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

1. Private Acts of 1809, Chapter 48, assigned newly created Lincoln County to the Mero District and directed that Lincoln County furnish at least three jurors to the Superior Court of Law and Equity.
2. Private Acts of 1817, Chapter 128, granted the authority to the Quarterly County Courts of the twenty-one counties named in the legislation, including Lincoln County, to lay a tax at their first session of each year for the purpose of making an additional compensation to the jurors attending the county and the Circuit Courts but the extra pay shall not exceed fifty cents per day.
3. Private Acts of 1821, Chapter 37, provided that the Judges of the Superior Court of Law and Equity to which Lincoln County was required to furnish a certain number of jurors, would hold two terms per year of said court at the court house in Columbia in Maury County and exercise jurisdiction in the appeals of cases of both law and equity from the Sixth Judicial Circuit to which Lincoln County then belonged.
4. Private Acts of 1833, Chapter 194, provided that the County Courts of Carter and Lincoln Counties at the first court to be held each year shall allow the jurors who are summoned to attend the Circuit and the County Courts, plus the talisman jurors, when they are required to attend more than one day, at least fifty cents and no more than One Dollar per day, and they are empowered to levy a tax in order to produce the funds with which this cost be paid. The talisman jurors were to collect from the clerk of the court which summoned them.
5. Private Acts of 1915, Chapter 605, created Boards of Jury Commissioners for Lincoln, Coffee, and Dekalb Counties. The Board was composed of three discreet citizens of the county, who were not county officials, or attorneys, who had no suit pending in the courts, or any interest in them, who would be appointed by the Circuit Judge for a one year term. Vacancies would be filled in the same manner. The Commissioners were required to take the oath prescribed in this act, and then would meet and select a chairman from their own number. The Clerk of the Circuit Court would serve as the Secretary and he, too, must take an oath of secrecy. The Board would make a list of names from the tax rolls, or other public sources, from 300 to 750 in number, of good moral citizens. The names would be entered in a well bound book by the clerk and would constitute the jury list for the next two years.

## **Chancery Court**

The following acts form an outline of the development of equity jurisdiction in Lincoln 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 1822, Chapter 13, provided that the Justices of the Court of Appeals and Error would hold the Chancery Courts of the State at least once a year. The Court at Columbia to which Lincoln County presumably belonged at this time would be held on the second Monday in January of each year.
2. Acts of 1824, Chapter 14, provided for the addition of two additional Justices to the Supreme Court which would meet at Knoxville, Sparta, and Nashville, and for the Judges thereof to arrange among themselves to hold the Chancery Courts of the State at least twice a year. These courts would be held in the Eastern part of the State at Greeneville, Rogersville, Kingston, Carthage, McMinnville, Franklin, Charlotte, Jackson, and at Columbia for the counties of Maury, Bedford, Lincoln, Giles, Lawrence, Wayne, and Hardin.
3. Acts of 1827, Chapter 79, Section 3, divided Tennessee into two Chancery Divisions. The Eastern Division would be composed of the courts held at Rogersville, Greeneville, Kingston, Carthage, McMinnville, and the Western Division contained the courts at Franklin, Columbia, Charlotte, Jackson and Paris.
4. Acts of 1827, Chapter 88, establishes the starting dates for the terms of the chancery court in the Eastern Division but does not mention the courts in the Western Division.
5. Private Acts of 1831, Chapter 57, Section 2, states that a Chancery Court shall be organized and

held in the Western Division in the city of Pulaski in Giles County for the counties of Giles, Lincoln, Lawrence, Wayne, and Hardin where terms of court would begin on the second Monday in April and October and continue for two weeks or until the docket is completed.

6. Acts of 1835, Chapter 4, divided Tennessee into three Chancery Divisions and the courts would be presided over by chancellors of the State to be appointed rather than by the Justices of the Supreme Court. Each Grand Division was further divided into Districts. The Chancellors were required to hold court at least twice each year. Lincoln County was in the 8th District of the Middle Division. Court would be held at Fayetteville on the fourth Monday in February and August.
7. Acts of 1839-40, Chapter 33, created a Fourth Chancery Division in the State consisting of the courts meeting at Livingston, Carthage, McMinnville, Winchester, Lebanon, Murfreesboro, and Shelbyville.
8. Private Acts of 1851-52, Chapter 87, stated that the Chancery Court for Lincoln County, held at Fayetteville, is hereby transferred to the Fourth Chancery Division to be held by the Chancellor of that District on the fourth Monday in February and August.
9. Acts of 1857-58, Chapter 88, divided Tennessee into the Eastern, Middle, Western, Fourth, Fifth, and Sixth Chancery Divisions. The Fourth Chancery Division contained the counties of Wilson, Macon, Jackson, Putnam, Smith, Coffee, Franklin, Bedford, Sumner, DeKalb, Van Buren, Warren, Grundy, Cannon, Rutherford, and Lincoln whose terms of court would begin in Fayetteville on the fourth Monday in February and August.
10. Private Acts of 1866-67, Chapter 33, Section 7, changed the starting dates for the Chancery Court of Lincoln County at Fayetteville from the fourth to the second Monday in February and August.
11. Acts of 1870, Chapter 32, reorganized the Chancery Court system of Tennessee into twelve Chancery Divisions. The Fourth Chancery Division contained the counties of Franklin, Lincoln, Bedford, Rutherford, Cannon, Coffee, Warren, and Grundy.
12. Acts of 1870, Chapter 47, scheduled the court terms of all the Chancery Courts for all the counties in Tennessee. Lincoln County Chancery Court would open in Fayetteville on the fourth Monday in July and December.
13. Private Acts of 1871, Chapter 24, changed the court terms for holding the Chancery Court of Lincoln County from the fourth Monday in July and December to the first Monday in April and October.
14. Acts of 1885 (E.S.), Chapter 20, reorganized the entire lower judicial structure in the state. There were eleven Chancery Divisions of which the Fourth was made up of the counties of Warren, Cannon, Rutherford, Bedford, Franklin, Moore, Marshall, and Lincoln whose terms of court would begin on the first Monday in April and October. This statute was the subject of the litigation in the leading case of Flynn v. State, 313 S.W.2d 249, 203 Tenn. 341 (1958).
15. Private Acts of 1887, Chapter 181, changed the starting dates for the Lincoln County Chancery Court to the second Monday in May and November. No other counties were mentioned in this act.
16. Private Acts of 1889, Chapter 183, changed the terms of the Lincoln County Chancery Court to the third Monday in March and September and repealed that portion of the 1887 Act which provided otherwise.
17. Public Acts of 1899, Chapter 427, divided the State into Ten Chancery Divisions. The Fifth Chancery Division contained the counties of Rutherford, Bedford, Marshall, Williamson, Lawrence, Maury, Giles, Lewis, Wayne, and Lincoln whose courts would start on the third Monday in April and October.
18. Private Acts of 1901, Chapter 494, amended Chapter 427, Acts of 1899, above, so as to change the terms of the Chancery Court in the Fifth Chancery Division switching Lincoln County to second Monday in March and September.
19. Public Acts of 1931 (2E.S.), Chapter 38, reorganized the entire lower judicial system of the State into fourteen Chancery Divisions. The Fifth Chancery Division consisted of the counties of Rutherford, Marshall, Bedford, Moore, Giles, Maury, Lawrence, and Lincoln whose courts of equity would convene on the second Monday in March and September. All changes in the judicial system from henceforth would be by public rather than private act.

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

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

1. Private Acts of 1821, Chapter 52, made it the duty of the Judge of the Circuit to appoint a Clerk and Master for the Chancery Court to be held at Columbia at least twenty days before the term begins. The equity cases arising in Lincoln County would be heard in this court.
2. Private Acts of 1915, Chapter 395, stated that the Clerk and Master of Lincoln County, using the 1910 Federal Census figures, shall receive an annual salary of \$1400.00 provided, a sworn, itemized statement showing all the fees collected in that office is filed with the County Judge, or Chairman. If the fees are less than the above mentioned salary, the county will pay the difference to the Clerk and Master, but if the fees are more than the salary, the Clerk and Master may keep the excess. This act was repealed by Private Acts of 1933, Chapter 820.
3. Private Acts of 1917, Chapter 242, declared that women over the age of twenty-one and a resident of the county appointing them shall be eligible to be appointed as Deputy Clerks and Masters in Lincoln County with all the rights, powers, privileges, duties, obligations, and restrictions being placed on them in the same way and to the same extent as other Deputy Clerks and Masters.
4. Private Acts of 1933, Chapter 760, amended Code Section 10726, Code of Tennessee, by creating a population class of 3-B for the salaries of the officials mentioned therein who held office in Lincoln County. Salaries for that class were fixed for the county officials of Lincoln County including the Clerk and Master which was set at \$1,500 per year. The seeking of the office by an incumbent was tantamount to an acceptance of the specified salary.
5. Private Acts of 1933, Chapter 820, expressly and entirely repealed Private Acts of 1915, Chapter 395, concerning the Clerk and Master of Lincoln County, Item 2, above.
6. Private Acts of 1939, Chapter 385, established the annual compensation of the Clerk and Master of Lincoln County at \$2,000, provided a sworn, itemized statement showing the total amount of fees collected is filed by January 1 with the County Judge or Chairman, the same conditions relating to shortages and averages to exist as expressed heretofore.
7. Private Acts of 1945, Chapter 421, amended Chapter 385, Private Acts of 1939, Item 6, above, by increasing the salary of the Clerk and Master from \$2,000 to \$3,000 per year, the same terms and conditions of payment as expressed in the amended act to prevail.
8. Private Acts of 1953, Chapter 391, Section 3, made the Clerk and Master of Lincoln County the Clerk of the General Sessions Court of the County.
9. Private Acts of 1955, Chapter 144, amended Private Acts of 1953, Chapter 391, above, by increasing the compensation to be paid to the Clerk and Master for his services as the Clerk of the General Sessions Court from \$900 to \$1,800 per year but this act was rejected by the Quarterly County Court of Lincoln County and never became an effective law.

### **Circuit Court**

The following acts were once applicable to the circuit court of Lincoln County but now have no effect, having been repealed, superseded, or having failed to win local approval. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Private Acts of 1809, Chapter 49, divided Tennessee into five Judicial Circuits of which the Fourth Judicial Circuit contained the counties of Davidson, Wilson, Rutherford, Williamson, Maury, Giles, Lincoln, and Bedford. Court was held twice a year in each county falling on the third Monday of June and December in Lincoln County.
2. Private Acts of 1812, Chapter 68, changed the terms of the Circuit Courts in several different counties including Lincoln which would begin Circuit Court terms on the first Monday in April and October.
3. Private Acts of 1817, Chapter 65, created a new Sixth Judicial Circuit assigning to it the counties of Lincoln, Giles, Maury, Bedford, and Lawrence. The Judge of the new circuit would be appointed by ballot of both houses of the General Assembly. Section Three of the same act placed Franklin, Lincoln, and Bedford counties in the 8th Solicitorial District.
4. Private Acts of 1817, Chapter 138, reset court terms for all the counties in four of the six Judicial Circuit. Lincoln County's Circuit Court would start on the third Monday in March and September and court would be held open until the business of the court is finished or the time comes for the Judge to move on to another county.
5. Private Acts of 1827, Chapter 222, stated that John Lane, of Lincoln County, is excused and exonerated from the payment of \$250.00 which is the amount recovered against him in the Circuit Court of Lincoln County as a forfeiture on the bond of Thomas Lane who failed to appear in

court. The act does not mention any of the circumstances.

6. Acts of 1835-36, Chapter 5, divided Tennessee into eleven Judicial Circuits. The 8th Judicial Circuit was made up of the counties of Lincoln, Giles, Maury, and Lawrence. The next term of court in Lincoln County would be on the third Monday of March next and thereafter on the first Monday of February, June, and October.
7. Private Acts of 1837-38, Chapter 3, created fourteen Judicial Circuits in the State. The 13th Circuit contained the counties of Warren, Lincoln, Franklin and Coffee. Court would be held in Lincoln County starting on the first Monday in February, June and November.
8. Private Acts of 1837-38, Chapter 116, Section 9, changed some of the circuit court terms in the 13th Judicial Circuit. DeKalb County was added to the circuit and Lincoln's third annual term would start on the first Monday of October rather than the first Monday in November.
9. Private Acts of 1839-40, Chapter 21, Section 3, rearranged the court terms for some of the counties in the 13th Judicial Circuit but did not change Lincoln.
10. Private Acts of 1845-46, Chapter 27, rescheduled the court terms for most of the counties in the 13th Judicial Circuit changing Lincoln County to the second Monday in February, June, and October. This act was repealed by the one following.
11. Private Acts of 1845-46, Chapter 82, Section 5, expressly repealed so much of the act above as related to Lincoln County and reset the Circuit Court terms to start on the first Monday in February, June and October as they did before the act was passed.
12. Private Acts of 1847-48, Chapter 181, changed the circuit court terms for all the counties in the 13th Judicial Circuit switching Lincoln County to the first Monday in March, July, and November. The circuit was made up of Van Buren, Coffee, Grundy, Warren, Franklin, and Lincoln Counties.
13. Public Acts of 1857-58, Chapter 98, created a total of 16 Judicial Circuits in its revision of the lower court system of Tennessee. The 8th Judicial Circuit consisted of the counties of Grundy, Van Buren, Warren, Coffee, Franklin, and Lincoln. The court terms would commence in Lincoln County on the first Monday in March, July and November.
14. Public Acts of 1870, Chapter 31, reorganized the lower court system of the state into fifteen regular and one special judicial circuits. Lincoln County was placed in the 6th Judicial Circuit in company with Grundy, Warren, Coffee, Franklin, and Van Buren Counties.
15. Public Acts of 1870, Chapter 46, scheduled the three annual circuit court terms for all the counties in Tennessee. Lincoln County would take up the Circuit Court Dockets on the first Monday in March, July, and November as in the immediate past.
16. Public Acts of 1885 (E.S.), Chapter 20, fulfilled the need to rearrange the lower court system of the State. Fourteen regular and one special Judicial Circuits were organized. The Sixth Circuit contained the counties of Van Buren, Grundy, Franklin, Coffee, Warren, Moore, Lincoln, DeKalb, and White. The circuit courts of Lincoln County would continue to meet on the first Monday in March, July, and November.
17. Private Acts of 1887, Chapter 8, changed the court terms in the Sixth Judicial Circuit. Lincoln County's Circuit Court was scheduled to open on the first Tuesday after the second Monday in February, June, and October.
18. Public Acts of 1899, Chapter 427, once again realigned the counties into a different lower judicial system. Fourteen Judicial Circuits were organized of which the Seventh Circuit was composed of the counties of Van Buren, Warren, Coffee, Moore, DeKalb, Bledsoe, Rhea, Grundy, and Lincoln whose circuit court would continue to meet on the first Tuesday after the second Monday in February, June, and October.
19. Private Acts of 1903, Chapter 580, rescheduled the opening dates for the circuit courts of some of the counties in the Seventh Judicial Circuit but did not change Lincoln County.
20. Private Acts of 1909, Chapter 540, changed the court terms for Grundy and Rhea Counties but left the other counties of the Seventh Judicial Circuit as their court terms were previously scheduled.
21. Public Acts of 1931 (2nd Ex. Sess.), Chapter 38, reorganized the entire lower judicial structure of the State. The counties were assigned to one of the twenty Judicial Circuits formed under this act. The Seventh Judicial Circuit had in it the counties of Coffee, Warren, Moore, DeKalb, Van Buren, and Lincoln County which retained the same dates it had had for several years for opening the court terms.
22. Public Acts of 1963, Chapter 262, removed Bedford and Marshall counties from the 8th Judicial Circuit and Lincoln and Moore counties from the 7th Judicial Circuit and combined the four

counties to form a new 23rd Judicial Circuit. Lincoln's Circuit Court would meet on the first Tuesday in March, July, and November. All cases not under advisement, all the official records both civil and criminal, as well as all process not completed and pending would be transferred to the new circuit. The Governor would appoint a Judge and an Attorney-General to serve the circuit until the next general election. The Judge was authorized to employ a competent person as Secretary at a salary of \$3,000 per year, who would serve at his pleasure and direction.

### **Circuit Court - Clerk**

The following acts have no current effect, but once applied to the Lincoln 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. Private Acts of 1819, Chapter 152, authorized the County Court of Lincoln County to build an office for the Circuit Court Clerk on the Public Square in Fayetteville and to lay a tax to defray the expenses of doing so.
2. Public Acts of 1903, Chapter 255, fixed the salaries of the Circuit Court Clerks of the various Tennessee counties according to population class as the same was shown in the 1900 Federal Census. According to our population figures the Circuit Court Clerk of Lincoln County's salary would have been \$1,000 per annum, coming in the 20,000 to 35,000 population group. The same conditions of the county paying the difference and the clerk retaining the average prevailed if the clerk filed the required sworn, itemized statement.
3. Private Acts of 1911, Chapter 675, amended Public Acts of 1903, Chapter 255, above, by adding a provision that, in counties between 25,000 and 30,000 in population, which has a Law Court in operation in addition to the Circuit Court and a separate office is to be kept for the Law Court by the Clerk of the Circuit Court, or his Deputy, in that case the salary of the Circuit Court Clerk shall be \$1,500 per year. This act would apply to Campbell, Dyer, Haywood, Henry, Lincoln, Obion, Robertson, Sullivan, Tipton, Sumner, Washington, and Wilson Counties.
4. Private Acts of 1915, Chapter 638, intended to set the salary of the Circuit Court Clerk of Lincoln County, identified by the use of the 1910 Federal Census figures, at \$1,500 per year provided the Clerk met certain specified conditions but this act did not apply because of an error in the population figures cited.
5. Private Acts of 1917, Chapter 58, amended Private Acts of 1915, Chapter 638, above, by correcting the population figures cited in the caption and in the body of the bill so as to make certain it applied to Lincoln County, thus setting the salary of the Circuit Court Clerk at \$1,500 per annum, all other conditions being untouched.
6. Private Acts of 1927, Chapter 833, fixed the annual compensation of the Lincoln County Circuit Court Clerk at \$2,000 per year, provided that he filed a sworn, itemized statement in January of each year showing the total amount of fees collected by his office during the year. The county would pay the difference to the clerk. All the fees of the office were declared to be the property of the county, the \$2,000 representing the total salary of the clerk.
7. Private Acts of 1933, Chapter 760, amended Section 10726, Code of Tennessee, by creating a population class, called 3-B, in which the annual salaries of the officials of Lincoln County were fixed. The salary of the Circuit Court Clerk was set at \$1,800 per year, (this being a post depression act), and the seeking of the office would amount to an agreement to accept that salary.
8. Private Acts of 1933, Chapter 823, expressly repealed Private Acts of 1927, Chapter 833, which is Item 6, above, in its entirety which would remove all doubt as to whether the salary of the Circuit Court Clerk was \$2,000 or \$1,800 per annum.
9. Private Acts of 1937, Chapter 254, established the annual salary for four of the Lincoln County officials, among them being the Circuit Court Clerk whose salary was set at \$1,500 per annum. These officials were required to keep an accurate account of all the fees collected in their offices and to file quarterly reports on the same. If the fees were less than the salary, the county would supplement; if more, the excess became the property of the county.
10. Private Acts of 1939, Chapter 10, fixed the salary of the Circuit Court Clerk of Lincoln County identified by the 1930 Federal Census figures, at \$2,000 annually, provided a sworn, itemized statement showing the total amount of fees collected is filed with the County Judge, or Chairman, by September 1, of each year. The county would supply any deficiency to the clerk but the overage, if any, the clerk would pay over to the county treasury.
11. Private Acts of 1943, Chapter 51, amended Private Acts of 1939, Chapter 10, above, by increasing

the salary of the Circuit Court Clerk of Lincoln County from \$2,000 to \$3,000 per year.

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

The following acts once affecting Lincoln County 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. Acts of 1835-36, Chapter 28, made each Solicitorial District in the State coincide with each Judicial Circuit having criminal jurisdiction, thus eliminating Solicitorial Districts as a separate and distinct part of the judicial system by that name.
2. Private Acts of 1911, Chapter 349, created the position of Assistant Attorney General in Lincoln County, identified by the use of the 1910 Federal Census figures. The Attorney-General of the Circuit may appoint a suitable person to this position who would serve at his direction, will, and pleasure, who shall be twenty-one years of age, or older, and learned in the law. The salary, set at \$1,400 per year, would be paid out of the State treasury. This act was repealed by Private Acts of 1919, Chapter 167.
3. Private Acts of 1917, Chapter 692, amended Private Acts of 1911, Chapter 349, above, in Section 4, the said act creating the position of Assistant Attorney-General in Lincoln County, by increasing the annual salary from \$1,400 to \$1,800 per year.
4. Private Acts of 1919, Chapter 167, specifically repealed Private Acts of 1911, Chapter 349, above, as it was amended in 1917, in its entirety.
5. Public Acts of 1976, Chapter 526, established the position of Criminal Investigator in the 23rd Judicial Circuit who would be appointed by the District Attorney-General to serve at his direction and pleasure. The Investigator could be a licensed attorney who could be given the additional duty of prosecuting in the various courts of the Circuit. As an Investigator, he or she would investigate crime, take statements of witnesses in felony cases and perform such other duties as might be assigned by the District Attorney. Compensation would be the same as was paid to others in like positions under the State law. This act was repealed by Public Acts of 1977, Chapter 401.

### **General Sessions Court**

The following acts once affected the general sessions court of Lincoln 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 1953, Chapter 391, amended Chapter 34, Private Acts of 1951, by inserting the Section 2 appearing in the act which broadened the powers left to the Justices of the Peace by a little, and by adding in Section 8 the phrase, "who shall be learned in the law" striking the requirement that the Judge be an attorney. Section 13 was amended to make the Clerk and Master the Clerk of the Court rather than the Circuit Court Clerk and increased the salary to \$900.00 per year.
2. Private Acts of 1961, Chapter 303, amended Chapter 34, Private Acts of 1951, Section 2, by adding a new Section 2 which transferred all the authority and jurisdiction possessed by Justices of the Peace in civil and criminal cases to the Judge of the General Sessions Court, the same being divested out of the Justices of the Peace except they may still issue search and arrest warrants and accept appearance bonds, and issue summons, writs of attachments, and other leading process, all of which would be made returnable to the General Sessions Court. Section 8 was changed to make the Judge's qualification to read "learned in the law" rather than to be an attorney and increased the salary of the Clerk of the Court to \$2400.00 per year. This act was rejected by the Quarterly County Court of Lincoln County and never became an effective law.

### **Secretarial Assistance**

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

1. Public Acts of 1963, Chapter 262, which created the new 23rd Judicial Circuit, provided that the Circuit Court Judge could employ a Secretary at a salary of \$3,000 per year.