



County Technical Assistance Service
INSTITUTE *for* PUBLIC SERVICE

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Chapter V - Court System

Dear Reader:

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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Chapter V - Court System

General Sessions Court

Private Acts of 1959 Chapter 292

SECTION 1. That there is hereby created and established a Court in and for Chester County, Tennessee, which shall be designated "Court of General Sessions for Chester County, Tennessee."

Court rooms and adequate facilities for said Court shall be provided in the Court House at Henderson; and it shall be the duty of the County Judge or Chairman of the County Court of Chester County to make provisions therefor, and to provide necessary equipment for the proper maintenance of said Court; and the expenses of same shall be paid out of the General Fund of the County.

SECTION 2. That the Court of General Sessions of Chester County, Tennessee, is hereby vested with all the jurisdiction and shall exercise the authority conferred by the Legislature upon Justices of the peace [sic] in civil and criminal cases, suits and actions, which jurisdiction and authority shall be coextensive with Chester County, Tennessee; provided, however, nothing in this Act shall be construed to divest the Justice of the Peace of their jurisdiction until this Act becomes effective as herein provided. The authority of said Justices of the Peace in their capacity as members of the Quarterly Court in the performance of the rites of matrimony or in the issuance of criminal and search warrants is in nowise affected by this Act.

The Judge of said Court shall have the same authority as Circuit Court Judges and Chancellors to grant fiats for writs of injunction, attachments and other extraordinary process.

SECTION 3. That before the commencement of any civil action, the plaintiff shall pay into the hands of the Clerk an amount sufficient to cover the fees for the issuance of the warrant or writ, rendition of the judgment, docketing, and the fees of the officers for serving process. Before the issuance of an execution, or other process, or the performance of any additional service in the case, the plaintiff, or the party seeking the same, shall pay to the Clerk the fees for the issuance and service thereof. Such payment made for Court costs shall be credited at once to the party paying the same; and such costs paid as compensation for the services of the officers shall become payable to them only after the return of the process has been made. When and in the event such costs are collected from the defendant, the plaintiff or the party to whom entitled, shall thereupon be refunded the same; provided, however, that any resident of the State may commence an action, who shall take and subscribe to the oath provided for poor persons, under Section 20-1629 of Tennessee Code Annotated.

SECTION 4. That said Court be in session daily, except legal holidays, from 8:00 A.M. until the day's business is transacted for the examination and hearing of persons charged with any criminal offense, the taking and fixing of bail for the appearance of the accused, or ordering their discharge or commitment to jail as required by law.

SECTION 5. That the rules of pleadings and practice, forms of writs and process, stay of and appeals from judgments in civil cases of said Court shall be the same as of Justices of the Peace.

SECTION 6. That the Court of General Sessions of Chester County, Tennessee, is hereby vested with jurisdiction to try and determine and render final judgment in all misdemeanor cases brought before said Court by warrant or information wherein the person charged with such misdemeanor offenses enters a plea of guilty or requests a trial upon the merits, and expressly waives an indictment, presentment and Grand Jury investigation, and a jury trial. In such cases the trial shall proceed before the Judge and without a Jury. The final judgment of such Court may be appealed to the Circuit Court of Chester County, where such appeal shall be tried by a Judge of such Court without a jury, and without indictment or presentment.

SECTION 7. That it shall be the mandatory duty of the Judge of the Court of General Sessions when a defendant is brought before such Court upon arraignment or trial, to advise such defendant of his constitutional right to the aid of counsel, the right to be tried only upon presentment or indictment by a Grand Jury, the right to make a statement in reference to the accusation or the right to waive such statement, and the right to a trial by jury. Upon the defendant agreeing in writing to waive the right to be put to trial only by presentment or indictment by a Grand Jury and the right to be tried by a jury of his peers, such Court may proceed to hear and determine said case as is provided in Section 6 hereof.

Said waiver shall be written or attached to the warrant substantially in words and figures as follows:

The defendant _____ pleads _____ guilty (not guilty) to the offense of _____ and waives his right to be tried only by

indictment or presentment preferred by a Grand Jury, and likewise waives trial by a jury of his peers.

Defendant

Attest _____

Clerk or Judge

SECTION 8. That all appeal bonds in civil cases, all bail bonds, recognizance bonds and appearance bonds of persons charged with criminal offenses for their appearance for arraignment or trial in said Court of General Sessions shall be taken by the Clerk of said Court. This provision shall in nowise abridge the authority of the Sheriff to take bonds as now provided by law.

SECTION 9. That in all matters the costs and fees of said Court of General Sessions shall be the same as those provided by law for Justices of the Peace.

The fees and other compensation of the Sheriff, his deputies, constables, Game Wardens and State Highway Patrolmen for the execution of writs and process of said Court and for attendance and mileage of witnesses shall be the same in said Court as those provided by law for the Court of Justices of the Peace.

All costs, fees, and mileage of witnesses, the fees, commissions and emoluments of the Sheriff, his deputies, constables, State Highway Patrolmen, Game Wardens and other officers, for services to said Court, and the fines and forfeitures adjudged by it shall be handled, accounted for and disbursed as required by law.

SECTION 10. That separate dockets shall be kept by the Clerk, under the direction of the Court for civil and criminal cases.

Upon the civil docket shall be entered the style of each case, the date of issuance of the warrant or process, and the return of the process, in brief form, action of the Court on the case, both interlocutory and final orders, judgments, executions, garnishments, lists of the fees of the Court, the Sheriff, his deputies, constables, Game Wardens, and State Highway Patrolmen for their services, fees of witnesses for attendance, et cetera, and credits for payments upon the judgment and upon the costs. All cases shall be indexed and the dockets shall be substantially in the form of those of Justices of the Peace.

The criminal docket shall be kept in like manner.

The Judge of the Court of General Sessions shall have the power to and may adopt such rules as may be necessary to expedite the trial and disposal of cases.

SECTION 11. That there shall be a Judge for said Court, with all qualifications and the same term of office as provided by the Constitution of the State of Tennessee for inferior courts and the oath shall be the same as that prescribed for Circuit Judges and Chancellors.

SECTION 12. That the compensation of said Judge shall be (\$2,400.00) Two Thousand Four Hundred Dollars per annum, payable in equal monthly install-ments. It shall be paid out of the general fund of the County, and said salary shall not be diminished during the time for which said Judge is elected. Said Judge shall be permitted to practice law in all courts of the State except as to matters originating in the Court of General Sessions created by this Act.

SECTION 13. That the first Judge of said Court shall be Willard E. Smith, said Judge to hold office until the first day of September, 1960, or until his successor in office is elected and qualified. There shall be elected by the qualified voters of Chester County, Tennessee, at the general election of County officers to be held on the first Thursday of August, 1960, a Judge for said Court and the person elected as Judge of said Court at said election to hold until the first day of September, 1966, or until his successor is elected and qualified. His successor shall be elected by the qualified voters of Chester County, Tennessee, at the election of County officers on the first Thursday of August, 1966, and hold for a period of eight (8) years and his successor shall be elected every eight (8) years thereafter by the qualified voters of said County.

SECTION 14. That if the Judge of said Court fails to attend, cannot preside in a pending cause, or for any reason fails to hold court, a majority of the attorneys present in such Court may elect one of their number, who has the qualifications of such a Judge, and when elected shall have the same authority as a regular Judge to hold the Court for the occasion, and the County Judge or Chairman or Circuit Judge or Chancellor shall preside by interchange.

SECTION 15. That for the more efficient conduct of said Court there is hereby created the office of the Clerk of the General Sessions Court and T.L. West who is now Circuit Court Clerk of said County, shall serve as Clerk of the said Court until September 1, 1960, or until his successor is elected and qualified. After the first day of September, 1960, the duties of the Clerk of the Court of General Sessions shall be

performed by the Circuit Court Clerk of Chester County, Tennessee, and said Circuit Court Clerk after September 1, 1960, shall act as Clerk of said Court of General Sessions, and when acting as Clerk of said Court of General Sessions, he shall be designated as "Clerk of Court of General Sessions of Chester County, Tennessee." Said Circuit Court Clerk is hereby authorized and directed to perform the duties of Clerk of said Court of General Sessions and shall receive compensation as Circuit Court Clerk as provided by general law. The compensation of the Clerk of said Court of General Sessions shall be the sum of (\$600.00) Six Hundred Dollars per annum payable in equal monthly installments out of the general fund of said County and the County Judge or Chairman of Chester County, Tennessee, shall issue warrants drawn upon the trustee for the payment of said salary as provided herein. The Circuit Court Clerk shall receive said compensation as Clerk of the General Sessions Court in addition to said compensation as Circuit Court Clerk.

All fees, commissions and emoluments accruing under the provisions of this Act to the Judge and Clerk respectively of said Court of General Sessions in the nature of Court costs shall be paid monthly to the County Trustee of Chester County, Tennessee, and shall be deposited by said trustee in the general funds of said County. The Clerk shall make out and file with the County trustee [sic] and the County Judge or Chairman a report of all fees, commissions, emoluments, fines, and forfeitures accruing and collected in said Court, and retain a copy thereof as a permanent record of his office.

The Clerk of said Court shall have concurrent authority with the Judge to issue warrants and other process and writs other than those required by law to be issued only by a judicial officer.

It shall be the express duty of the Clerk of said Court to keep and write all dockets and docket entries and minutes required by this Act and promptly make any and all entries necessitated by this Statute. In case of the failure or dereliction of the Clerk to do so he shall be subject to ouster in the manner provided by law. It shall likewise be the duty of said Clerk to make and file with the County Court Clerk for transmittal to each quarterly term of the County Court a complete detailed financial report of all receipts and disbursements of said fees of said Court of General Sessions for the previous quarter.

The Clerk of the Court of General Sessions of Chester County, Tennessee, shall make a good and solvent bond in the penal sum of (\$5,000.00) Five Thousand Dollars for the faithful performance of his duties as such Clerk and for the payment as provided by law of all funds coming into his hands as such Clerk. Said bond shall be conditioned as all other official bonds of Clerks of Courts of Record as provided by general law. No person shall enter upon the duties of office as such Clerk until he has qualified by taking an oath in the manner as required of Clerks of Courts of Record and by executing the bond as herein required and recording and filing the same as provided by the general law. In the event the bond is executed by corporate surety the premiums thereof shall be paid in the manner as provided by general law and said bond shall be approved by the County Judge or Chairman of Chester County, Tennessee.

SECTION 16. That the Sheriff of said County or any Deputy Sheriff or Constable thereof, shall serve legal processes, writs and papers issued by said Court with the same authority as provided by law.

SECTION 17. That this Act shall in nowise impair the right, title or interest of any Justices of Peace of Chester County to any unpaid fees, or funds in which he has a right or interest in any proceedings, judgment or suit, whether said cause is disposed of or pending when this Act becomes effective.

SECTION 18. That all the official dockets, records, and papers in cases that are undisposed of or pending in the offices of Justices of the Peace of said County at the time of the qualification and induction into office of the first Judge of the Court of General Sessions shall be delivered to the Court of General Sessions. The official dockets, records and papers in possession of Justices of the Peace of said County in cases which have been completed shall be turned over to Chester County, as provided by law.

SECTION 19. That said Court shall have authority to hear and determine all undisposed cases arising in the Court of Justice of the Peace of Chester County as if such cases had originated in said Court of General Sessions and to issue executions of other process for collection of judgments rendered by Justices of the Peace which have not been collected or paid.

SECTION 20. That in the event a permanent vacancy in the office of Judge occurs, that vacancy shall be filled by appointment by the Quarterly County Court of Chester County, Tennessee, and the person so appointed and qualified shall serve until the next general election and until the successor of such Judge is elected and qualified.

SECTION 21. That the Legislature expressly declares that each section, subsection, paragraph, and provision of this Act is severable and that should any portion of this Act be held unconstitutional or invalid, the same shall not affect the remainder of this Act, but such unconstitutional or invalid portion shall be elided, and the Legislature declares that it would have enacted this Act with such unconstitutional or invalid portions elided therefrom.

SECTION 22. That all laws and parts of laws in conflict with this Act which apply to Chester County,

Tennessee, be and the same are hereby repealed.

SECTION 23. That this Act shall have no effect unless the same shall have been approved by a two-thirds (2/3) vote of the Quarterly County Court of Chester County, Tennessee, on or before the next regular meeting of such Quarterly County Court occurring more than thirty (30) days after its approval by the Chief Executive of this State. Its approval or nonapproval shall be proclaimed by the presiding officer of the body having jurisdiction to approve or the reverse and shall be certified by him to the Secretary of State.

SECTION 24. That this Act shall take effect from and after its passage, the public welfare requiring it.

Passed: March 18, 1959.

Court System - Historical Notes

Board of Jury Commissioners - Jurors

The following acts once affected jurors or boards of jury commissioners in Chester County, but are no longer operative.

1. Acts of 1909, Chapter 438, created a five-member Board of Jury Commissioners in Chester County to be appointed by the judge of the Circuit Court, and provided for the selection of jurors.
2. Private Acts of 1911, Chapter 115, created a three-member Board of Jury Commissioners and provided for the selection of jurors in the counties of Chester, Hardin, Decatur, Benton, and (probably) Madison. The commissioners for each county were to be appointed by the judges of the Circuit and Criminal Courts.

Chancery Court

The following acts form an outline of the development of equity jurisdiction in Chester 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. Public Acts of 1879, Chapter 42, created Chester County and placed it in the 10th Chancery Division.
2. Public Acts of 1883, Chapter 174, provided that the Judge of the Common Law and Chancery Court at Jackson in Madison County would hold the Circuit and Chancery Courts for the new County of Chester. Chancery Court would be held on the fourth Mondays in May and November. This act amended Public Acts of 1875, Chapter 60, which had severed Madison County from the 10th Division and created the Common Law and Chancery Court at Jackson.
3. Acts of 1885 (Ex. Sess.), Chapter 20, reorganized the lower court system and divided Tennessee into eleven chancery divisions. The 9th Chancery Division was composed of Chester, Hardeman, McNairy, Madison, Crockett, Henderson, Carroll and Henry Counties. Chancery Court terms for Chester County were to begin on the fourth Mondays in April and September.
4. Public Acts of 1887, Chapter 111, amended Acts of 1885 (Ex. Sess.), Chapter 20, to change the times for holding Chancery Court in the 9th Chancery Division. In Chester County, terms would begin on the first Mondays in March and September.
5. Public Acts of 1899, Chapter 427, reorganized the lower court system and divided Tennessee into ten chancery divisions. The 8th Chancery Division was composed of Chester, Decatur, Hardin, Benton, McNairy, Crockett, Henderson, Carroll, Henry, Madison and Perry Counties. Chancery Court in Chester County would begin on the third Mondays in January and July.
6. Acts of 1903, Chapter 36, changed the times for holding court in the 8th Chancery Division. In Chester County, terms would begin on the fourth Mondays in May and November.
7. Acts of 1903, Chapter 311, amended Acts of 1903, Chapter 36, to change the Chancery Court terms in Chester County to the second Mondays in March and September.
8. Acts of 1903, Chapter 484, is a duplicate of Acts of 1903, Chapter 311, which amended Acts of 1903, Chapter 36, to change the Chancery Court terms in Chester County to the second Mondays in March and September.
9. Public Acts of 1931 (2nd Ex. Sess.), Chapter 38, reorganized the lower court system and established fourteen chancery divisions in Tennessee. The 8th Chancery Division consisted of Chester, Carroll, Henry, McNairy, Crockett, Hardeman, Henderson, Decatur, Hardin and Benton Counties. Chancery Court would be held in Chester County on the second Mondays in March and September.

10. Public Acts of 1974, Chapter 547, provided for an additional Chancellor for the 9th Chancery Division, and divided the division into Part I and Part II. The Chancellor for Part II was designated the Senior or Presiding Chancellor. Chester County was transferred to the 9th Chancery Division by Public Acts of 1975, Chapter 207.
11. Public Acts of 1976, Chapter 577, amended Public Acts of 1974, Chapter 547, to provide that the Chancellor for Part I would preside over Fayette, Hardeman, Hardin, McNairy and Chester Counties, and the Chancellor for Part II would preside over Tipton, Lauderdale, Haywood and Crockett Counties. Part I would be held in Chester County on the second Mondays in March and September.

Chancery Court - Clerk and Master

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

1. Private Acts of 1911, Chapter 4, set the salary of the Clerk and Master of the Chancery Court in Chester County at five hundred (\$500) dollars annually. A sworn itemized statement was required to be filed with the Judge, or Chairman, of the County Court by the Clerk and Master showing the amount of fees collected in the office. If the fees collected were less than the stated salary, the County would pay the deficiency to the Clerk and Master; if more, the Clerk and Master could retain them. This Act was repealed by Private Acts of 1927, Chapter 721.
2. Private Acts of 1915, Chapter 373, amended Private Acts of 1911, Chapter 4, by increasing the salary of the Clerk and Master from five hundred (\$500) dollars to seven hundred fifty (\$750) dollars per year. This Act was repealed by Private Acts of 1927, Chapter 721.
3. Private Acts of 1927, Chapter 721, repealed Private Acts of 1911, Chapter 4 and Private Acts of 1915, Chapter 373, above, and increased the salaries of the Clerks and Masters to nine hundred (\$900) dollars per year with provision for an itemized statement of fees collected in the office be filed quarterly. Any deficiency in fees collected and salary would be paid out of the county treasury; any excess in fees above the stated salary was required to be paid over to the county treasury.

Circuit Court

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

1. Public Acts of 1879, Chapter 42, placed Chester County in the Eleventh Judicial Circuit.
2. Public Acts of 1883, Chapter 174, provided for the Judge of the Common Law and Chancery Court in Madison County to hold the Circuit and Chancery Courts of newly created Chester County. The term for the Circuit Court to be held in Chester County was on the first Monday in April, August, and December.
3. Acts of 1885 (Ex. Sess.), Chapter 20, divided Tennessee into fourteen (14) Judicial Circuits. McNairy, Madison, Henderson, Decatur, Perry and Chester Counties comprised the Eleventh Judicial Circuit. The time for holding the Circuit Court in Chester County was the third Monday in March, July, and November.
4. Public Acts of 1887, Chapter 94, expanded the Eleventh Judicial Circuit to include Benton County in addition to Madison, McNairy, Henderson, Perry, Decatur, and Chester. The Act also amended the time for holding the Circuit Court in Chester to third Monday in February, June, and October.
5. Public Acts of 1895, Chapter 46, created a separate criminal division for the Eleventh Judicial Circuit of which Chester County was a part of and withdrawing the criminal jurisdiction from the Circuit Courts. See *McCulley v. State*, 102 Tenn. 509, 53 S.W. 135 (1899).
6. Public Acts of 1899, Chapter 409, conferred on the Circuit Court of the Eleventh Judicial District, of which Chester County was a part of the criminal jurisdiction. The Circuit Court terms in Chester County were set for the third Monday in February, June, and October.
7. Public Acts of 1899, Chapter 427, divided the State into fourteen (14) Judicial Circuits. Hardeman, McNairy, Hardin, Henderson, Decatur, Madison, and Chester comprised the Twelfth Judicial Circuit. The Circuit Court would be held in Chester County on the first Monday in February, June, and October.
8. Acts of 1905, Chapter 192, changed the time for holding the Circuit Court in Chester County to the fourth Monday in February, June, and October.
9. Acts of 1907, Chapter 338, changed the time for holding the Circuit Court in Chester County to the first Monday in February, June, and October.
10. Public Acts of 1931 (2nd Ex. Sess.), Chapter 38, divided the state into twenty (20) judicial

circuits. The twelfth was composed of Madison (criminal only), Henderson, Decatur, Hardin, and Chester Counties. The time for holding the Circuit court in Chester County was the first Monday in February, June, and October.

11. Public Acts of 1965 (Ex. Sess.), Chapter 204, amended T.C.A. Section 16-225 and changed the time for holding the Circuit Court in Chester County to the first Monday in March, July, and November.
12. Public Acts of 1974, Chapter 526, established a second judge for the Twelfth Judicial Circuit so as to divide the Twelfth Judicial Circuit into two parts to be designated Part I and Part II. The present judge of the said circuit was designated as the Judge of Part I. The act further provided for the election of both judges by the voters of the Twelfth Judicial Circuit and to designate the dates in which each judge assumed the duties of his office. The act also mentioned that the judges would sit interchangeably and the act itself amended Section 16-225 of Tennessee Code Annotated.

Circuit Court - Clerk

The following act has no current effect, but once applied to the Chester County Circuit Court Clerk.

1. Private Acts of 1935, Chapter 13, fixed the salary of the Circuit Court Clerk in Chester County at one thousand two hundred (\$1,200) dollars annually, payable one hundred (\$100) dollars per month on warrants to be issued by the County Chairman, or Judge. The Circuit Court Clerks was required to account to the County the fees received in the office.

Criminal Court

The following acts once pertained to the Chester County Criminal Court, but are no longer current law. Also referenced below is an act which repeals prior law without providing new substantive provisions.

1. Public Acts of 1895, Chapter 46, established a Criminal Court for the counties in the Eleventh Judicial Circuit, being Madison, McNairy, Henderson, Decatur, Perry, Benton, and Chester Counties. The Criminal Court would be held in Chester County on the third Monday in March, July, and November. The Circuit Court Clerk was required to transfer all criminal cases to this new court and would also serve as clerk to the new Criminal Court in addition to his Circuit Court duties. Under the Act the Governor would appoint a Judge to serve the new Criminal Circuit until September 1, 1896, when the elected judge would assume office. This Act was expressly repealed by Public Acts of 1899, Chapter 155.
2. Public Acts of 1895, Chapter 124, changed the time for holding the Criminal Court in the Eleventh Judicial Circuit in Chester County to the third Monday in March, July, and November.
3. Public Acts of 1899, Chapter 155, repealed Public Acts of 1895, Chapter 46, and Public Acts of 1895, Chapter 124, and thereby abolished the Criminal Court for the Eleventh Judicial Circuit. See McCulley v. State, 102 Tenn. 509, 53 S.W. 135 (1899).
4. Private Acts of 1977, Chapter 118, attempted to create the office of Public Defender in the counties of Chester, Henderson, and Madison, which constituted the twelfth Judicial Circuit. A nominating committee composed of the County Judges, from the respective counties, and the Judges of Divisions 1 and 2 of the Twelfth Judicial Circuit would recommend the Public Defender, subject to confirmation and approval of the Quarterly County Courts of each County. The designated Public Defender would serve one (1) year from the appointment date. The duties and responsibilities of the office were prescribed in the Act and the power to employ assistants and staff personnel was granted. This Act was never acted upon and never became a law in Chester County.

District Attorney General - Assistants and Criminal Investigators

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

1. Public Acts of 1899, Chapter 199, Section 5, provided for the Attorney-General of the Criminal Court of the Eleventh Judicial Circuit to perform the duties of the office of the Attorney-General in Circuit Courts of the Counties comprising said Judicial Circuit. The Counties comprising the Eleventh Judicial Circuit were Madison, Chester, McNairy, Henderson, Decatur, Perry and Benton Counties.
2. Public Acts of 1899, Chapter 311, amended Public Acts of 1899, Chapter 199, above, and required the Attorney-General of the Criminal Court of the Eleventh Judicial Circuit to perform in addition to the duties of said office in the Circuit Courts of the Eleventh Judicial Circuit of which Henderson, McNairy, Chester, Perry, Decatur and Madison were a part, the duties of prosecuting in the Circuit Court of Madison County which was in the Eighteenth Judicial Circuit. The Attorney-General of the Twelfth Judicial Circuit would perform the duties of said office in the Circuit Courts of Benton

County.

3. Public Acts of 1974, Chapter 565, authorized the District Attorney General of the Twelfth Judicial Circuit of which Chester County was a part to appoint an additional Assistant District Attorney General to assist in the performance of the duties of the office of the District Attorney General.

Secretarial Assistance

The following acts are no longer in effect but are listed here for historical purposes.

1. Public Acts of 1939, Chapter 71, created the position of Stenographer for the Chancellor of the Eighth Chancery Division to which Chester County was then assigned.

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