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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 Macon County, but are no longer operative. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Private Acts of 1931, Chapter 626, created a Board of Jury Commissioners in Macon County, identified by using the 1930 Federal Census figures. The Board would consist of three discreet members, freeholders, residents of the county for two years, who were not state or county officials, nor attorneys, nor had a suit pending in court, who would be appointed by the Judge of the Criminal Court for two year terms. Justices of the Peace were expressly declared to be eligible for appointment. It was the duty of the Clerk to notify those selected to serve on the Board within ten days of their appointment and to name a day for their first meeting. The board would meet on that day, be sworn and bonded, taking the special oath prescribed in this act, and would then choose a chairman and secretary from their own number. On the first Monday of the month preceding the opening of the court, the Board would convene at the courtroom, or at any other convenient place in the county seat and select 42 names from the tax rolls, or other public sources for the criminal court, and 18 names for the Circuit Court, choosing as equally as possible from each Civil District of the Jury for that term of court. The Clerk would submit the list at the proper time to the Sheriff who would summon them for duty, only the Judge being given the authority to excuse anyone. This act was repealed by the one below.
2. Private Acts of 1935, Chapter 428, specifically repealed Chapter 626, Private Acts of 1931, above, which created a Board of Jury Commissioners for Macon County.
3. Private Acts of 1937, Chapter 162, created another Board of Jury Commissioners for Macon County along the same fundamental lines as those written in Item One, above, except that W. J. Jarred, T. T. Tucker, and E. L. Meadows were named as the members of the first Board who would serve until July, 1938, when their successors would be chosen by the Criminal Court Judge. The Board would meet within five days after being notified. The number of jurors to be chosen was reduced to 27 for the criminal court, whose names would be recorded and certified in a special book acquired for that purpose, the first twelve again being designated as the Grand Jury, the others to serve as petit jurors, wherever needed. Arrangements were made for special cases and panels if the jury list were exhausted and penalties prescribed for those who violated, or ignored the provisions of this act. Board Members would receive \$3.00 per day for each day service actually spent in the discharge of these responsibilities. This act was repealed by the one following.
4. Private Acts of 1939, Chapter 546, expressly, and entirely, repealed Chapter 162, Private Acts of 1937, above, causing the selection of Jury Commissioners, if any, to follow the state law.
5. Private Acts of 1939, Chapter 547, provided that, in Macon County, using the 1930 Federal Census figures, it shall be the duty of the presiding Judge of the Criminal Court, the Circuit Court, or any court having criminal jurisdiction, to designate at each term of the court one of the 13 members, drawn according to law to form a Grand Jury, to act as Foreman of the same during that particular term of court. The one so selected, shall be paid \$3.00 per day for every day served in that capacity.

## **Chancery Court**

The following acts form an outline of the development of equity jurisdiction in Macon 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 1841-42, Chapter 45, created Macon County and provided that the County would be attached to the Chancery District which met at Carthage, in Smith County.
2. Acts of 1841-42, Chapter 119, Section 3, stated that the citizens of Macon County, newly created, would have the right to file their Bills in chancery either at Gallatin in Sumner County or at Carthage in Smith County as their convenience and best interests might dictate.
3. Acts of 1843-44, Chapter 151, Section 5, stated that the Chancery Court of Macon County would be attached to the 4th Chancery Division, would meet at Lafayette and the terms would begin on the fourth Monday in March and September.
4. Acts of 1845-46, Chapter 82, Section 2, changed the chancery court terms for some of those counties in the Fourth Chancery District, assigning Macon County to the fourth Monday in January

and July at Lafayette. The Fourth Chancery District consisted of those courts which met at Gainsboro, Winchester, Sparta, Livingston, Smithville, McMinnville, and Woodbury.

5. . Acts of 1849-50, Chapter 213, Section 4, provided that the Chancery Court at Lafayette in Macon County would meet hereafter on the second Monday in January and July.
6. Acts of 1851-52, Chapter 331, amended the act which required the Chancellor of the Fourth Chancery Division to hold the Chancery Court at Lafayette so as to require him to open and hold the said court at Lafayette on the first Monday in February and the second Monday in July.
7. Acts of 1857-58, Chapter 88, divided the State into the Eastern, Middle, Western, Fourth, Fifth, and Sixth Chancery Divisions. The Fourth Division had in it the counties of Jackson, Wilson, Putnam, Smith, Coffee, Franklin, Lincoln, Bedford, Sumner, DeKalb, Warren, Van Buren, Grundy, Cannon, Rutherford, and Macon whose court terms would begin on the first Monday in February and the second Monday in July.
8. Acts of 1859, Chapter 14, created a new Seventh Chancery Division assigning to it the counties of Overton, Jackson, Sumner, Robertson, Montgomery, Smith, Stewart, and Macon where the courts were to begin on the first Friday after the second Monday in February and August at Lafayette.
9. Acts of 1866-67, Chapter 25, Section 2, stated that the Chancery Court at Lafayette would commence its terms of court on the second Thursday after the first Monday in February and August.
10. Acts of 1868-69, Chapter 18, provided that the Chancery Court for Macon County would be held hereafter on the first Thursday after the second Monday in February and August of each year.
11. Acts of 1868-69, Chapter 44, Section 4, provided that the Chancery Court for Macon County would be held hereafter on the first Thursday after the second Monday in February and August of each year.
12. Acts of 1870 (Ex. Sess.), Chapter 32, divided Tennessee into twelve Chancery Districts. The Fifth Chancery District was composed of the counties of Van Buren, White, Putnam, Overton, Jackson, Smith, Dekalb, Macon, and Clay.
13. Acts of 1870 (Ex. Sess.), Chapter 47, set up the Chancery Court terms for every county in the State. In Macon, court would commence on the second Monday of February and August.
14. Acts of 1871, Chapter 71, repealed the prior act in conflict and set the starting dates for the terms of the Chancery Court in Macon County on the Tuesday after the second Monday in February and August.
15. Acts of 1882 (2nd Ex. Sess.), Chapter 7, changed the term of the Chancery Court for Macon County to the second Monday in November instead of the Thursday after the second Monday in October, all process being made to conform to that date.
16. Acts of 1883, Chapter 77, changed the days of the Macon County Chancery Court to begin on the Thursday after the second Monday in October, and on the Thursday after the first Monday in May, with proper adjustments being made to all process.
17. Acts of 1885 (Ex. Sess.), Chapter 20, reorganized the entire lower judicial system of the State. Eleven Chancery Divisions were formed of which the 5th Division contained the counties of Cumberland, Fentress, Pickett, Overton, Clay, Jackson, Putnam, White, Dekalb, Smith, and Macon where court terms would begin on the third Monday in April and October. This act was considered by the Supreme Court in *Flynn v. State*, 203 Tenn. 341, 313 S.W.2d 249 (1958).
18. Acts of 1891 (Ex. Sess.), Chapter 11, changed the schedule of court terms in all the counties of the Fifth Chancery Division switching Macon County to the fourth Monday in March and September.
19. Acts of 1895, Chapter 15, rescheduled the starting dates for the terms of the Chancery in all counties of the 5th Chancery Division shifting Macon County to the first Wednesday after the second Monday in March and September.
20. Acts of 1897, Chapter 43, Section 7, changed the terms of the Macon County Chancery Court to the first Monday in March and September, and also rearranged the court terms in Smith, Jackson, Clay, Overton, Pickett, Fentress, White, Putnam, DeKalb, and Cumberland Counties. Section 8 provided that the Chancellor of the 5th Division would also hold the Circuit Court in Macon County on the same days.
21. Acts of 1897, Chapter 294, rearranged the starting dates for the Chancery Court terms in the Fifth Chancery Division, scheduling Macon to begin on the first Wednesday after the second Monday in March and September. Some irregular assignments were also given the Judges some of whom

would hold both Circuit and Chancery Courts.

22. Acts of 1899, Chapter 427, again organized the state's lower judicial system into different patterns, forming ten Chancery Divisions. The Fourth Division consisted of the counties of Cumberland, Pickett, Clay, Overton, Jackson, Putnam, White, DeKalb, Smith, Van Buren, Cannon, Trousdale, and Macon where the Chancery Courts would start at Lafayette on the first Wednesday after the second Monday in March and September.
23. Private Acts of 1903, Chapter 97, reset the terms of the Chancery Courts in the Fourth Chancery Division assigning Macon County to the first Tuesday after the second Monday in March and September.
24. Private Acts of 1911, Chapter 507, reorganized the Chancery Court terms in the Fourth Division which now contained the counties of Cannon, Trousdale, Overton, Cumberland, Smith, Fentress, Pickett, Jackson, Van Buren, Dekalb, Morgan, White, Putnam, and Macon where the terms would commence on the first Tuesday after the second Monday in March and September.
25. Private Acts of 1927, Chapter 40, changed the Chancery Court terms for Trousdale, Smith, Pickett, and Macon Counties, shifting Macon to the second Monday in March and September.
26. Public Acts of 1931 (2nd Ex. Sess.), Chapter 38, rearranged the entire lower court system of the State into fourteen and one special Chancery Division. The Fourth Chancery Division contained of the Counties of Cannon, Trousdale, Overton, Clay, Smith, Pickett, Fentress, Jackson, Cumberland, DeKalb, Morgan, White, Putnam, Macon where Court would start at Lafayette on the second Monday in March and September.

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

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

1. Private Acts of 1911, Chapter 303, provided that the Clerk and Master of the Chancery Court in Macon County would be paid the sum of \$600 per year as a salary conditioned upon the requirement that the Clerk and Master file with the County Judge, or Chairman, of the County Court, before the convening of each quarterly term of the court, a sworn, itemized, detailed report of all the fees collected in the office during the preceding quarter. If the fees are less than the salary mentioned above, the county shall make up the difference but, if the fees should exceed the salary, the Clerk and Master may retain them for his own.
2. Private Acts of 1919, Chapter 550, amended Chapter 303, Private Acts of 1911, above, by adding a provision that the Clerk and Master in his report of the fees collected in the office during the quarter would not have to account for or include in the report such fees as they may be entitled to receive from sales of land, orders of reference, and for taking depositions.
3. Private Acts of 1921, Chapter 432, also granted the Clerk and Master of Macon County an annual salary of \$600 per year under the same conditions of filing a quarterly report, as before, but exempted the Clerk and Master from accounting for, or including in his report of fees, those fees received by him for taking depositions, commissions on the sale of lands, making out transcripts, and the compensation awarded to him as a special commissioner, or receiver. The Clerk and Master would retain all fees exceeding the above amount, and be paid the difference, if they were less.
4. Private Acts of 1927, Chapter 122, amended Section One, Chapter 303, Private Acts of 1911, Item One, above, by increasing the annual salary of the Clerk and Master from \$600 to \$900 to be paid under the same conditions as expressed in that Act and its amendments.

### **Circuit Court**

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

1. Acts of 1841-42, Chapter 45, provided for the Circuit Court of newly created Macon County to meet at the house of William Dunn until the County seat could be laid out although court could adjourn to any other convenient place in the county. Macon County was assigned to the Fourth Judicial Circuit with court terms scheduled to start on the first Monday in January, May, and September.
2. Acts of 1845-46, Chapter 82, changed terms for the Circuit Courts in the Fourth Judicial Circuit, naming Dekalb, White, Fentress, Overton, Jackson, Smith, and Macon where court would be held hereafter on the second Monday in March, July, and November.
3. Acts of 1847-48, Chapter 125, changed the time for beginning the terms of the Circuit Court in Macon County to the third Monday instead of the second Monday in March, July, and November.

4. Acts of 1857-58, Chapter 98, divided Tennessee into sixteen Judicial Circuits. The 6th Circuit was made up of the counties of Jackson, Smith, Putnam, Dekalb, and Macon where the terms of court would begin on the third Monday in March, July, and November.
5. Acts of 1866-67, Chapter 25, provided that after the next succeeding term of the Circuit Court in Macon County which would start as now provided by law, the Circuit Court terms would commence on the second Monday in January, May, and September.
6. Acts of 1870 (Ex. Sess.), Chapter 31, divided the State into 15 regular and one special Judicial Circuits. The Fifth Judicial Circuit contained the counties of Dekalb, Overton, Putnam, White, Smith, Jackson, Clay, and Macon.
7. Acts of 1870 (Ex. Sess.), Chapter 46, scheduled all the terms of the Circuit Courts in all the counties of the State. Macon County would begin at Lafayette on the first Monday in January, May, and September.
8. Acts of 1871, Chapter 15, reset the terms of the Circuit Court in Macon County to the fourth Monday in April, August, and December, repealing all conflicting Acts.
9. Acts of 1872, Chapter 15, changed the terms of the Circuit Courts in the 5th Judicial District but Macon remained on the fourth Monday in April, August, and December.
10. Acts of 1873, Chapter 22, Section 6, changed Circuit Court terms in Clay County and Macon County who went to the third Monday in April, August, and December.
11. Acts of 1877, Chapter 28, changed Circuit Court terms in Macon County to begin on the first Monday in January.
12. Acts of 1885 (Ex. Sess.), Chapter 20, was an Act which revamped the entire lower court structure in Tennessee, dividing it into fourteen regular and one special judicial circuits. The Fifth Judicial Circuit was composed of the counties of Pickett, Fentress, Cumberland, Putnam, Overton, Clay, Jackson, Smith, Trousdale, and Macon where the court terms would begin on the first Tuesday after the first Monday in March, July, and November.
13. Acts of 1887, Chapter 12, rescheduled the court terms of all the counties in the 5th Judicial Circuit. Macon County would thereafter start the Circuit Court terms on the third Monday in March, July, and November.
14. Acts of 1897, Chapter 43, Section 6, rearranged the starting dates for the terms of the Circuit Courts in the 5th Judicial Circuit, scheduling Macon County for the first Monday in March and September. Section 8 of this Act provided that the Chancellor of the 5th Chancery Division would also hold the Circuit Courts in Macon County, the terms of both being set at the same times.
15. Acts of 1897, Chapter 294, rearranged the circuit court terms in the 5th Judicial District again, setting those in Macon County to begin on the first Wednesday after the second Monday in March and on the third Monday in July and November. The Chancery Court terms coincided with two of these dates.
16. Acts of 1899, Chapter 357, amended the 1897 Act, above, so as to begin the Circuit Courts in Smith, Trousdale, and Macon counties on different dates. Macon County's would start on the second Monday in March and the third Monday in July and November.
17. Acts of 1899, Chapter 427, reorganized all the lower court system of the State. Tennessee was divided into fourteen regular and two special judicial circuits. The fifth Judicial Circuit was made up of the counties of Pickett, Cumberland, Putnam, Overton, Clay, Jackson, Smith, Trousdale, White, and Macon whose circuit courts would begin on the first Wednesday after the second Monday in March, and on the third Monday in July and November.
18. Private Acts of 1901, Chapter 324, rescheduled the Circuit Court terms in the 5th Circuit changing Macon County's courts to the third Monday in March, July, and November.
19. Public Acts of 1931 (2nd Ex. Sess.), Chapter 38, made sweeping changes throughout the lower judicial structure of the State forming the counties into twenty Judicial Circuits. The 5th Circuit contained the counties of White, Overton, Putnam, Jackson, Trousdale, Smith, Wilson, and Macon for both civil and criminal jurisdiction. Macon County's courts would continue to open on the third Monday in March, July, and November. All changes in the future in the circuit and chancery courts would generally be made by public acts.
20. Private Acts of 1941, Chapter 385, changed the time for hearing the civil cases of Macon County Circuit Court from the third Monday in March, July, and November to the first Monday of February, June, and October. The Judge of the 5th Judicial Circuit criminal division will hold the Circuit Courts of Macon County. All process was to conform to these changes.

### **Circuit Court - Clerk**

The following acts have no current effect, but once applied to the Madison County Circuit Court Clerk. They were repealed, superseded, or never received local approval.

1. Acts of 1903, Chapter 255, was a salary Act covering the whole State but concerning the Circuit Court Clerks only. The salaries specified were based on the population of the county in which the clerk served, as they now are. Our population figures on Macon County in 1900 would have given the Circuit Court Clerk a salary of \$750 per year, provided he filed with the County Judge, or Chairman, an itemized, sworn, annual report showing all the fees collected in the office for the year immediately passed. If the fees failed to equal the salary specified herein, the county would pay the Clerk the difference, but if the fees exceeded the salary, the Clerk was permitted to retain them as his own.
2. Private Acts of 1931, Chapter 603, provided that the Clerk of the Circuit Court in Macon County would be paid the sum of \$600 annually, payable in equal monthly installments, which would be over and above and in addition to all the fees collected. This added sum would be paid out of the county treasury on the warrant of the County Judge, or Chairman.

### **Criminal Court**

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

1. Acts of 1907, Chapter 85, created the Criminal Court for the Fifth Judicial Circuit in the following counties: White, Putnam, Cumberland, Overton, Pickett, Clay, Jackson, Macon, Trousdale and Smith.
2. Private Acts of 1911, Chapter 648, amended the 1907 Act so as to change the opening dates for Smith and Trousdale counties.
3. Public Acts of 1925, Chapter 39, again changed the court times for some counties in the criminal division of the Fifth Judicial Circuit.
4. Public Acts of 1937, Chapter 205, which appeared in the Tennessee Code as Section 16-214, actually supplied the details of the establishment of Criminal Courts in the Fifth Judicial Circuit which included the counties of White, Putnam, Overton, Jackson, Macon, Trousdale, Smith and Wilson. Wilson County would begin the terms of court on the third Monday in April, August and December.
5. Private Acts of 1937, Chapter 521, amended Chapter 45, Private Acts of 1919, (See Circuit Court) in Section One by requiring the Judge of the Fifth Judicial Circuit to hold the criminal court of Wilson County at Lebanon on the third Monday in April, August, and December, and the Judge would also hold the civil court on the third Monday in January, May and September.

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

The following acts once affecting Macon County are no longer in effect but are listed here for historical purposes. Also referenced below is an act which repeals prior law without providing new substantive provisions.

1. Private Acts of 1907, Chapter 381, created the position of Assistant Attorney General for the Fifth Judicial Circuit, to which Macon County was assigned at that time, who shall be appointed by the Attorney General of the Circuit, be over twenty-five years of age and qualified for the post, who would serve at the pleasure and direction of the Attorney General, and who would be paid \$1,800 per year out of the State Treasury.
2. Private Acts of 1919, Chapter 166, expressly repealed Private Acts of 1907, Chapter 381, above, in its entirety. All subsequent laws relating to this position occurred under the authority of general state laws since no further private acts on the subject were discovered which affected Macon County.
3. Public Acts of 1977, Chapter 444, divided the criminal court of the Fifth Judicial Circuit into two divisions, with Macon County in Division II. The District Attorney for the Fifth Judicial Circuit was to serve only in Division II and the Governor was to appoint a new district attorney for Division I.

### **General Sessions Court**

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

1. Private Acts of 1975, Chapter 152, amended Chapter 100 of the Private Acts of 1937 and Chapter 555 of the Private Acts of 1951, to divest the County Judge of juvenile jurisdiction and to vest such jurisdiction in the Court of General Sessions, and to provide for the clearing function for juvenile matters. This act was not approved at the local level and is therefore not operative and

not in effect in accordance with its provisions.

### **Secretarial Assistance**

The following acts are no longer in effect but are listed here for historical purposes. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Public Acts of 1915, Chapter 117, created a position of Stenographer for the Chancellor of the Seventh Chancery Division to which Macon County was then assigned but later removed.
2. Public Acts of 1939, Chapter 156, created a position of Stenographer for the Judges of the Circuit and Criminal Courts of the Fifth Judicial District and set an annual salary of \$720 per year for each of the two positions. This Act, as amended, was repealed by Chapter 134, Public Acts of 1967, below.
3. Public Acts of 1959, Chapter 180, amended Public Acts of 1939, Chapter 156, above, by increasing the salaries of the Stenographers to the Judges of the Criminal and Circuit Courts from \$720 to \$2,400 per year.
4. Public Acts of 1963, Chapter 242, also amended Public Acts of 1939, Chapter 156, above, by increasing the annual salary of the Stenographers, whose positions were created therein, from \$2,400 to \$3,600 per year. This Act, and the one in Item 3, above, were both expressly repealed by Public Acts of 1967, Chapter 134.
5. Public Acts of 1967, Chapter 10, created a new 25th Judicial Circuit and in Section 5 thereof, gave the Judge of the newly formed Circuit the authority to employ a Secretary at an annual salary not to exceed \$3,600 who would serve at the pleasure and direction of the Judge.
6. Public Acts of 1967, Chapter 134, authorized the Judges of the Civil and Criminal Divisions of the 5th Judicial Circuit to each appoint one Secretary to perform such duties as may be assigned to them and to serve at the pleasure of the Judge. Each would be paid a salary set by the Judge but not to exceed \$3,600 which would be paid out of the State Treasury by the Executive Director of the Supreme Court, or the Director of Accounts. This Act also repealed all the former acts on this subject, reciting each one by chapter number and year.

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