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# Court System - Historical Notes

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Sincerely,

The University of Tennessee  
County Technical Assistance Service  
226 Anne Dallas Dudley Boulevard, Suite 400  
Nashville, Tennessee 37219  
615.532.3555 phone  
615.532.3699 fax  
[www.ctas.tennessee.edu](http://www.ctas.tennessee.edu)

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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 Marshall County, but are no longer operative. Also referenced below is an act which repealed prior law without providing new substantive provisions.

1. Private Acts of 1907, Chapter 324, created a Board of Jury Commissioners for Marshall County who would be appointed by those Judges with criminal jurisdiction in the county. The three member Board would be composed of discreet freeholders, not lawyers or county officers who have no suit pending in court and no more than two of the same political party. They would take an oath and select one of their members Chairman. The Board would be served by the Circuit Court Clerk who would also be sworn to secrecy about jury lists. The Board would select from the rolls of the county a list of people equal to 1/5 of the voters of the last presidential election but no more than 4,000 nor less than 250 which would be initialed by all the members and be the official jury list for the next two years. Their names would be entered in a well bound book and also placed upon a scroll which would be placed in a box which would be locked and sealed, From 10 to 15 days prior to the opening of the term of court, the box's seal would be broken and a number of names chosen by a child under ten years of age. These would be the regular and grand juries for that term of court. These names would also be entered in a well-kept book and their names be certified to the Sheriff so that he could summon them to jury duty. Only the Judge could excuse them from service and he for the excuses only mentioned in the act. Provisions for special juries, and alternate jurors were set up.
2. Private Acts of 1911, Chapter 204, did not repeal the 1907 Act, above, but created another Board of Jury Commissioners along the same lines as that act but making a few changes. The number of names to be chosen would still equal one fifth of those votes cast in the last presidential election but were limited to no more than 1,000 nor less than 250. The remainder of this act contained the same provisions as the 1907 act, analyzed above. This act was expressly and entirely repealed by the one below.
3. Private Acts of 1947, Chapter 466, repealed Private Acts of 1911, Chapter 204, listed above, in its entirety without making any alternate provisions.
4. Private Acts of 1949, Chapter 544, provided that the County Court of Marshall County at its regular session next preceding the regular terms of court would appoint the 25 jurors to serve at the upcoming term. If the interest of the county should require, a larger panel then 25 may be selected but not to exceed 90. At least one juror would come from each Civil District, and the Justice may name this juror from his district if he is present in court. If he is not present, the other justices will name them. If more than 37 are to be selected, the Justices shall name over that amount trying to be as equal in each district as possible.
5. Private Acts of 1949, Chapter 545, set the salary of the regular juror in Marshall County at \$4.00 per day plus all ferriage and toll fees allowed by law for each day's attendance as a regular juror. All of the above would be paid out of the regular county funds.
6. Private Acts of 1953, Chapter 342, was the next act creating a Board of Jury Commissioners for Marshall County. This act also had all the provisions and the same mechanics for compliance as were established in the 1907 and 1911 acts except the limitations placed on the number of names to be selected by the Board was no more than 1000 and no less than 800. Special or additional panels would be taken from the sealed box in the presence of the presiding Judge but in the same manner as before, all to take place in open court.
7. Private Acts of 1961, Chapter 16, set the compensation of all people serving as jurors of any sort in Marshall County at \$7.50 per day. This act was properly ratified by the Quarterly County Court, but was superseded by state law.

## **Chancery Court**

The following acts form an outline of the development of equity jurisdiction in Marshall 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.

1. Acts of 1835-36, Chapter 35, provided that the several courts of newly created Marshall County would be held at the house of Abner Houston, or at some other place to which the County Court was allowed to adjourn them, until the county seat were selected and the court house built. Marshall County was placed in the 6th Division of the Middle Division of the Chancery Courts with

appeals therefrom being heard in Nashville.

2. Acts of 1839-40, Chapter 66, declared that Marshall County would constitute a separate Chancery Division in the Middle Tennessee Section of Chancery Court whose court would be held at the Court house in Lewisburg on the third Monday in February and August. The Court would be organized in accordance with the provisions of Public Acts of 1835, Chapter 41.
3. Acts of 1841-42, Chapter 9, provided that after the passage of this Act Chancery Court terms in Marshall County would begin on the second Monday in March and September, repealing that portion of Acts of 1839-40, Chapter 66, which required otherwise.
4. Acts of 1851-52, Chapter 178, changed court terms for most of the counties in the Middle Division of the Chancery Court of Tennessee. Marshall County's court would commence on the fourth Monday in February and August. The other counties mentioned in this Act were Wayne, Lawrence, Giles, Hickman, Humphreys, Dickson, Robertson, Maury, Williamson, Stewart, Montgomery, and Davidson.
5. Acts of 1855-56, Chapter 150, provided that the Chancery Court of Marshall County would be held beginning on the first Wednesday after the third Monday in February and August. The other sections of this act made changes in other chancery divisions.
6. Acts of 1857-58, Chapter 88, restructured the entire lower court system of Tennessee by creating the East, Middle, West, Fourth, Fifth, and Sixth Chancery Divisions. Marshall County was assigned to the Middle Division with court terms scheduled to start at Lewisburg on the third Monday of February and August.
7. Acts of 1867-68, Chapter 64, amended the prior act creating the Fourth Chancery Division by adding Hickman and Lawrence Counties to the Fourth Division which also included Giles, Maury, Williamson and Marshall Counties. Court terms at Lewisburg in Marshall County would begin on the second Monday in May and November.
8. Acts of 1870, Chapter 32, created twelve Chancery Division in Tennessee. Marshall County was placed in the 8th Chancery Division with Williamson, Maury, and Giles Counties.
9. Acts of 1870, Chapter 47, declared court terms for all the respective Chancery Divisions of Tennessee. Marshall in the 8th Division was scheduled to start Chancery Court terms on the second Monday in May and November.
10. Acts of 1885 (Ex. Sess.), Chapter 20, divided Tennessee into eleven Chancery Divisions placing Marshall County in the Fourth Division with Warren, Cannon, Rutherford, Bedford, Franklin, Lincoln, and Moore and provided for Chancery Court terms to start in Lewisburg on the first Monday in May and November. This act was the basis of a lawsuit in Flynn v. State, 203 Tenn. 341, 313 SW2d (1958), but involved only the Criminal Court at Memphis.
11. Acts of 1887, Chapter 213, among other things changed the opening dates for the Chancery Court for Marshall County to the first Tuesday after the first Monday in June and December.
12. Acts of 1899, Chapter 427, reorganized the entire lower court structure for Tennessee. The State was divided into ten Chancery Divisions. The Fifth Division was composed of Rutherford, Bedford, Marshall, Williamson, Lincoln, Lawrence, Maury, Giles, Lewis, and Wayne counties. Court terms would begin in Marshall county on the first Monday in March and September.
13. Acts of 1901, Chapter 494, amended Acts of 1899, Chapter 427, by changing the Chancery Court terms in the 5th Chancery Division with Marshall County being scheduled to begin on the first Monday in February and August.
14. Public Acts of 1931 (2nd Ex. Sess.), Chapter 38, again reorganized the whole lower court system in the State, creating fourteen Chancery Divisions. Marshall County remained in the 5th Chancery Division which also now included Rutherford, Bedford, Moore, Lincoln, Giles, Maury and Lawrence Counties. Court would start in Marshall County on the first Monday in February and August. All acts subsequent to this one relating to the courts were printed in the separate volumes of public acts and many years were not researched.
15. Public Acts of 1968, Chapter 561, amended T.C.A. 16-241 by deleting the old Section and adding a new Section which showed the 5th Chancery Division being composed of Rutherford, Bedford, Lincoln, Moore, and Marshall Counties whose court term would begin on the first Monday in February and August where they have remained. See the statement at the beginning for the counties now in the 5th Chancery Division.

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

The reference list below contains acts which once applied to the clerk and master in Marshall County.

1. Private Acts of 1911, Chapter 392, fixed the compensation of the Clerk and Master in Marshall County using population figures, at \$1,000 a year, provided a sworn, itemized statement was filed with the County Judge, or Chairman, showing the total amount of fees collected in his office. If the fees were less than the salary, the county was required to make up the difference, but, if the fees were more than the salary, the Clerk and Master could retain the excess.
2. Private Acts of 1915, Chapter 591, declared that all women over 21 years of age who had been residents of the county appointing them for one year or more were eligible to serve as Deputy Clerks and Master with all the rights, powers, duties, and obligations as other Deputies.
3. Private Acts of 1929, Chapter 583, fixed the salary of the Clerk and Master of Marshall County at \$1,800 per year, payable \$450 per quarter, provided the Clerk and Master would file a sworn, itemized report every quarter showing the amount of fees collected in his office. If the fees were less than the \$450 the county would pay the difference, but if the fees were more, the excess would be carried over to the next quarter and applied. However, if the fees exceeded the \$1,800 on an annual basis, the Clerk and Master could retain them. This act was repealed by the one below.
4. Private Acts of 1933, Chapter 145, set the salary of the Clerk and Master in Marshall County at \$1,200 a year, payable \$300 a quarter under the same conditions regarding insufficient and excess fees collected as stated above. This act repealed Private Acts of 1929, Chapter 583.
5. Private Acts of 1945, Chapter 311, amended Private Acts of 1933, Chapter 145, by changing \$1,200 in Section One, Three, and Five to \$1,600, thus raising the salary of the Clerk and Master, and by changing the \$300 quarterly payment to \$400, and excluded the Clerk and Master's fee for making transcripts of records from those for which he was accountable in fixing his salary.
6. Private Acts of 1951, Chapter 706, amended Private Acts of 1933, Chapter 145, as it was amended by Private Acts of 1945, Chapter 311, by increasing the salary of the Clerk and Master from \$1,600 to \$2,400 annually, payable at \$600 per quarter instead of \$400 all other terms and conditions to remain as they were.

### **Circuit Court**

The following acts were once applicable to the circuit court of Marshall County but now have no effect, having been repealed, superseded, or having failed to win local approval.

1. Acts of 1835-36, Chapter 35, provided that the courts of newly created Marshall County would be held at the house of Abner Houston until the county seat had been selected and the court house built. The County Court could adjourn the courts to another location until that 8th Judicial Circuit and court terms would begin on the fourth Monday of March, July and November.
2. Acts of 1837-38, Chapter 116, changed the times for holding the Circuit Court in the 8th Judicial Circuit in the counties of Maury, Giles, Hickman, and Marshall County which was scheduled for the first Monday in February, June, and October.
3. Acts of 1837-38, Chapter 296, changed the starting dates for the Circuit Court terms in Giles and Marshall Counties. Marshall would begin Circuit Court on the first Monday of February, June, and October but the first term after the passage of this act would be held according to the old schedule.
4. Acts of 1845-46, Chapter 39, changed Circuit Court terms in Lewis, Hickman, Giles, Maury, and Marshall County which went to the third Monday in April, August, and December.
5. Acts of 1847-48, Chapter 132, changed the starting dates of the terms of Circuit Court in Hickman and Marshall Counties. Marshall County would start Circuit Court terms on the fourth Monday in March, July, and November.
6. Acts of 1849-50, Chapter 9, again altered beginning dates of the Circuit Court in Hickman and Marshall Counties. This time Marshall was slated to begin on the third Monday in April, August, and December.
7. Acts of 1851-52, Chapter 322, changed the Circuit Court terms on Marshall County so that they would begin on the second Monday in February, June, and October but again stating that the first term after this act would be according to the old schedule.
8. Acts of 1857-58, Chapter 98, reorganized the judicial structure of Tennessee into sixteen Judicial Circuits. Marshall County as in the 11th Judicial Circuit with Maury, Lewis, and Giles counties and court terms in Lewisburg would begin on the second Monday in February, June, and October.
9. Acts of 1865, Chapter 37, provided in this first post Civil War Act that Lawrence, Giles, Maury, Lewis, and Marshall Counties would constitute the 11th Judicial Circuit, changed the court terms in

- Lawrence County, attached Haywood and Madison Counties to the 15th Judicial Circuit and abolished the 14th Judicial Circuit.
10. Acts of 1866-67, Chapter 33, changed the starting dates for the Circuit Court terms in Marshall County to the first Monday in February, June, and October.
  11. Acts of 1867-68, Chapter 64, changed court terms in the 11th Judicial Circuit in Hickman, Lewis, and Lawrence counties, but not in Marshall County.
  12. Acts of 1867-68, Chapter 67, changed Circuit Court terms in Hickman and Marshall county whose court would start on the second Monday in February, June, and October.
  13. Acts of 1870, Chapter 31, divided Tennessee into fifteen Judicial Circuits and the 9th was made up of Williamson, Maury, Giles, Lawrence, and Marshall Counties.
  14. Acts of 1870, Chapter 46, set court terms for all the State's Judicial Circuits. Marshall County Circuit Court, in the 9th Circuit, was scheduled to begin on the second Monday in February, June, and October.
  15. Acts of 1871, Chapter 73, created a separate Criminal Court in Williamson, Maury, Giles, and Marshall counties. These courts were given the criminal jurisdiction formerly exercised by their Circuit Courts but the Circuit Court Clerk would continue as the Clerk of this Court, and the Sheriff would attend and wait on this court as he did other courts. All the criminal case records would be certified to this Court and the County Court would summon a venire of Jurymen. Judges were permitted to interchanged and the regular Attorney- General of the 11th Circuit would prosecute the cases. The Governor would appoint an interim Judge until the regular Judge could be elected at the next general election. The terms of the courts were prescribed in the Bill. Marshall County's Criminal Court would start on the first Monday in April, August, and December, at Lewisburg. This Act was specifically repealed by Acts of 1877, Chapter 143.
  16. Acts of 1877, Chapter 143, repealed Acts of 1871, Chapter 73, which created a separate criminal court for Williamson, Maury, Giles, and Marshall counties which would be effective on September 1, 1878, when all criminal jurisdiction would be returned to the Circuit Courts of those counties and all process revised accordingly. The Criminal Court docket in Marshall County would be taken up on the first Thursday of the Circuit Court Term and all matters will be attended to on that day.
  17. Acts of 1879, Chapter 95, amended Acts of 1877, Chapter 143, Section 5, so that the Criminal Court docket in Marshall County shall be taken up on the second Monday of the Circuit Court term instead of the first Thursday and that day shall hereafter be the starting date for the criminal court.
  18. Acts of 1885 (Ex. Sess.), Chapter 20, divided the State into 14 Judicial Circuits plus a special circuit in Shelby County. This special circuit in Shelby was the basis for the litigation in Flynn v. State, 203 Tenn. 341, 313 SW<sup>2</sup> 249 (1958). The 8th Judicial Circuit was composed of Wilson, Rutherford, Cannon, Bedford, and Marshall counties whose court terms would start in Lewisburg on the second Monday in April, August, and December.
  19. Acts of 1887, Chapter 213, changed the terms of Circuit Court in Bedford and Marshall Counties. Marshall would start on the second Monday in March, July, and November. Section 3 of this act provided that the Judge of the Circuit Court would select a day upon which the criminal business of Marshall County would be taken up and this day could be changed from time to time by the Judge as the public interest may require.
  20. Acts of 1891, Chapter 172, changed the terms of the Circuit Court in Marshall County from Tuesday after the second Monday in March, July, and November to Tuesday after the third Monday in the same months.
  21. Acts of 1899, Chapter 427, redone the lower courts of Tennessee by dividing the State into fourteen Judicial Circuits placing Wilson, Rutherford, Bedford, Marshall, Cannon and Williamson Counties in the 8th Judicial Circuit. Terms of circuit court in Marshall County would begin on the Tuesday after the third Monday in March, July, and November.
  22. Public Acts of 1931 (2nd Ex. Sess.), Chapter 38, was the next reorganization of the lower court system. Tennessee was divided into twenty judicial circuits. The 8th Circuit consisted of Bedford, Cannon, Rutherford, and Marshall County whose court terms would begin on the Tuesday after the third Monday in March, July, and November.
  23. Public Acts of 1963, Chapter 262, created a new Judicial Circuit by removing Bedford and Marshall Counties from the 8th Judicial Circuit and Lincoln and Moore counties from the 7th Judicial Circuit and combining those four counties into the new 23rd Judicial Circuit. Court would begin in Marshall County on the first Tuesday in March, July, and November. The Governor would appoint

the first Judge and the Attorney General who would serve until the next general election when their successors would be elected and qualified. The Judge was authorized to employ a Secretary at \$300 a month, or less who would serve at the pleasure of the Judge and travel as he might direct.

### **Circuit Court - Clerk**

The following acts have no current effect, but once applied to the Marshall 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 1903, Chapter 255, was a general law of the State establishing the salaries of the Circuit Court Clerks only according to population count. Marshall County's Circuit Court Clerk would have been paid \$750 per year under this law.
2. Private Acts of 1919, Chapter 775, was made applicable to Marshall County and to Warren County by using population figures. The act established the annual salary of the Circuit Court Clerk at \$900 provided he filed a sworn, itemized statement with the County Judge, or Chairman showing the total amount of fees collected by his office. If the fees were less than the salary, the county would make up the difference, but, if the fees exceeded the salary the Clerk could keep the excess.
3. Private Acts of 1923, Chapter 115, provided that the Circuit Court Clerk of Marshall County, using population figures, would get \$1,200 a year salary if he filed with the County Judge the statement mentioned above showing the fees collected and the conditions concerning excess and insufficiency remained as they were. This Act repealed Private Acts of 1919, Chapter 775.
4. Private Acts of 1929, Chapter 295, amended Private Acts of 1923, Chapter 115, by increasing the annual salary of the Circuit Court Clerk from \$1,200 to \$1,800 with all other terms and conditions to remain as they were. This act was repealed by the one below.
5. Private Acts of 1933, Chapter 143, repealed Private Acts of 1923, Chapter 115, as amended, and provided that the salary of the Circuit Court Clerk would be \$1,200 a year and he would be allowed \$10 a week, not to exceed two weeks per term of court for clerical or stenographical assistance. He must file a sworn, itemized report every quarter with the County Judge or Chairman, showing the total amount of fees collected in his office. If the fees were less than \$300 plus the amount actually expended for assistance the county would pay the difference. When accounts were reconciled at year's end, he could keep the excess, if any. This act was repealed by the one following.
6. Private Acts of 1947, Chapter 23, fixed the salary of Marshall County's Circuit Court Clerk, using population figures, at \$1,800 annually, payable \$450 per quarter, plus \$15 a week for clerical or stenographic help, not to exceed two weeks in each term of court, and the rules for reconciling the salary and accounts remained as they were. This act repealed Private Acts of 1933, Chapter 143, in its entirety.

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

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

1. Public Acts of 1963, Chapter 265, created the office of assistant district attorney general for the 23rd judicial district of which Marshall County is no longer a part.
2. Public Acts of 1968, Chapter 527, created the office of an additional assistant district attorney general for the 23rd judicial district. The district attorney general was authorized a suitable person who must be at least the age of twenty-one, learned in the law, and licensed to practice law in Tennessee. This act no longer applies to Marshall County as it is now in the seventeenth judicial district.
3. Public Acts of 1977, Chapter 401, created an additional full-time position of assistant district attorney general for the 23rd judicial district. This act does not apply to Marshall County as it is no longer a part of the 23rd judicial district.

### **General Sessions Court**

The following acts once affected the general sessions court of Marshall County, but are no longer in effect and are included herein for reference purposes. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Private Acts of 1945, Chapter 466, created a General Sessions Court for Marshall County to be located at Lewisburg but could entertain cases in other places. The act prescribed the jurisdiction

of the court and divested the Justices of the Peace of all their jurisdiction except to issue criminal and search warrants for all those charged with an offense committed in the District. Separate dockets would be kept for the civil and criminal cases by the Clerk who would also be responsible for the fees. The first Judge would be appointed by the Governor but all others would be elected; the salary was \$1,800 per year but the Judge could continue to practice law. This act as amended was expressly repealed by Private Acts of 1974, Chapter 344.

2. Private Acts of 1951, Chapter 286, amended Private Acts of 1945, Chapter 466, in Section 3 by changing the requirements of an appearance bond by making it payable in cash and ranging from \$5 to \$25 and in Section 2 by giving the Justices of the Peace the authority to issue a mittimus to any arresting officer in case of the prisoner's failure to make bond.
3. Private Acts of 1957, Chapter 312, by striking the \$1,800 salary figure and substituting \$3,000 in Section 9.
4. Private Acts of 1974, Chapter 344, repealed expressly Private Acts of 1945, Chapter 466, Private Acts of 1951, Chapter 286, and Private Acts of 1957, Chapter 312. Further, Private Acts of 1933, Chapter 170, as amended by Private Acts of 1951, Chapter 285, Private Acts of 1937, Chapter 354, Private Acts of 1949, Chapter 151 were also repealed insofar as they conflicted with Private Acts of 1974, Chapter 344.
5. Private Acts of 1974, Chapter 170, repeals Chapter 547 of the Private Acts of 1949 and Chapter 18 of the Private Acts of 1961; and provides that the Justices of the Peace attending quarterly court in Marshall County shall receive twenty-five dollars per diem, and no mileage.
6. Private Acts of 1987, Chapter 13, repeals Chapter 170 of the Private Acts of 1974.

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