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

1. Private Acts of 1925, Chapter 521, created three member Boards of Jury Commissioners for Blount, McMinn, Roane, Monroe, Bradley, Polk, and Loudon Counties, who would be appointed for single four year terms by the Criminal Court Judge, or the Circuit Judge, having criminal jurisdiction, or both, where necessary. The members must be freeholders, not attorneys, or state, county, or city officials, must not have a suit pending, or more than two belong to the same political party. The members were required to take the oath prescribed in the Act, and would meet in the office of the Circuit Court Clerk, who would serve as Clerk, on the first Monday in May, and every two years thereafter, to select no less than 400 nor more than 800 names from the tax rolls of the county, or from other public sources, who would be the jury list for the next two years. These names would be entered alphabetically in the book provided by the Clerk for that purpose and the entire list must be confirmed by all the Board Members. The names were also to be placed on cards and the cards put into a box in the presence of the Board, which box would be sealed and locked and could not be opened except in the presence of the Board, or the Judge, and then only to refill the box. Two weeks prior to the opening of the court term, the box would be brought forth, shaken well, and a child under the age of ten years, would draw out the number of names ordered by the Judge who were needed as jurors for that term of court. These names were to be placed in an envelope, certified, and sent to the Judge of the Court. The Clerk would keep the names and return them to the box at the next meeting of the Board. The Sheriff would summon both venires, and provisions were made for exhausted panels and to produce special juries by bringing the box into court and drawing names until the needs were filled. Only the Judge could excuse one from duty and he was further obligated to investigate any irregularities noticed. Commissioners, who would be paid \$4.00 per day, could be removed when proper, and all who failed to conform were subject to penalties as prescribed in the Act.
2. Private Acts of 1927, Chapter 285, amended the above act by removing Loudon County from being subject to its terms and provisions.
3. Private Acts of 1931, Chapter 556, also created a three member Board of Jury Commissioners in several counties, including Bradley, designated by population figures, who would be jointly appointed by the criminal and circuit court judges. This Act seems to be applicable to the same counties as the 1925 Act in Item One, above, except for Loudon County and contains only a general repealer. Most of the terms of this Act were the same as the 1925 Act except that a Commissioner could serve more than one four year term and some administrative requirements and certifications of names were added, and the date of the first meeting of the Board was left blank. The form of the letter of transmittal of the names of prospective jurors selected was included in this Act. Some conditions relating to those counties which had both civil and criminal jurisdiction in the Circuit Court were changed. Penalties were increased for some instances of non-conformity with the terms herein.
4. Private Acts of 1955, Chapter 334, stated that the Jury Commissioners in Bradley County (identified by the 1950 Federal Census) would be paid at the rate of \$10.00 per day instead of the \$4.00 heretofore provided in the 1931 Act, which would be paid to them out of the County Treasury on the certificate of the Clerk. All conflicts were repealed and this Act was properly ratified by the Quarterly Court of Bradley County.

## **Chancery Court**

The following acts form an outline of the development of equity jurisdiction in Bradley 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 4, enacted in the same year in which Bradley County was established, divided Tennessee into three Chancery Divisions, each to be presided over by a chancellor of the State, and to have two regular terms annually. Each division was further fragmented into districts.
2. Acts of 1835-36, Chapter 49, assigned newly formed Bradley County to the Ninth Chancery District of the Eastern Chancery Division which met at Madisonville in Monroe County.
3. Acts of 1837-38, Chapter 116, seemed to be a complete rearrangement of the schedule of Chancery Court terms in every county. However, Bradley County is not mentioned in this Act.
4. Acts of 1839-40, Chapter 21, assigned Bradley County and Polk County as one Chancery District whose court would meet at Cleveland in Bradley County under the supervision of the Chancellor of the Eastern Division on the second Monday in March and September.
5. Acts of 1843-44, Chapter 169, provided that the chancery cases now pending at Cleveland, or at Pikeville, which originated in Hamilton County, could be transferred at the request of either complainant or defendant to the Chancery Court at Harrison, in Hamilton County.
6. Acts of 1847-48, Chapter 171, reset the schedule of the terms of the Chancery Court which met at Cleveland to the fourth Monday in February and August.
7. Acts of 1853-54, Chapter 54, formed a new Fifth Chancery Division in Tennessee composed of the courts then being held at Maryville, Kingston, Madisonville, Athens, Benton, Cleveland, Washington, Harrison, Pikeville, Jasper, Sparta, and Livingston, for which an additional chancellor would be elected who must reside within the confines of the new District at some place.
8. Acts of 1857-58, Chapter 88, organized the entire State of Tennessee into the Eastern, Middle, Western, Fourth, Fifth, and Sixth Chancery Divisions. Bradley County was included in the Fifth Division and the Chancery Court terms would begin in Cleveland on the fourth Monday in February and August. Other counties assigned to the Fifth Division were Polk, McMinn, Hamilton, Marion, Cumberland, Bledsoe, White, Overton, Fentress, Scott, Morgan, Roane, Meigs, Rhea, Blount, and Monroe.
9. Acts of 1870, Chapter 32, formed twelve Chancery Divisions in the State. The Third Division contained the counties of Polk, McMinn, Meigs, Rhea, Cumberland, Bledsoe, Sequatchie, Marion, Hamilton, Bradley, and the Special Chancery Court at Chattanooga, in Hamilton County.
10. Acts of 1870, Chapter 47, scheduled the regular court terms for every Chancery Court in the State. The Chancery Court of Bradley County would begin its terms on the fourth Monday of February and August.
11. Acts of 1883, Chapter 34, rearranged the Chancery Court terms for the counties included in the Third Chancery Division which now contained the counties of James, Meigs, Polk, Marion, Rhea, Bledsoe, Sequatchie, Hamilton, McMinn, Monroe, and Bradley whose Chancery Court would meet at Cleveland on the third Monday of March and September.
12. Acts of 1885 (Ex. Sess.), Chapter 20, reorganized the entire lower judicial structure in the State creating a total of eleven Chancery Divisions. This realignment of divisions assigned the counties of Bradley, Polk, Rhea, Marion, McMinn, Hamilton, James, Monroe, Meigs, Bledsoe, Sequatchie, Van Buren, Coffee, and Grundy to the Third Chancery Division. The Chancery Court of Bradley County would continue to meet at Cleveland on the third Monday in March and September. This Act, and several others was considered by the Supreme Court in the case of Flynn v. State, 203 Tenn. 341, 313 S.W.2d 249 (1958).
13. Acts of 1887, Chapter 13, rescheduled the opening dates of the Chancery Court terms of the counties in the Third Chancery Division. Bradley County would open the regular terms of the

Chancery Court on the third Monday in January and June.

14. Acts of 1889, Chapter 13, regrouped the Third Chancery Division so as to include within it the counties of Polk, Rhea, Marion, McMinn, Hamilton, James, Monroe, Meigs, Bledsoe, Sequatchie, Van Buren, Grundy, and Bradley where the court would meet in Cleveland on the third Monday in March and September.
15. Acts of 1895, Chapter 207, changed the opening dates of the Chancery Court terms for most of the counties in the Third Chancery Division. Bradley County would start the regular terms in Cleveland on the third Monday in February and August. All process and bonds were required to conform to these two dates.
16. Acts of 1899, Chapter 427, was the next major revision of the lower court system of the State. Chancery Divisions were reduced to ten of which the Third Division contained the counties of Franklin, Rhea, Bradley, James, Marion, Coffee, Bledsoe, Sequatchie, Grundy, McMinn, Moore, Warren, Monroe, Polk, Meigs, and Hamilton. The terms of court would begin in Bradley County on the second Monday in February and August.
17. Private Acts of 1911, Chapter 435, divided the Third Chancery Division of Tennessee, creating the Twelfth Chancery Division out of the counties in the Third Division by removing every county except Hamilton County from the Third Division and placing them in the 12th Chancery Division. The Governor would appoint a Chancellor for the 12th Division who would hold the courts thereof at the times and places now constituted by law. The Chancellor would in turn appoint a Clerk and Master where there were vacancies, otherwise the current Clerks and Masters would continue in office.
18. Private Acts of 1917, Chapter 1, changed the times for holding the Chancery Court in Bradley County to the second Monday in April and October.
19. Public Acts of 1931 (2nd Ex. Sess.), Chapter 38, was a complete reorganization of the lower court system of the State and was the last act of this nature appearing in the volumes of private acts, all future changes take the form of Code amendments through public acts. Fourteen Chancery Divisions were formed in the process of which the counties of Rhea, McMinn, Warren, Bledsoe, Sequatchie, Marion, Van Buren, Meigs, Polk, Grundy, Coffee, Monroe, Franklin, and Bradley were all assigned to the 12th Chancery Division. Court terms in Bradley would begin on the second Monday in April and October which dates are still retained.

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

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

1. Private Acts of 1915, Chapter 254, made unmarried females over the age of 21 years and residents of the county, eligible to be appointed and to serve as Deputy Clerks in any of the courts of Bradley County with all the rights, powers, and obligations as other Deputy Clerks. The marriage of the female would work an immediate forfeiture of the office and she would thereafter be disqualified to perform any official duties as a Deputy. Acceptance of employment would constitute an estoppel against her from pleading any defense of coverture and from denying any of the responsibilities assumed under the employment.
2. Private Acts of 1923, Chapter 700, provided that the Clerk and Master of Bradley County would be paid \$1,800 a year out of the county treasury provided the Clerk and Master filed an annual report with the County Judge, or Chairman, by January 1 of each year including a sworn, itemized statement showing all the fees collected by the office during the year. If the fees were less than the salary, the county would pay the difference. If the fees exceeded the salary, the county allowed the Clerk and Master to keep the difference.
3. Private Acts of 1931, Chapter 706, amended Public Acts of 1921, Chapter 101, which regulated the salaries of the Clerks and Masters, and the Clerks of the various courts, by exempting Bradley County from all its provisions.

### **Circuit Court**

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

1. Acts of 1835-36, Chapter 49, assigned Bradley County, then newly formed, to the Third Judicial Circuit of the State with the Court starting its regular terms on the second Monday in January, May, and September.
2. Acts of 1837-38, Chapter 116, scheduled the terms for the Circuit Courts in the Third Judicial Circuit which included the Counties of Hamilton, McMinn, Meigs, and Bradley in which the Circuit Court would convene its regular terms on the fourth Monday in April, August, and December.
3. Acts of 1841-42, Chapter 50, provided that all the civil cases which were pending in the Circuit Court of Bradley County at the time Polk County was established wherein the parties to the suit lived within or fell within that area of Bradley County which became a part of Polk County could be transferred to the Circuit Court of Polk County for trial upon the application of either the Plaintiff or the Defendant.
4. Acts of 1843-44, Chapter 161, rearranged the terms of the Circuit Courts in the Counties of Cannon, Meigs, and Bradley where the Circuit Courts would meet at Cleveland on the first Monday in January, May, and September.
5. Acts of 1857-58, Chapter 98, established a total of 16 Judicial Circuits throughout the State and scheduled their court terms. The Fourth Judicial Circuit was composed of the Counties of Polk, Rhea, Hamilton, McMinn, Meigs, the Common Law Court at Chattanooga, and Bradley where the regular terms would continue to start on the first Monday in January, May, and September.
6. Acts of 1870, Chapter 31, organized all the Circuit Courts in Tennessee into fifteen regular, and one special, judicial circuits. The Fourth Judicial Circuit was made up of the Counties of McMinn, Polk, Meigs, Bradley, Rhea, Hamilton, Marion, Sequatchie, Bledsoe, and the Special Court at Chattanooga.
7. Acts of 1870, Chapter 46, established a schedule of court terms for the circuit courts of the counties having Circuit Courts throughout the State. The Circuit Court in Bradley County would keep on meeting for regular terms on the first Monday in January, May, and September.
8. Acts of 1870 (Ex. Sess.), Chapter 106, recited the membership of the Fourth Judicial Circuit of Tennessee as the Counties of James, Hamilton, Meigs, Rhea, Bledsoe, Sequatchie, Marion, McMinn, and Polk. Court terms were changed for some of the counties but Bradley remained as it was.
9. Acts of 1883, Chapter 34, rescheduled some of the court terms for the circuit courts of the counties in the Fourth Judicial Circuit. Bradley County, however, would continue to convene the regular terms of court on the first Monday in January, May, and September.
10. Acts of 1885 (Ex. Sess.), Chapter 20, was the next major revision of the lower court system in the State which divided Tennessee into sixteen regular, and one special, judicial circuits. The Fourth Judicial Circuit was made up of the counties of Bradley, Polk, Meigs, Rhea, Bledsoe, Sequatchie, Marion, Hamilton, McMinn, and James. Bradley County would take up the regular circuit court docket on the first Monday in January, May and September.
11. Acts of 1887, Chapter 13, rescheduled the opening dates of the terms of the Circuit Courts in the Fourth Judicial Circuit but left Bradley County's terms to begin on the first Monday in January, May, and September.
12. Acts of 1889, Chapter 13, again changed the opening dates for the Circuit Court terms for some of the counties in the Fourth Judicial Circuit but Bradley County's terms remained as they were.
13. Acts of 1889, Chapter 35, created a new 17th Judicial Circuit out of counties taken from the Third

and Fourth Judicial Circuits. The Circuit contained the counties of Bradley, James, McMinn, Meigs, Monroe, and Polk, and Bradley County's term would begin in Cleveland on the first Monday in January, May, and September. The Governor was required to appoint a Judge and an Attorney-General for the circuit who would serve until their successors could be elected by popular vote. The clerks of these respective courts would govern themselves accordingly in issuing process and taking bonds.

14. Acts of 1899, Chapter 427, reorganized the lower judicial system of the State into fourteen Judicial Circuits, among other things. The Fourth Judicial Circuit contained the Counties of Bradley, Polk, Meigs, McMinn, James, Loudon, Roane, Blount, and Monroe. The Court terms in Bradley would continue to start on the first Monday in January, May, and September.
15. Acts of 1901, Chapter 413, rearranged the opening dates of the Circuit Court terms for several of the Counties in the Fourth Judicial Circuit but did not change Bradley's dates.
16. Acts of 1903, Chapter 354, amended Chapter 413, Acts of 1901, so that the Court terms of some of the Circuit Courts were changed but Bradley County would continue to convene on the first Monday in January, May, and September.
17. Public Acts of 1929, Chapter 142, changed the opening dates of the Circuit Court of Bradley County to the second Monday in January, May, and September.
18. Public Acts of 1931 (2nd Ex. Sess.), Chapter 38, was a complete reordering of the Chancery, Circuit, and Criminal Courts in the State, and was the last Act appearing in the volumes of private acts. Twenty Judicial Circuits were formed of which the Fourth Judicial Circuit was made up of the Counties of Roane, Blount, Loudon, McMinn, Polk, Monroe, and Bradley where the courts would still meet on the first Monday in January, May, and September.
19. Public Acts of 1965, Chapter 188, created a new 24th Judicial Circuit and assigned to it the counties of Bradley, McMinn, Polk, and Monroe, all Circuit Court terms were to be held on the first Mondays in January, May and September and the fourth Mondays in February and October.
20. Public Acts of 1971, Chapter 347, changed the Circuit Court terms in Bradley County to the first Monday in January and August and the third Monday in April and October by amending Section 16-236, Tennessee Code Annotated.

### **Circuit Court Clerk**

The following acts have no current effect, but once applied to the Bradley 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 1859-60, Chapter 84, was the legal authority for the Comptroller of the Treasury of the State to issue his warrant in favor of John H. Payne, the Circuit Court Clerk of Bradley County, for \$125.00.
2. Acts of 1903, Chapter 255, was an Act regulating only the Clerks of the Circuit Courts of the State but setting their salaries according to the population of the counties in which they served. This Act paid the Clerks in the population class of Bradley County \$1,000 per annum. The Clerks were required to file an annual, itemized, sworn statement with the County Judge, or Chairman, showing the total amount of fees collected in the office during the preceding year. If the fees were less than the salary, the County would make up the difference, but, if the fees exceeded the salary, the Clerk was allowed to retain the excess.
3. Private Acts of 1913, Chapter 167, set the annual salary of the Circuit Court Clerk of Bradley County (identified by the 1910 Federal Census) at \$1,500, under the same terms and conditions as were contained in the 1903 Act reported above.
4. Private Acts of 1915, Chapter 254, allowed any unmarried female over the age of 21 and a resident of Bradley County to serve as the Deputy to any Clerk of a Court in the County provided

- the other terms and conditions prescribed in the Act were met. This Act has a fuller explanation under Clerk and Master to which office it likewise applied.
5. Private Acts of 1923, Chapter 248, amended Chapter 167, Private Acts of 1913, Item 3, above, by increasing the annual salary of the Circuit Court Clerk from \$1,500 to \$1,800.
  6. Private Acts of 1931, Chapter 705, made it the duty of the Quarterly Court of Bradley County to fix and to allow the Circuit Court Clerk and the Criminal Court Clerk as compensation for their services, and in addition to all other fees allowed them by law, and as expenses for their office, a sum no less than \$1,000 and no more than \$1,800 per year, payable in equal monthly installments on the first day of each month. The payments would be drawn on the regular funds of the County. The Clerks were required to make an annual report to the County Judge, or Chairman, showing the total amount of fees collected, and the total amount expended for Deputy and stenographic assistance. The Court was instructed to provide the Clerks with a reasonable amount of funds in order that the Clerk could have competent help and assistance in the operation of the office.
  7. Private Acts of 1933, Chapter 660, amended Section One, Chapter 705, Private Acts of 1931, by reducing the minimum expense money allowed to the Circuit Court Clerk from \$1,000 to \$480 a year, and the maximum amount from \$1,800 to \$600 per year, all other terms to stay.
  8. Private Acts of 1947, Chapter 92, allowed the Circuit Court Clerk to appoint a Deputy Clerk to serve during the Clerk's term of office, who must possess all the qualifications of the Clerk and be competent to perform all the duties of the office. The salary was set at \$150 a month for the Clerk payable out of general funds.
  9. Public Acts of 1974, Chapter 686, created the Twenty-Ninth Judicial Circuit which consisted of Bradley County. Circuit Court was to be held on the first Mondays in January, May and September.

### **Criminal Court**

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

1. Private Acts of 1925, Chapter 58, created the Criminal Court division of the Fourth Judicial Circuit.
2. Private Acts of 1925, Chapter 105, scheduled the terms of court for the Criminal Courts in Roane County, Loudon County, at Ducktown in Polk County, and in Bradley County where the court would be held commencing on the fourth Monday in January, May, and September instead of those times cited by the act creating the Court.
3. Private Acts of 1927, Chapter 730, provided that all workhouse bonds would be received, approved, and collected, by the Criminal Court Clerks of the counties of Blount, Bradley, Loudon, McMinn, Monroe, Polk, and Roane. The Clerk had and could exercise all the powers necessary in this regard to the same extent and capacity as others charged with similar responsibilities. This Clerks were accountable for all funds so collected coming into their hands. All bonds to be acceptable must have two good and solvent sureties. The Clerks were allowed a commission of 10% on all sums collected and reported under the terms of this Act which amount they could deduct before filing their report.
4. Public Acts of 1929, Chapter 142, changed the opening dates of the terms of the Circuit Court in Cleveland in Bradley County to the third and fourth Mondays in February, June, and October.
5. Private Acts of 1929, Chapter 720, amended Private Acts of 1927, Chapter 730, above, by requiring the bonds provided for in the 1927 Act to contain language which would pay an attorney 15% for his services in the event it became necessary to place the bonds out for collection, this percentage to be in addition to all other principal, interests, and collection charges.
6. Public Acts of 1931 (2nd Ex. Sess.), Chapter 38, the complete turnover of the lower court system



in Tennessee, assigned the counties of Roane, Loudon, Blount, McMinn, Polk, Monroe, and Bradley to the Criminal Division of the fourth judicial circuit and set the opening dates of the Court in Cleveland in Bradley County on the third Monday in February, June, and October.

7. Public Acts of 1965, Chapter 188, created the Twenty-Fourth Judicial Circuit, consisting of the counties of Bradley, McMinn, Monroe, and Polk. Criminal Court for the Twenty-Fourth Judicial Circuit was held on the first Mondays in March, July and November for Bradley County.

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

The following acts once affecting Bradley 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. Public Acts of 1939, Chapter 228, created the position of Criminal Investigator for the Fourth Judicial Circuit who must be a resident of the circuit, an attorney, and over 21 years of age. The Governor would appoint the first Investigator and the Criminal Court Judge would appoint one every two years thereafter. The salary was fixed at \$1,200 per year. This Act was repealed by Chapter 189, Public Acts of 1965.
2. Public Acts of 1955, Chapter 241, provided a criminal investigator for the fourth judicial circuit. This Act was repealed by Chapter 189, Public Acts of 1965.
3. Public Acts of 1965, Chapter 188, allowed the District Attorney General to appoint two persons as Assistant Attorneys General or one Assistant District Attorney General and one Criminal Investigator. Furthermore, the circuit judge and the criminal judge of the 24th judicial circuit were authorized to employ a secretary at a salary not to exceed Three Thousand Dollars per annum.
4. Public Acts of 1967, Chapter 385, created the office of an additional Assistant District Attorney General for the twenty-fourth Judicial Circuit.
5. Public Acts of 1977, Chapter 356, created an additional office of Criminal Investigator for the District Attorney General of the Twenty-fourth Judicial Circuit.

#### **General Sessions Court**

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

1. Private Acts of 1959, Chapter 275, amended Chapter 17, Private Acts of 1955, the creative act for General Sessions Court above, by giving authority to the Court to issue search warrants in Section 2, in addition to other powers, and in Section 9 by adding a provision that the Judge of the Court was prohibited from practicing law in any matter wherein the Court of General Sessions had original, concurrent, or exclusive jurisdiction, or, if the Judge was associated with another Attorney in a like suit, and the prohibition extended to him and to all associated with him in a firm. This Act was rejected and never became an effective law under the Home Rule Amendment to the State Constitution.

#### **Secretarial Assistance**

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

1. Public Acts of 1963, Chapter 231 created the office of Secretary to the Judge of the Fourth Judicial Circuit of which Bradley County was then part of. The Secretary was to receive \$2,400 per year as compensation.

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