



July 22, 2024

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

1. Acts of 1803, Chapter 73, set the number of jurors to be sent to serve in the courts of the Mero District by each county in that district. Stewart, being one of the newly formed counties in the state, was required to send only two jurors.
2. Acts of 1805, Chapter 36, provided that hereafter, from and after the passage of this act, any householder, or any person holding land by bond, or entry, shall be competent in all respects whatever to serve as jurors in the said counties of Jackson and Stewart, in the same manner as if they were freeholders, any law to the contrary notwithstanding.
3. Acts of 1806, Second Session, Chapter 24, apportioned the number of jurors to be furnished to the courts in the Robertson District, a newly formed Mero District, by the counties of which it was composed. Robertson County would furnish eleven jurors, Montgomery, twelve jurors, Dickson, nine jurors, and Stewart was responsible for providing seven jurors.
4. Acts of 1817, Chapter 128, granted to several counties, including Stewart, the power to levy, at their first session of the year, a majority of the justices being present, a tax on the taxable property of the county for the purpose of making additional compensation to jurors for their attendance at the terms of the county and circuit courts, provided, however, that the additional compensation shall not exceed the sum of fifty cents per day.
5. Private Acts of 1939, Chapter 177, declared that, in Stewart County, in order to form a grand jury, the court shall direct that the names of the jurors in attendance be written on scrolls, and placed in a box, or other suitable receptacle, from which a child under ten years of age would draw thirteen names who shall be and serve as the grand jury for that term of court. If for any reason the jurors do not attend, the grand jury may be completed from by standers, or taken completely from bystanders. The jury could select a foreman from their own number by ballot but the foreman would not be paid any extra compensation. This act was specifically repealed by the one following.
6. Private Acts of 1951, Chapter 392, expressly repealed Private Acts of 1939, Chapter 177.
7. Private Acts of 1953, Chapter 429, established a three member board of jury Commissioners for Stewart County, who would be appointed by the circuit court judge, who must be householders, or freeholders, not lawyers, who had no suit pending in court, who must be discreet people of good moral character, and who were not state, county, district, or city employees. The commissioners would serve a six year term and could not succeed themselves. Vacancies would be filled for the unexpired term in the same manner. If one commissioner is ill and cannot serve, the other two will act. The commissioners must take the oath prescribed in this act, and select one of their number as the chairman. The circuit court clerk, after being likewise sworn, shall serve as clerk for the board. The board would select from the tax rolls of the county a list of names which would be no less than 500 nor more than 1,000 who would be the jury list for the next two years.

## **Chancery Court**

The following acts form an outline of the development of equity jurisdiction in Stewart 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 1803, Chapter 68, stated that the courts of the newly formed county of Stewart would meet at the home of Mr. Martin near an island in the river, and could adjourn from there to some other place in the county as may be more suitable and expedient.
2. Public Acts of 1822, Chapter 13, provided that one of the judges of the supreme court shall hold at least once each year a court of equity at the places where the supreme court met; at Rogersville on the first Monday in November; at Charlotte on the fourth Monday in December; at Nashville on the fourth Monday in January, and at Columbia on the second Monday in January. All terms to last two weeks unless the dockets were completed sooner.
3. Public Acts of 1824, Chapter 14, stated that the supreme court would henceforth meet only at Knoxville, Sparta, and Nashville. The justices would arrange among themselves to hold the

chancery court at least twice each year at Greeneville, Rogersville, Kingston, Carthage, McMinnville, Franklin, Columbia, and Charlotte. The court at Charlotte would decide the equity cases from the counties of Robertson, Montgomery, Dickson, Stewart, Humphreys, and Hickman on the third Monday in June and December, the terms being slated for two weeks duration unless completed sooner.

4. Public Acts of 1827, Chapter 79, provided for three judges of the supreme court, one from each grand division of the state. The state was divided into two chancery divisions, the Eastern, composed of the courts now held at Rogersville, Greeneville, Kingston, Carthage, and McMinnville, and the Western which had the courts then being held at Franklin, Columbia, Charlotte, Jackson, and Paris.
5. Public Acts of 1835-36, Chapter 4, formed three chancery divisions in Tennessee, roughly comparable to the three grand divisions, and further organized the court into smaller districts within the division. The courts would be presided over by three chancellors first appointed by the joint ballot of both houses of the general assembly, later to be elected as other judges. Stewart County and Montgomery County constituted the thirteenth district of the Middle Division and their court would be held in Clarksville in Montgomery County on the first Mondays in April and October. This inauguration of a new system of equity jurisprudence was precipitated by the new 1835 State Constitution.
6. Acts of 1837-38, Chapter 14, Section 3, formed a new district of the chancery court to meet at Charlotte to which the counties of Dickson, Humphreys, Hickman, Stewart, Montgomery, and Cumberland would address their chancery suits, and this privilege was further extended to the citizens of Robertson County if they preferred to file their bills there. The terms of court would begin in Charlotte on the fourth Monday in March and September. The chancery courts at Paris, Dresden, Trenton, Jackson, Lexington, Bolivar, and Clarksville are abolished and the clerk and master at each of these places shall transfer their records to their proper counterpart, those in Paris being assigned to Charlotte. The chancellor of the Western Division would appoint the clerks and master for the courts at Huntington, Somerville, and Charlotte. Several new counties were being formed in the western portion of the state and probably necessitated a rearranging of the chancery courts.
7. Acts of 1847-48, Chapter 198, stated that Stewart County would constitute a separate chancery district and the court should be held by the chancellor of the Middle Division at the court house in Dover on the first Monday in April and October. The chancellor would appoint a clerk and master for the court who would be subject to all the duties and obligations of other clerks and masters. The citizens of Montgomery County and Humphreys County could also file their suits in the chancery court at Dover if they preferred.
8. Acts of 1849-50, Chapter 213, changed the terms of the chancery court at Dover for Stewart County so that the terms of court would begin on the third Monday in April and October instead of the first Monday.
9. Acts of 1851-52, Chapter 178, Section 3, rescheduled the terms of all the chancery courts in the Middle Division of the chancery court system which had in it the counties of Wayne, Lawrence, Giles, Marshall, Hickman, Humphreys, Dickson, Robertson, Maury, Williamson, Montgomery, Davidson, and Stewart where the terms of the chancery court would begin on the third Monday in April and October.
10. Acts of 1853-54, Chapter 55, Section 4, reset the terms of the chancery court in the counties of Robertson, Humphreys, Dickson, Maury, Blount, Monroe, Wayne, McNairy, Sumner, Montgomery, Rhea, and Stewart whose chancery court would open on the Thursday after the second Monday in April and October.
11. Acts of 1853-54, Chapter 112, repealed the second section of an act which established a chancery court at Dover in Stewart County which was Acts of 1847-48, Chapter 198, Item 7, above.
12. Public Acts of 1857-58, Chapter 88, divided Tennessee into the Eastern, Middle, Western, fourth, fifth, and sixth chancery divisions. Stewart County was in the Middle Division and the terms of court would begin on the second Monday in April and October at Dover. Other counties in the Middle Division were Marshall, Cheatham, Giles, Maury, Lewis, Williamson, Montgomery, Davidson, and Robertson.
13. Private Acts of 1859-60, Chapter 14, formed a new seventieth chancery division to which were allocated the counties of Overton, Jackson, Macon, Sumner, Robertson, Montgomery, Smith, and Stewart where the court at Dover would begin on the first Thursday after the second Monday in April and October. The chancellor would be elected, sworn, and commissioned, and have the same powers and responsibilities as other chancellors in the state, and he would also

hold the circuit court in Sumner County. The sheriffs of the various counties were directed to hold the election for selection the chancellor.

14. Public Acts of 1868-69, Chapter 18, rescheduled the terms of the chancery courts in the counties of the seventh chancery divisions which were Jackson, Macon, Sumner, Robertson, Montgomery, the circuit court of Sumner County, and Stewart where the chancery court at Dover would start its terms on the second Monday in April and October of each year.
15. Public Acts of 1870, Chapter 32, reorganized all the chancery courts in Tennessee into 12 chancery court divisions. The sixth division contained the counties of Wilson, Sumner, Robertson, Montgomery, Stewart, and Trousdale.
16. Public Acts of 1870, Chapter 47, established the opening dates for the terms of the chancery court in all the counties of Tennessee. Stewart County would begin the chancery court terms in Dover on the fourth Monday in May and November.
17. Public Acts of 1873, Chapter 12, rearranged the starting dates for the chancery court terms of some of the counties in the sixth chancery division, switching Stewart County to the third Monday in February and the fourth Monday in October.
18. Public Acts of 1877, Chapter 47, reset the term of the chancery courts in all the counties of the sixth division. In Stewart County the courts would begin their chancery terms in Dover on the first Monday in March and the fourth Monday in July.
19. Public Acts of 1879, Chapter 36, also changed the court terms for the counties in the sixth chancery division which contained the counties of Sumner, Trousdale, Houston, Montgomery, Wilson, Cheatham, Robertson, and Stewart where the chancery court at Dover would take up its dockets on the first Monday in March and September.
20. Public Acts of 1883, Chapter 21, listed all the counties in the sixth chancery Division and the dates of their chancery court terms. Some were changed but Stewart County would continue to meet in Dover on the first Monday in March and September.
21. Acts of 1885, Extra Session, Chapter 20, revised the entire lower judicial system of the state in which the counties of Sumner, Robertson, Wilson, Stewart, Houston, Cheatham, Humphreys, and Trousdale made up the eighth chancery division. Stewart County would continue to convene the chancery court on the first Monday in March and September.
22. Public Acts of 1899, Chapter 427, was also a complete renovation of the state's lower court system. The act set up ten chancery divisions and assigned the counties of Sumner, Robertson, Cheatham, Montgomery, Stewart, Houston, Dickson, Humphreys, Hickman, and Wilson to the sixth chancery division. In the schedule of court terms in each year the fourth Monday in April and October were the opening dates for Stewart County.
23. Acts of 1905, Chapter 286, reset the opening dates for the chancery court terms of the counties in the sixth chancery division. In Stewart County the chancery court would meet on the fourth Monday in May and November. The counties in the division were named as Hickman, Robertson, Montgomery, Cheatham, Wilson, Dickson, Sumner, Humphreys, Houston, and Stewart.
24. Private Acts of 1919, Chapter 455, rearranged the opening dates of all the chancery courts in the sixth chancery division which were the same as those listed in Item 23, above. The terms of the chancery court at Dover in Stewart County would begin on the second Monday in April and October

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

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

1. Acts of 1909, Chapter 226, sets the annual salary of the clerk and master of the chancery court in several counties, but the act is rather vague and ambiguous in its terms. It seems that the act involved the counties of Hancock, Grainger, or Stewart, and Union or, all of them. The annual salary provided, in any event, was \$500, provided a sworn, itemized statement of all the fees collected in the office was filed in January with the county court. If the fees failed to equal the specified salary, the county would pay the difference between the fees and the salary.
2. Acts of 1911, Chapter 19, was a general state act setting up the annual salaries of the clerks and masters across the state and prescribing the conditions under which it would be paid. The salary was \$500 a year provided certain sworn, itemized statements were filed with the county court. Stewart County expressly exempted itself from the application of the provisions of this act.
3. Private Acts of 1927, Chapter 605, stated that the clerk and master in Stewart County would be

paid \$500 annually provided a sworn, itemized statement was filed quarterly with the county judge, or chairman, showing the amount of fees paid into the office. If the fees collected were less than the salary, the clerk and master may retain the excess. Settlement and accounting would occur only once each year and not quarterly.

4. Private Acts of 1933, Chapter 104, expressly repealed Private Acts of 1911, Chapter 19.
5. Private Acts of 1933, Chapter 166, averred that in Stewart County, identified by the use of the 1930 Federal Census, the clerk and master and the circuit court clerk are hereby required to file an itemized, sworn, statement on January 1 of each year with the county judge, or chairman, showing the total amount of fees paid into the said office. Any failure to do so is a misdemeanor punishable by fines ranging from \$25 to \$500.

### **Circuit Court**

The following acts were once applicable to the circuit court of Stewart 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. Acts of 1803, Chapter 68, which created the new county of Stewart in the State of Tennessee provided that the courts of the county would be held at the house of Mr. Martin, near the river, there to adjourn to any other place in the county as the officials might find expedient.
2. Acts of 1806, Second Session, Chapter 19, divided the Mero District into three districts, named Robertson, Winchester, and Mero. The Robertson District consisted of the counties of Robertson, Dickson, Montgomery, and Stewart. The circuit court would meet at Clarksville for the Robertson District on the first Monday in June and December and hold the court for twelve judicial day, if necessary.
3. Acts of 1809, First Session, Chapter 49, divided Tennessee into five judicial circuits. The fifth circuit was composed of the counties of Montgomery, Dickson, Hickman, Humphreys, Stewart, and Robertson. The circuit court would meet in Dover in Stewart County at the courthouse on the fourth Monday in March and September.
4. Acts of 1817, Chapter 138, scheduled the terms for the circuit courts in the third, fourth, fifth, and sixth judicial circuits. The terms of the circuit court in Stewart County would still meet on the fourth Monday in March and September.
5. Acts of 1819, Chapter 154, rearranged the terms for the circuit courts assigned to the fifth judicial circuit but left Stewart County's Circuit Court to begin on the fourth Monday in March and September. The counties in the circuit were Montgomery, Dickson, Hickman, Humphreys, Robertson, Wayne, Hardin, Perry, and Stewart.
6. Private Acts of 1825, Chapter 143, provided that the judge of the fifth judicial circuit of the State of Tennessee continue the circuit court of Stewart County two weeks at the next two terms of said court which began after the first day of January 1826, if the business of the circuit court required such continuance.
7. Public Acts of 1835-36, Chapter 5, pursuant to the new 1835 State Constitution, organized Tennessee into eleven judicial circuits and require each circuit court to hold three terms of court in each year instead of two. The seventh judicial circuit consisted of the counties Dickson, Hickman, Humphreys, Stewart, Montgomery, and Robertson. Circuit court terms would begin in Stewart County on the second Monday in March, July, and November.
8. Acts of 1837-38, Chapter 231, provided that the first circuit court to be held in Stewart County after the passage at this act shall be on the second Monday in next March and thereafter the courts would meet on the first Monday in July, November, and March in Dover.
9. Acts of 1841-42, Chapter 27, reset the terms of the circuit courts in the seventh judicial circuit. The circuit was made up of the counties of Robertson, Dickson, Montgomery, Humphreys, and Stewart whose circuit court would meet on the fourth Monday in February, June, and October.
10. Acts of 1847-48, Chapter 49, rescheduled the terms of the circuit courts in Montgomery, Robertson, Dickson, Humphreys, and Stewart counties. The circuit court in Stewart County would begin on the second Monday in March, July, and November.
11. Private Acts of 1857-58, Chapter 98, was a complete overhaul of the lower judicial organizations of the state. Sixteen judicial circuits were formed of which the tenth circuit comprised the counties of Montgomery, Robertson, Cheatham, Dickson, and Stewart. The circuit court in Stewart County would keep on starting its court terms on the second Monday in March, July, and November.
12. Private Acts of 1859-60, Chapter 187, Section 5, provided that effective immediately the circuit

court of Stewart County would hereafter commence its term on the first Monday in November instead of the second Monday, the other terms to remain as they were then established.

13. Public Acts of 1867-68, Chapter 16, declared that the November term of the Stewart County Circuit Court at Dover would be on the second Monday as provided in the code, and not on the first Monday as required in the 1859-60 Act. A special term of the circuit court would take place on the second Monday in December in 1867, and all the parties to suits, witnesses, officers, and attorneys should appear at the court at that specified time ready to proceed with the trial of cases.
14. Public Acts of 1870, Chapter 31, was the first of four chapters in this session of the general assembly which wholly reorganized the lower judicial system in Tennessee. This act divided the state into fifteen regular and two special judicial circuits. The tenth judicial circuit was made up of the counties of Robertson, Montgomery, Stewart, Cheatham, Dickson, Humphreys, and Sumner.
15. Public Acts of 1870, Chapter 46, was the complete schedule of the annual three terms of the circuit courts of every county in the State of Tennessee. The Stewart County Circuit Court would begin its terms on the second Monday in April, August, and December.
16. Acts of 1885, Extra Session, Chapter 20, was the next major revision of the lower court system in the state, forming fifteen regular, and one special, judicial circuits. The tenth judicial circuit listed the counties of Sumner, Robertson, Montgomery, (for civil cases only), Stewart, Houston, Dickson, and Humphreys. The Stewart County Circuit Court would start its terms on the second Monday in April, August, and December.
17. Public Acts of 1899, Chapter 427, separated the State of Tennessee into fourteen regular, and one special, judicial circuits in the next major realignment of the lower judicial organization in the state. The ninth judicial circuit was composed of the counties of Robertson, Montgomery, Stewart, Houston, Humphreys, Cheatham, Dickson, and Sumner. Court terms would commence at Dover in Stewart County on the first Monday in April, August, and December.
18. Acts of 1903, Chapter 29, rearranged the schedule of the terms of court for the counties of the ninth judicial circuit which had in it the counties of Sumner, Robertson, Cheatham, Montgomery, Houston, Dickson, Humphreys, and Stewart where the terms of the circuit court would start on the second Monday in March, July, and November, at Dover.
19. Acts of 1909, Chapter 329, reset the opening dates for the three annual terms of the circuit courts in the ninth judicial circuit which contained the same counties mentioned above. The Stewart County Circuit Court would begin on the third Monday in March, July, and November.
20. Public Acts of 1931, Extra Session, Chapter 38, created twenty judicial circuits in Tennessee and assigned to the ninth judicial circuit the counties of Sumner, Robertson, Montgomery, Houston, Dickson, Humphreys, and Stewart. The circuit court of Stewart County would meet at Dover on the third Monday in March, and the second Monday in July and November.

### **Circuit Court - Clerk**

The following acts have no current effect, but once applied to the Stewart 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. Act of 1903, Chapter 255, was among the first acts which fixed the annual salaries of county officials according to the classification of that county by population. This act involved circuit court clerks only and the population classes were based on the 1900 Census. According to our records the 1900 population of Stewart County was 15,224 which would require a salary of \$750 a year for the circuit court clerk but the clerk had to file the sworn, itemized statement with the county judge, or chairman, which showed the total amount of fees collected in the office. If the fees were less than the salary established, the county would pay the difference to the clerk, but, if the fees exceeded the salary, the clerk could retain the average as part of his compensation.
2. Private Acts of 1911, Chapter 20, stated that the circuit court clerks in the state would be paid \$750 annually, as compensation, if they filed, a sworn, itemized statement with the county judge, or chairman, showing the total amount of fees collected in the office. Stewart County expressly exempted itself from the provisions and operations of this act.
3. Private Acts of 1927, Chapter 420, declared that in Stewart County, identified by the 1920 Federal Census, the circuit court clerks shall be paid \$750 per annum, provided the clerk files a quarterly report along with a sworn, itemized statement of all the fees collected in the office. If the fees are less than the salary, the county shall make up the difference, but, if the fees are more than the annual salary, the clerk may keep them as part of his compensation. The act stated that it would not apply to Stewart County but it is very obvious that the opposite was intended.

4. Private Acts of 1929, Chapter 151, declared that the clerks of the circuit court in Stewart County shall be paid a salary of \$1,000 a year but the clerk must file a sworn, itemized statement every quarter showing the amount of fees collected by the office, which the clerk may retain if they exceed the salary but which will be the basis for the payment by the county to the clerk if they are less than the salary.
5. Private Acts of 1933, Chapter 99, expressly and entirely repealed Private Acts of 1929, Chapter 151.
6. Private Acts of 1933, Chapter 111, specifically repealed Private Acts of 1911, Chapter 20.
7. Private Acts of 1933, Chapter 166, required the circuit court clerk and clerk and Master of Stewart County, identified by the 1930 Federal Census, to file an itemized, sworn account on January 1 of each year with the county judge, or chairman, showing the total amount of fees collected the preceding year. If the fees were less, the county paid the difference, if more, the clerk kept the excess.

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

The following acts once affecting Stewart 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 1817, Chapter 65, created the sixth judicial circuit and divided Tennessee into ten solicitorial districts. The tenth solicitorial district had in it the counties of Dickson, Stewart, Humphreys, Montgomery, and Robertson. The attorney generals for each District would be appointed by the general assembly and be paid an annual salary of \$125 except the attorney general of the district where the supreme court meets would receive \$150 a year as salary.
2. Public Acts of 1835-36, Chapter 28, stated that from henceforth every solicitorial district would have the same boundaries and coincide with the judicial districts having criminal jurisdiction.
3. Public Acts of 1929, Chapter 29, created the position of assistant attorney general in the ninth judicial circuit, to which Stewart County belonged, who must be a licensed attorney, over 21 years of age, and a resident of the circuit. He would serve at the pleasure and direction of the attorney general and assist the attorney general in his duties. The annual salary was \$3,000 and the act specifically provided that this position of assistant attorney general would cease to function when the attorney general recovered.
4. Public Acts of 1971, Chapter 56, created the office of assistant district attorney general for the twenty-first judicial district. The assistant district attorney was to be appointed by the district attorney, be at least 21 years old, and learned in the law and be licensed to practice law in the State of Tennessee. The assistant attorney general was to receive an annual salary paid out in equal monthly installments out of the treasury of the state.
5. Public Acts of 1972, Chapter 781, created an additional assistant district attorney general for the twenty-first judicial district of the state who was to be appointed by the district attorney general. The assistant attorney general was required to be a licensed attorney and was paid as provided by law for assistant district attorney general
6. Public Acts of 1974, Chapter 527, created an additional post of assistant attorney general in the twenty-first judicial circuit but, since Section 3 provided that Humphreys County would pay the assistant attorney general the supplement pay of \$7,980, it is assumed he would serve only in that county.

### **Secretarial Assistance**

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

1. Public Acts of 1971, Chapter 277, authorized the judge of the twenty-first judicial circuit to employ and appoint a suitable and qualified person as his secretary, who would hold office at the pleasure of the said circuit judge and would perform such duties as were assigned by said judge.

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