence of the judge. The clerk would certify the list to the sheriff to be summoned at least ten days before the opening of court. The jury commission would be paid \$3.00 per day up to \$15 each year. This Act was repealed by the one below and McNairy presumably operated under the state law from then on.
5. Private Acts of 1951, Chapter 528, specifically repealed Chapter 463 of Private Acts of 1939, above, in its entirety.

## **Chancery Court**

The following acts form an outline of the development of equity jurisdiction in McNairy County, although they no longer have the force of law since they have either been superseded by general law, repealed, or failed to receive local ratification. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Acts of 1824, Chapter 14, stated that the Justices of the Supreme Court will arrange among themselves a schedule which would permit them to hold the Chancery Courts of the counties twice a year. All counties west of the Tennessee River including McNairy County, would conduct their Chancery Court dockets at Jackson, in Madison County, on the second Monday in April and October.
2. Acts of 1827, Chapter 79, divided Tennessee into two Chancery Divisions. The Eastern Division

was composed of the courts held at Rogersville, Greenville, Kingston, Carthage, and McMinnville. The Western Division Court would be held at Columbia, Franklin, Charlotte, Jackson and Paris. In 1835 the State was organized into three Divisions.

3. Acts of 1829, Chapter 52, created a new Tenth Judicial Circuit composed of Wayne, Hardin, McNairy, Hardeman, Fayette, and Shelby County and provided that this would also be a Chancery Division which would meet at Bolivar in Hardeman County on the first Monday of May and November.
4. Acts of 1835, Chapter 4, laid off the State of Tennessee into three major Chancery Divisions and divided each grand division into smaller districts. Each major division would be attended by a chancellor of the State instead of being held by the Supreme Court Justices. McNairy County was in the Ninth District of the Western Division with Hardeman County. Court terms would start on the first Monday in June and December, at Bolivar.
5. Acts of 1837, Chapter 14, P. 38, reorganized the lower Chancery Districts. The Chancery Courts at Paris, Dresden, Trenton, Jackson, Lexington, Bolivar and Clarksville were abolished. New Districts were created containing more counties and therefore were fewer in number. McNairy County was in the First District of the Western Division with Fayette, Shelby and Hardeman Counties. Court for this District would be at Somerville on the fourth Monday in May and November. The Chancellors would appoint Clerks and Masters for the Courts at Somerville, Huntingdon and Charlotte.
6. Acts of 1837, Chapter 116, P. 181, changed all the Court terms for the Chancery Court in the Eastern and Middle Grand Divisions of the State but did not mention the Western Division, probably because of the above Act.
7. Acts of 1839-40, Chapter 21, P. 45, Section 17, stated that the Chancery Court at Somerville would hereafter be held on the third Monday in May and November.
8. Acts of 1839-40, Chapter 108, P. 199, provided that the Chancellor of the Western Division would hold a special term at Somerville of the Chancery Court with general power to try all cases which may come before him.
9. Acts of 1853-54, Chapter 54, P. 126, created new Fifth and Sixth Chancery Divisions. The 6th Division was composed of Carroll, Benton, Humphreys, Dickson, Hickman, Perry, Decatur, Henderson, Hardin, Wayne, Lawrence and McNairy Counties. Court for McNairy would be at Purdy on the second Monday in June and December. The chancellor would appoint a Clerk and Master at Purdy but all citizens could still file their complaints in the old Courts until the new ones were ready. This organization of the lower judicial system was necessitated by the rapid creation of several new counties in the western portion of the state.
10. Acts of 1853-54, Chapter 55, P. 128, changed the starting dates for the Chancery Court at Purdy in McNairy County to the fourth Monday in June and November.
11. Acts of 1855-56, Chapter 112, P. 121, changed Court terms for the Chancery Courts in the 6th Chancery Division, reassigning the McNairy County Chancery Court at Purdy to the third Monday in February and August.
12. Acts of 1857-58, Chapter 88, P. 96, Section 1, showed the Chancery Court structure of the state as consisting of the Eastern, Middle, Western, Fourth, Fifth and Sixth Divisions. The Chancery Court at Purdy in McNairy County would begin on the third Monday of February and August. McNairy was in the 6th Division with the same counties named in Item 9, above.
13. Acts of 1866-67, Chapter 4, P. 6, Section 4, restructured the Chancery Courts in this post Civil War law. The fifth Chancery Division consisted of Hickman, Dickson, Humphreys, Henderson, Hardin, Wayne, Lawrence, Decatur and McNairy Counties. McNairy's Court would commence at Purdy on the second Monday in April and October.
14. Acts of 1870, Chapter 32, P. 60, divided Tennessee into twelve Chancery Districts. The Ninth District consisted of Benton, Hickman, Henderson, Lawrence, Dickson, Humphreys, Decatur, Lewis, Perry, Hardin, Wayne and McNairy Counties.
15. Acts of 1870, Chapter 47, P. 81, scheduled court terms for all the Chancery Courts in the State. McNairy County in the 9th Division would start Chancery Court terms at Purdy on the first Monday in March and September.
16. Acts of 1870-71, Chapter 10, P. 11, changed all the court terms in the 9th Chancery Division. McNairy County stayed at the first Monday in March and September.
17. Acts of 1873, Chapter 5, P. 6, Section 1, again rearranged court terms for the Chancery Courts of the 9th Division. Court would commence at Purdy on the first Monday in April and October.
18. Acts of 1879, Chapter 88, P. 115, changed the court terms in the 9th Chancery Division but left

the Court for McNairy County at the same dates, the first Monday in April and October.

19. Acts of 1881, Chapter 162, P. 218, changed the Chancery Court terms for the 9th Chancery Division rescheduling McNairy County to the Second Monday in April and October. The same counties remained in the Division.
20. Acts of 1885, Chapter 46, P. 102, provided for the holding of the Chancery Court in McNairy County at Falcon instead of Purdy, the county seat having been moved by law to that city and amends Chapter 162, Acts of 1881 to that effect, also making the process returnable there. See Braden v. Stumph, 84 Tenn. 581 (1886).
21. Acts of 1885 (Ex. Sess.), Chapter 20, P. 96, reorganized all of the lower Judicial system in Tennessee. The State was partitioned into eleven Chancery Divisions. McNairy County remained in the 9th Division with Hardeman, Chester, Madison, Crockett, Henderson, Carroll, and Henry Counties. Court would start on the second Monday in April and October. This Act was the subject of the litigation in Flynn v. State, 203 Tenn. 341, 313 S.W.2d 249 (1958), although the case involved only the Criminal Court in Memphis.
22. Acts of 1887, Chapter 111, P. 201, amended Chapter 20, Acts of 1885 (Ex. Sess.), above to change the starting dates for the Chancery Court terms in several of the counties of the 9th Division. McNairy was switched to the third Monday in April and October.
23. Acts of 1891 (Ex. Sess.), Chapter 4, P. 17, amended the 1887 Act, above, which amended Chapter 20, Acts of 1885 (Ex. Sess.), so as to change the starting dates for the McNairy County Chancery Court to the second Monday in April and October.
24. Acts of 1899, Chapter 111, P. 189, changed the Chancery Court terms in McNairy County to the third Monday in April and October, all process to be adjusted accordingly.
25. Acts of 1899, Chapter 427, P. 991, reorganized the entire State of Tennessee into ten Chancery Divisions. McNairy County, whose court terms would begin on the second Monday in February and August, was in the 8th Chancery Division with Decatur, Hardin, Chester, Benton, Crockett, Henderson, Carroll, Henry, Madison, and Perry Counties.
26. Acts of 1903, Chapter 36, P. 68, changed court terms for all the counties in the 8th Chancery Division, assigning McNairy County to the first Monday in March and September.
27. Private Acts of 1919, Chapter 331, P. 841, provided that the Chancery Court of McNairy County would hereafter be held beginning on the fourth Monday of February and August to which all process would be made to conform and all acts in conflict were repealed notwithstanding.
28. Public Acts of 1931 (2nd Ex. Sess.), Chapter 38, P. 267, restructured the lower court systems of the State into fourteen Chancery Divisions. Court would start in McNairy County on the fourth Monday in February and August. McNairy was in the 8th Division with Carroll, Henry, Crockett, Hardeman, Henderson, Decatur, Hardin, Benton and Chester Counties.

### **Chancery Court - Clerk and Master**

The reference list below contains acts which once applied to the clerk and master in McNairy County. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Private Acts of 1913 (Ex. Sess.), Chapter 55, fixed the annual salary of the Clerk and Master of McNairy County, using population figures, at \$600 provided he would file with the County Judge or Chairman, a sworn, itemized statement showing the total amount of fees collected that year in the office. If the fees were less than the salary amount, the county would pay the difference but only if the above statement were filed. This Act was repealed by the one below.
2. Private Acts of 1919, Chapter 545, increased the annual salary of the Clerk and Master of McNairy County to \$900 under the same terms and conditions stated above. This act specifically repealed Chapter 55, Private Acts of 1913 (Ex. Sess.) above.
3. Private Acts of 1929, Chapter 568, amended Chapter 55, Private Acts of 1913 (Ex. Sess.), (although this Act had already been repealed) by striking out all of Section One beginning with the word "and" in the last line on page 1402, and adding a provision that the Clerk and Master shall receive all the fees of the office and the salary, also, which was set up in that Act.
4. Private Acts of 1949, Chapter 657, set the salary of the Clerk and Master of McNairy County, using population figures of 1940, at \$1,200 a year, payable \$100 a month, from the general funds of the county, same to be in addition to all the fees and emoluments of the office.
5. Private Acts of 1951, Chapter 685, compensated the Clerk and Master of McNairy County using population figures, at the rate of \$2100.00 annually, payable monthly out of the county treasury but all fees of the Clerk and Master's office shall be collected by the Clerk and Master and paid

over to the county as its property.

### **Circuit Court**

The reference list below contains acts which once applied to the clerk and master in McNairy County. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Private Acts of 1913 (Ex. Sess.), Chapter 55, fixed the annual salary of the Clerk and Master of McNairy County, using population figures, at \$600 provided he would file with the County Judge or Chairman, a sworn, itemized statement showing the total amount of fees collected that year in the office. If the fees were less than the salary amount, the county would pay the difference but only if the above statement were filed. This Act was repealed by the one below.
2. Private Acts of 1919, Chapter 545, increased the annual salary of the Clerk and Master of McNairy County to \$900 under the same terms and conditions stated above. This act specifically repealed Chapter 55, Private Acts of 1913 (Ex. Sess.) above.
3. Private Acts of 1929, Chapter 568, amended Chapter 55, Private Acts of 1913 (Ex. Sess.), (although this Act had already been repealed) by striking out all of Section One beginning with the word "and" in the last line on page 1402, and adding a provision that the Clerk and Master shall receive all the fees of the office and the salary, also, which was set up in that Act.
4. Private Acts of 1949, Chapter 657, set the salary of the Clerk and Master of McNairy County, using population figures of 1940, at \$1,200 a year, payable \$100 a month, from the general funds of the county, same to be in addition to all the fees and emoluments of the office.
5. Private Acts of 1951, Chapter 685, compensated the Clerk and Master of McNairy County using population figures, at the rate of \$2100.00 annually, payable monthly out of the county treasury but all fees of the Clerk and Master's office shall be collected by the Clerk and Master and paid over to the county as its property.

### **Circuit Court - Clerk**

The following acts have no current effect, but once applied to the McNairy County Circuit Court Clerk. They were repealed, superseded, or never received local approval. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Acts of 1827, Chapter 69, provided that McLin Cross, the Circuit Court Clerk of McNairy County, of the town of Purdy, was permitted to keep the office of the Clerk at his home if his home were located within one-half mile of Purdy.
2. Acts of 1903, Chapter 255, regulated the compensation of the Circuit Court Clerks in Tennessee by using population figures of the Federal Census of 1900. A population of 17,760 would require the Circuit Court Clerk to be paid \$750 annually. The Clerks were also compelled to file an annual, itemized, sworn statement with the County Judge, or Chairman, showing the total amount of fees collected in the office. If the fees were less than the salary, the county was required to pay the difference. If the fees exceeded the amount of the salary, the Clerk could retain the excess.
3. Private Acts of 1919, Chapter 384, provided that the Circuit Court Clerks in McNairy County, using population figures, would be paid \$900 annually. If the fees did not equal the salary, the County Judge would issue a warrant for the difference if the Clerk had filed a sworn, itemized statement showing the total amount of fees collected in his office.
4. Private Acts of 1931, Chapter 597, amended Chapter 384, Private Acts of 1919, by increasing the annual salary of the Circuit Court Clerk from \$900 to \$1,200, all other conditions remaining as they were.
5. Private Acts of 1949, Chapter 61, increased the annual salary of the Circuit Court Clerk to \$2,000 and, in addition, he would receive all the fees collected by his office. The salary would be paid each month on warrant from the County Judge.
6. Private Acts of 1951, Chapter 686, set the salary of the Circuit Court Clerk at \$2,100 per year, plus all the fees collected by the office, the salary to be paid monthly on warrant from the County Judge.
7. Private Acts of 1994, Chapter 140, instruct that the duties of the clerk of Juvenile Court be transferred from the county clerk to the clerk of the Circuit Court. All of the records of the Juvenile Court in the custody of the county clerk are to have been transferred from the county clerk to the circuit court clerk within 30 days of the approval of this act which was approved on March 16, 1994.

### **Criminal Court**

The following acts once pertained to the McNairy County Criminal Court, but are no longer current law.

Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Acts of 1895, Chapter 46, established a separate criminal division in the 11th Judicial Circuit which consisted at this time of Madison, Chester, McNairy, Henderson, Decatur, Perry and Benton Counties. Three regular terms of court would be held in each county according to the schedule contained in the Act. McNairy Criminal Court would begin in Selmer on the first Monday in April, August and December, and would continue as long as there was business for that term. The court would exercise the same criminal jurisdiction as was formerly possessed by the Circuit Court, whose Clerk would transfer all the records in every case. The County Court would supply jurors as it had in the past. The Governor would appoint a judge to serve until September 1, 1896, when the elected Judge would take office and be elected every eight years thereafter. The Judge could not practice law but would devote his full time to the duties of his office. The Attorney-General of the 11th Judicial Circuit would prosecute the cases. This Act was repealed in 1899 by the act below. See *McCulley v. State*, 102 Tenn. 531, 53 S.W. 134 (1899).
2. Acts of 1895, Chapter 124, changed the court terms for the criminal division of the 11th Judicial Circuit assigning McNairy County to the fourth Monday in March, July and November.
3. Acts of 1899, Chapter 155, abolished the criminal court of the 11th Judicial Circuit and repealed Chapter 46, Acts of 1895, and Chapter 124, Acts of 1895, specifically and entirely. This Act would take effect thirty days after the final adjournment of the General Assembly.

#### **District Attorney General - Assistants and Criminal Investigators**

The following acts once affecting McNairy County are no longer in effect but are listed here for historical purposes.

1. Acts of 1899, Chapter 199, Section 5, stated that the Attorney-General of the Eleventh Judicial Circuit shall attend upon and perform the duties of that office, as prescribed by law, in the Circuit Courts of those counties composing that Circuit, i.e. Madison, Chester, McNairy, Henderson, Decatur, Perry and Benton.
2. Acts of 1899, Chapter 311, amended Section 5, of Chapter 199, Acts of 1899, above by requiring the Attorney-General of the 11th Judicial Circuit to prosecute the cases in Henderson, McNairy, Chester, Decatur, Perry and Madison Counties, as that court was held by the Judge of the 18th Judicial Circuit, and the Attorney-General of the 12th Judicial Circuit shall prosecute in Benton County.

#### **General Sessions Court**

The following act once affected the general sessions court of McNairy County, but is no longer in effect and is included herein for reference purposes.

1. Private Acts of 1955, Chapter 355, would have created a General Sessions Court for McNairy County but was not approved at the local level by the Quarterly County Court and, therefore, under the Home Rule Amendment to the State Constitution, never became a law. The Court had the jurisdiction formerly enjoyed by Justices of the Peace in both civil and criminal matters and would operate under the procedures mentioned in the Act. The Judge, who was prohibited from practicing criminal law, would be paid \$3,600 a year and be assisted by a clerk who would draw \$2,400 per annum. Lamar S. Doss was appointed to be Judge and Joe Cecil Kirby to be Clerk until September 1, 1956 when their successors would be elected.

#### **Secretarial Assistance**

The following act is no longer in effect but is listed here for historical purposes.

1. Public Acts of 1939, Chapter 71, established a position of Stenographer to the Chancellor of the 8th Chancery Division to which McNairy County was allocated at the time.

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