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# Chapter V - Court System

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# Chapter V - Court System

## General Sessions Court

### Private Acts of 1959 Chapter 34

**SECTION 1.** That there is hereby created and established a Court in and for Smith County, Tennessee, which shall be designated "Court of General Sessions of Smith County, Tennessee." Said county shall provide a Court Room in the Courthouse at Carthage, Tennessee, dockets, furnishings and necessary supplies for the equipment and maintenance of said Court and pay for same out of the general county funds of said county. The regular place for holding said Court shall be at the Court Room provided for said Court in Carthage, Tennessee, but said Court may be held in the discretion of the Judge thereof, at any other public place or places in Smith County, Tennessee, at such time and places as the Judge may designate.

**SECTION 2.** That said Court of General Sessions is hereby vested with all of the jurisdiction and shall exercise the authority conferred by the General Assembly of Tennessee upon Justices of the Peace in civil and criminal cases, suits and actions; and the Justices of the Peace of said county are hereby divested of all such jurisdiction and authority, but any Justice of the Peace of said county elected for any district may issue criminal and search warrants against and accept appearance bonds from any persons charged with an offense, and may issue civil process on any cause of action heretofore triable by a Justice of the Peace, such warrants and process to be returnable to and triable by said Court of General Sessions. The authority of said Justices of the Peace in their capacity as members of the Quarterly Court, or in the performance of the rites of matrimony, or to administer oaths is in no wise affected by this Act.

**SECTION 3.** That the Judge of said Court is hereby vested with and shall have interchangeable and concurrent jurisdiction with the Chancery and Circuit Courts to grant fiats for writs of injunction, attachments and other such actions in which fiats are necessary.

**SECTION 4.** That before any civil case shall be tried or judgment rendered in said Court the plaintiff shall secure the costs by executing a cost bond with good security, in the sum of twenty-five dollars (\$25.00), or by making a cash cost deposit of not less than five dollars (\$5.00), nor more than ten dollars (\$10.00), or shall take the oath prescribed for poor persons, and on motion the Court may in his discretion increase the amount of such bond or deposit.

**SECTION 5.** That the rules of pleading and practice, forms of writs and process and stay of and appeals from judgments in civil cases of said Court shall be the same as of Justices of the Peace; provided, however, that the Court of General Sessions for Smith 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 a 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 Criminal Court of Smith County, where such appeal shall be tried by a Judge of such Court without a jury and without indictment or presentment. That it shall be the mandatory duty of the Judges, 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 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 Courts may proceed to hear and determine such case as is provided in Section 1 hereof.

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

The defendant \_\_\_\_\_ pleads \_\_\_\_\_ 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.

**SECTION 6.** 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 the attendance and mileage of witnesses shall be the same in said Court as those provided by law for the Courts of Justices of the Peace. The fees and compensation due for services rendered by said Court of General Sessions shall be paid to the Clerk of said Court and by him accounted for as hereinafter provided. Said 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 7.** That separate dockets be kept in said 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.

**SECTION 8.** That there shall be one Judge for said Court, with the same qualifications and term of office as provided by the Constitution of the State of Tennessee for Judges of inferior Courts of Tennessee; and the oath shall be the same as that prescribed for Circuit Judges and Chancellors.

**SECTION 9.** That the compensation of said Judge shall be three thousand dollars (\$3,000.00) per annum, payable in equal monthly installments. It shall be paid out of the general funds of the county, and shall not be increased or diminished during the time for which said Judge is elected. Said Judge shall give all his working time to the duties of his office.

**SECTION 10.** That immediately after a ratification of this Act by the voters of Smith County, as herein provided, the Governor will appoint the first judge of said court, who shall serve until the first day of September, 1960, and until his successor has been elected and qualified. His successor shall be elected by the qualified voters of Smith County at the election to be held on the first Thursday of August, 1960, and shall hold said office from the first day of September, 1960, until the first day of September, 1968, or until his successor is qualified. His successor shall be elected every eight (8) years for the term provided by law for judges of inferior courts.

**SECTION 11.** That if the Judge of said Court fails to attend, cannot preside in a pending cause, or for any reason hold Court, or act as Judge, a majority of the attorneys present in such Court may elect one of their number, who has the qualifications of such Judge, and when elected he shall take the same oath and have the same authority as the regular Judge to hold the Court and perform the duties of such Judge for the occasion.

**SECTION 12.** That in the case of a vacancy in the office of such Judge for any cause the Governor shall have the power to appoint some qualified person to fill such vacancy.

**SECTION 13.** That the Clerk of the Circuit Court and Criminal Courts of said county shall act as Clerk of said Court of General Sessions, and when acting as Clerk of said Court shall be designated "Clerk of Court of General Sessions of Smith County." The fees, commissions, and emoluments of said Court of General Sessions shall accrue to said county. The Clerk of said Court shall receive as compensation for his services the sum of six hundred dollars (\$600.00) per annum, payable in equal monthly installments out of the general funds of said county, and shall pay to said county monthly all fees, commissions, and emoluments of said Court of General Sessions. The Clerk of said Court and his deputies shall have concurrent authority with the Judge thereof to issue warrants and other processes and writs other than those which the law requires shall be issued only by a judicial officer.

**SECTION 14.** 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 in the other inferior courts. Provided, however, that no Sheriff, Deputy Sheriff or Constable shall be entitled to any fees merely for opening and closing said Court, or for waiting upon said Court as Court Officer. But the Judge of said Court may select or appoint any of such officers that may be in attendance to wait upon said Court, without any further compensation for such services.

**SECTION 15.** That this Act shall in no wise impair the right, title or interest of any Justice of the Peace of said county to any unpaid fees, or funds in which he had a right or interest in any proceedings, judgment or suit, whether said cause is disposed of or pending when this Act becomes effective.

**SECTION 16.** That all of the official dockets, records and papers in cases which are undisposed of or pending in the offices of Justices of the Peace of said county at the time this Act becomes effective shall be delivered to said 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 said

county, as provided by law.

**SECTION 17.** That said Court shall have authority to hear and determine all undisposed of cases arising in the Court of Justices of the Peace of said County as if such cases had originated in said Court of General Sessions, and to issue executions on and orders concerning any unsatisfied judgments on the dockets of said Justices of the Peace, and certify as to any such judgments or records, as such Justices of the Peace could do but for this Act.

**SECTION 18.** That the General Assembly 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 General Assembly declares that it would have enacted this Act with such unconstitutional or invalid portions elided therefrom.

**SECTION 19.** That not less than 30 nor more than 90 days after final action on this Act, it shall be the duty of the Board of Election Commissioners of counties to which it applies to call an election for the purpose of ratifying the same under Article XI, Section 9 of the Constitution and in the absence of such ratification, it shall be void and of no effect. The election so called shall be in all respects similar to a general election and shall be governed by all laws applicable thereto. The County Election Commissioners shall meet on the first Monday next following the date of such election, shall canvas the returns and certify the same to the County Court Clerk, who in turn shall certify them to the Secretary of State.

**SECTION 20.** That this Act shall take effect from and after its passage, the public welfare requiring it.  
Passed: February 5, 1959.

## Court System - Historical Notes

### **Board of Jury Commissioners - Jurors**

The following acts once affected jurors or boards of jury commissioners in Smith 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, provided that Counties in the Mero District would furnish a certain number of jurors for the use of the Superior Court of the District. Smith County was required to return four jurors to the Mero Court who would serve until their successors were appointed.
2. Acts of 1806 (Ex. Sess.), Chapter 19, divided the Mero District into three new Districts, namely, Robertson, Winchester, and Mero. Jackson, Smith, and Wilson Counties were placed in the Winchester District and the Court for the District was scheduled to meet on the third Monday in April and October.
3. Acts of 1806 (Ex. Sess.), Chapter 24, removed Wilson County from the Winchester District and placed it back in the Mero District. Each county in the Winchester District would furnish a specified number of jurors to the Courts. Smith County was required to send sixteen jurors.
4. Acts of 1817, Chapter 128, allowed the Justices in the Counties of Davidson, Smith, Franklin, Rutherford, Maury, Lincoln, Giles, Overton, Bedford, Williamson, Hickman, Sumner, Stewart, Humphreys, Wilson, Jackson, White, Montgomery, Warren, Robertson, and Dickson, at their first session in the year, to levy a tax for the purpose of paying additional compensation to jurors attending Circuit and County Courts. The additional pay was not to exceed fifty cents per day.
5. Acts of 1909, Chapter 403, was an act apparently intended to apply to Smith County, although population figures identifying the county to which the act was to be applicable are incorrect for Smith County. The act created a three member board of Jury Commissioners to be appointed by the Judge or Judges having criminal jurisdiction. The Commissioners could not be lawyers or county officials. They were to have no suit pending in any court and would serve for a period of one year. If one commissioner could not perform his duties, the others would discharge those duties. The members would take the oath prescribed in the act, select a chairman, and have the services of the Circuit Court Clerk as Clerk of the Board. They would compile a list, from the taxrolls or some other source of public information, containing names equal in number to one-fifth of the votes cast in the presidential election. The list would contain no fewer than two hundred fifty names and no more than four thousand. Detailed requirements for keeping records were set forth in the act. The names of the jurors would be written on a scroll or on cards, placed in a box, which would be locked and sealed and opened only in the presence of the Board or in open court before the Judge. Those names would constitute the Jury List for the next successive two years. The act required that between ten and fifteen days before Court term, a child under the age of ten years would draw names from the box equal in number to the jurors necessary for that term, the

- list to be presented to the Court. Five days before Court opened, the Sheriff would be given the names, and he would summon the individuals as jurors for the ensuing term.
6. Private Acts of 1913, Chapter 326, repealed Private Acts of 1909, Chapter 403, above.
  7. Private Acts of 1915, Chapter 550, stated that in Smith County, every juror was entitled to receive and would be paid the sum of \$2 for each day's attendance in court as a juror, plus such mileage, ferriage, and tolls as were allowed by law.
  8. Private Acts of 1927, Chapter 769, provided that in Smith County every juror would be paid \$2, for each day's attendance in Court, and such mileage, ferriage, and tolls as were allowed by law.
  9. Private Acts of 1931, Chapter 576, created a three member Board of Jury Commissioners in Smith County. The members would be discreet free-holders and could not be lawyers, county officials, nor Justices of the Peace. They were not to have a suit pending in any court and were not to actively seek the job. They were to be appointed by the Judge of the Criminal Court for two-year terms, take the oath prescribed in the act, and select one of their members as chairman. The Circuit Court Clerk would serve as Clerk of the Board. On the first Monday in July, the Board would meet and select from the tax rolls or other public sources five hundred to fifteen hundred names. The names would constitute the jury list for the next succeeding two years. The same process would be used to select special panels. The names of those chosen would be entered alphabetically in a book, to be furnished by the Clerk, and the list, when entered, would be certified by all three members of the Board. The names would also be written on slips of paper and placed in a box to be locked and sealed, and to be opened only in the presence of the Judge. Ten to fifteen days before Court started, a child under ten years of age would draw enough names from the box for jurors for that term of Court. A list of the names would be sent to the Judge. No one could be excused from jury duty except by the Judge. Members of the Board could be removed for cause at any time by the Judge.
  10. Private Acts of 1931 (2nd Ex. Sess.), Chapter 85, amended Private Acts of 1931, Chapter 576, above, by directing that the Clerk to the Board of Jury Commissioners in Smith County would receive \$10 as compensation to be paid in the same manner as the members of the Board of Jury Commissioners were paid.
  11. Private Acts of 1933, Chapter 152, repealed Private Acts of 1931, Chapter 576.
  12. Private Acts of 1933, Chapter 293, created a three- member Board of Jury Commissioners in Smith County to be composed of discreet people over twenty-one years of age. They were not to be lawyers or state or county officials who had no suits pending in any court. They would be appointed by the Judge holding Criminal Court to two-year terms. Justices of the Peace were declared eligible to serve on the Board. The Clerk would notify each member of the Board within ten days of the appointment and they were to meet within ten days to be sworn by the oath specified in the act and to select a chairman and a secretary. The Board would meet on the first Monday of each month immediately preceding the opening of the term of court and select the names of forty-two persons from the tax rolls or other public sources from each Civil District, the persons to serve as jurors in the circuit and criminal courts. The names would be entered on a book provided by the Clerk for that purpose and certified by all three Board members. The Grand Jury would also be selected from the list, but the Judge could appoint a grand jury foreman from elsewhere. If for any reason, a juror failed to act, the Judge could appoint another in his place. If an insufficient number remained on the panel, the Judge could replenish it. Provisions for jurors during special terms were incorporated. Penalties were specified for anyone's failure to comply therewith. The Board members would be paid \$3 for determining the regular jury list three times a year and for special panels.
  13. Private Acts of 1935, Chapter 736, amended Private Act of 1933, Chapter 293, above, by adding a provision that the Circuit or Criminal Court Judge would excuse from jury service any person summoned therefor who had not paid his or her poll tax, if liable therefor, at least thirty days prior to the beginning of the term of Court for which the Juror was summoned.
  14. Private Acts of 1935, Chapter 825, relieved E. M. Kemp, principal, and W. B. High, surety, of any and all liability for signing a workhouse bond for fine and costs of \$198.65, balance then due of \$158.65, imposed by the Criminal Judge of Smith County on Kemp for unlawfully transporting liquor, and for two charges of public drunkenness, because Kemp was a victim of the depression and was destitute.
  15. Private Acts of 1937, Chapter 277, relieved Haskell Duke, principal, and Sam Piper and Oddie Dias, sureties, from any and all liability incurred by them in signing a workhouse bond for \$139.95 on which a balance of \$45.85 was owed, being the fine and costs for a Bone Dry Law violation.

16. Private Acts of 1937, Chapter 278, relieved and discharged Stanton Price, principal, and Wade West, surety, of any and all liability which may have been incurred by them in signing for a fine and costs going up to \$254.85, on which \$197.47 was owed. The fine had resulted from a charge and conviction of unlawfully manufacturing liquor. Both principal and surety were destitute and unable to pay.
17. Private Acts of 1937, Chapter 279, provided that Charlie Dias, principal, and Sam Piper and Oddie Dias, sureties, were released and discharged from any liability incurred on a workhouse bond for \$139.95, on which \$80.85 was due and unpaid, as they were victims of the depression and were destitute and unable to pay.
18. Private Acts of 1953, Chapter 138, created a three-member Board of Jury Commissioners in Smith County to be appointed by the Judge or Judges of the Circuit Courts. The members were not to be attorneys nor state or county officials, were not to have a suit pending, and were to serve initial terms of one year, two years, and three years, respectively. All successors would serve three-year terms. Vacancies would be filled in the same way. The members were to take the oath provided in the act and select a chairman. The Clerk of the Board would be the Circuit Court Clerk or his Deputy. The Board would select from the tax rolls or other public sources three hundred names of honorable people, to be written each on a separate piece of paper, which would be recorded alphabetically in a book furnished by the Clerk, and certified by all members of the Board. The slips of paper would be placed in a jury box, then locked, sealed, and kept securely by the Clerk, until ordered opened by the Judge in the presence of at least two members of the Board. The Clerk would receive ten cents for each name thus handled. Twenty to twentyfive days before court opened, the box would be opened, thoroughly shaken, and a child under ten years of age, or a person blind-folded, would draw out the number of names specified by the Judge to be jurors for the coming term of court. The clerk would keep a record of the jury service of each person on the list. The Judge could, if desired, select the members of the grand jury from the county at large and appoint a foreman. Provisions were made to summon special panels and to replenish the list, if depleted. Members would receive \$5.00 per day when actually engaged in the services of the Board and anyone violating the terms thereof would be fined.

### **Chancery Court**

The following acts form an outline of the development of equity jurisdiction in Smith 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. Public Acts of 1822, Chapter 13, declared that the Justices of the Supreme Court would arrange to hold a court of original equity jurisdiction at the places of holding the Supreme Court. The Courts were scheduled at Rogersville on the first Monday in November, at Knoxville on the third Monday in November; at Charlotte on the fourth Monday in December; at Sparta on the second Monday in December; at Nashville on the fourth Monday in January; at Columbia on the second Monday in January. Court would remain in session at each place for two weeks unless the docket was completed sooner.
2. Public Acts of 1824, Chapter 14, expanded to five the number of Justices of the Supreme Court. The Justices would hold Court at Knoxville, Sparta, and Nashville, and would also arrange among themselves to hold Chancery Court at least twice a year. Chancery Courts would be held at Greenville, Rogersville, Kingston, McMinnville, Franklin, Columbia, Charlotte, and at Jackson in Madison County, and a court would be held at Carthage for the Counties of Overton, Fentress, Jackson, Smith, Sumner, and Wilson, which court would open on the third Monday in May and November.
3. Public Acts of 1827, Chapter 79, divided Tennessee into two Chancery Divisions: The Eastern Division, which included the Courts at Rogersville, Greenville, Kingston, Carthage, and McMinnville; and the Western Division, which included the Courts at Franklin, Columbia, Charlotte, Jackson, and Paris.
4. Public Acts of 1832, Chapter 19, changed the terms of the Chancery Courts in the Eastern Division, including the one at Carthage which would thereafter begin terms on the third Monday in January and July.
5. Public Acts of 1832, Chapter 21, changed the Chancery Court terms for the Court at Carthage to the second Monday in January and July.
6. Public Acts of 1835-36, Chapter 4, divided the State into three Chancery Divisions and created the position of Chancellor for each Division. Each Division was sub-divided into Districts. Smith County was in the Third District of the Middle Division and its Court would begin its term in Carthage on the third Monday in January and July.

7. Public Acts of 1835-36, Chapter 20, contained, among general provisions for jurisdiction of the Chancery Court and the appointment and regulation of clerks and masters, a requirement in Section 8 that the Chancellor of the First Division would hold Court at Livingston and Carthage.
8. Private Acts of 1835-36, Chapter 94, changed the Court terms of Chancery Court in Smith County to the second Monday in January and July, requiring that all process be made to conform to those dates.
9. Acts of 1839-40, Chapter 21, changed Chancery Court terms for the fourth Chancery Division, scheduling the Court at Carthage for the second Monday in February and August.
10. Acts of 1839-40, Chapter 33, created four Chancery Divisions in the State. The new Fourth Division was made up of Chancery Courts held at Livingston, Carthage, McMinnville, Winchester, Lebanon, Murfreesboro and Shelbyville.
11. Acts of 1845-46, Chapter 82, changed the Chancery Court terms in most of the counties in the Fourth Division but did not change Smith County.
12. Public Acts of 1857-58, Chapter 88, divided Tennessee into the Eastern, Middle, Western, Fourth, Fifth and Sixth Chancery Divisions. The Fourth Division included the Counties of Wilson, Macon, Jackson, Putnam, Smith, Coffee, Franklin, Lincoln, Bedford, Sumner, DeKalb, Warren, Van Buren, Grundy, Cannon and Rutherford. Court terms would begin for Smith County on the second Monday in February and August at Carthage.
13. Private Acts of 1859-60, Chapter 14, created a new Seventh Chancery Division which contained the Counties of Overton, Jackson, Macon, Sumner, Robertson, Montgomery, Smith and Stewart. Courts in Smith County would begin on the third Monday in February and August at Carthage. The Chancellor would also hold the Circuit Court for Sumner County.
14. Public Acts of 1866-67, Chapter 33, created the 12th Chancery Division in Tennessee which would consist of the Counties of White, Van Buren, Grundy, Franklin, Coffee, Putnam, Smith, DeKalb, Cannon and Warren. The Governor would appoint a Chancellor for the new Division to serve until one could be elected by the people. Court terms were set for the Court in Smith County on the fourth Monday of April and October at Carthage.
15. Public Acts of 1867-68, Chapter 67, provided that the Chancery Court at Carthage in Smith County would be held on the second Monday in June and the third Monday in December, except that the April term of 1868 would be held as provided by law.
16. Public Acts of 1868-69, Chapter 44, attached Smith County to the Seventh Chancery Division and scheduled the terms of court at Carthage to begin on the third Monday in February and August of each year.
17. Public Acts of 1870-71, Chapter 32, divided the Chancery Courts of the State into twelve Chancery Divisions. The Fifth Division was made up of the Counties of Van Buren, White, Putnam, Overton, Jackson, Macon, Smith, DeKalb and Clay.
18. Public Acts of 1870-71, Chapter 47, set the schedules for the Chancery Court terms for every county in the State, assigning Smith County to the third Monday in February and August.
19. Acts of 1885 (Ex. Sess.), Chapter 20, reorganized the entire lower judicial system of the State, formulating eleven Chancery Divisions. The Fifth Chancery Division was composed of the Counties of Cumberland, Fentress, Pickett, Overton, Clay, Jackson, Putnam, White, DeKalb, Macon and Smith. The Court terms in Smith County would begin on the fourth Monday in April and October.
20. Acts of 1891 (Ex. Sess.), Chapter 11, rearranged Chancery Court terms in the Fifth Chancery Division. Smith County thereafter would begin terms on the first Tuesday after the first Monday in May and November.
21. Public Acts of 1895, Chapter 15, changed Chancery Court terms for all the counties in the Fifth Chancery Division including Smith County, which would open Chancery Court at Carthage on the second Monday in May and November.
22. Private Acts of 1897, Chapter 294, rearranged Chancery Court terms in the Fifth Chancery Division. Smith County would hold Chancery Court on the first Monday in March and September.
23. Public Acts of 1899, Chapter 357, amended Private Acts of 1897, Chapter 294, above, by rescheduling the terms of Chancery Court in the Fifth Chancery Division. In Smith County, the terms would begin on the fourth Monday in March and the first Monday in August and December.
24. Public Acts of 1899, Chapter 427, reorganized the entire lower court system in Tennessee and formed ten Chancery Divisions. The Fourth Chancery Division contained the Counties



of Cumberland, Pickett, Overton, Clay, Jackson, Putnam, White, DeKalb, Smith, Macon, Van Buren, Cannon and Trousdale. Each Court would hold two terms per year. Smith County would begin terms at Carthage on the first Monday in March and September.

25. Acts of 1903, Chapter 97, rescheduled the opening dates of Chancery Courts in the Fourth Chancery Division. In Smith County, Courts would take up dockets on the first Tuesday after the first Monday in March and September.
26. Private Acts of 1927, Chapter 40, changed the dates for opening Chancery Court in Trousdale, Macon, Pickett, and Smith Counties. Smith County would hold Court terms on the first Monday in March and September.
27. Public Acts of 1931 (2nd Ex. Sess.), Chapter 38, organized the entire lower court system of the State, dividing Chancery Court into fourteen Divisions. The Fourth Division was composed of the Counties of Cannon, Trousdale, Overton, Clay, Macon, Pickett, Fentress, Jackson, Cumberland, DeKalb, Morgan, White, Putnam, and Smith. Courts in Smith County would begin their terms on the first Monday in March and September.

### **Clerk and Master**

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

1. Private Acts of 1827, Chapter 167, provided that the Clerks of the County and Circuit Courts and the Clerk and Master at Carthage in Smith County were allowed until the next January to produce to the Treasurer of West Tennessee annual receipts of revenue.
2. Private Acts of 1941, Chapter 208, stated that the Clerk and Master of Smith County would be paid, as compensation, the sum of \$480 per annum in addition to all fees earned and collected by his office. This sum was to be paid at the rate of \$120 per quarter on the warrant of the County Judge or Chairman.

### **Circuit Court**

The following acts were once applicable to the circuit court of Smith 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 1799, Chapter 2, provided that the Courts in Smith County would meet at the house of Major Tilman Dixon until the court house and county seat were selected and prepared.
2. Acts of 1809, Chapter 49, divided the State into five Judicial Circuits. The Third Circuit contained the Counties of Smith, Warren, Franklin, Sumner, Overton, White and Jackson. Circuit Court would be held at least twice each year and terms at Carthage in Smith County would begin on the fourth Monday in March and September.
3. Acts of 1812, Chapter 68, changed the Court terms for several counties in the Third Circuit including Smith County, which would open Circuit Court on the fourth Monday in February and August.
4. Acts of 1813, Chapter 134, among other things, changed the starting dates for the Circuit Court of Smith County to the fourth Monday in March and September.
5. Acts of 1817, Chapter 138, reset the terms of the Circuit Courts for most of the counties in West Tennessee including Smith County, which would convene Circuit Court in Carthage on the fourth Monday in March and September.
6. Private Acts of 1819, Chapter 160, rescheduled Circuit Court terms for the Third Judicial Circuit, which had in it the Counties of Jackson, Overton, White, Warren and Smith. The Courts in Smith County would begin on the second Monday in April and October.
7. Private Acts of 1825, Chapter 192, stated that the Judge of the Third Judicial Circuit would hold a special term of court for Smith County at Carthage on the third Monday in December for the trial of all civil cases. The Court term would be continued from day to day until all the cases were disposed of. In connection with this special term, the Judge could direct the Sheriff of the County to summon twenty-six men to serve as jurors.
8. Public Acts of 1835-36, Chapter 5, provided that the Circuit Courts of each county would be held three times a year and divided the State into eleven Judicial Circuits, assigning the Counties of Smith, Overton, White, Jackson, Fentress, and Warren to the Fourth Judicial Circuit. Court terms in Smith County would start on the third Monday in April, August, and December.
9. Acts of 1845-46, Chapter 82, provided that the Circuit Court terms in Smith County would open on the fourth Monday in March, July and November.

10. Public Acts of 1857-58, Chapter 98, reorganized the entire lower court system of the State into sixteen Circuits. The Sixth Judicial Circuit was composed of the Counties of Jackson, Macon, Putnam, DeKalb, and Smith. The Circuit Court in Smith County would meet on the fourth Monday in March, July, and November.
11. Public Acts of 1870-71, Chapter 31, arranged the lower court system of the State into fifteen regular and one special Circuit. The Fifth Judicial Circuit contained the counties of DeKalb, Overton, Putnam, White, Smith, Jackson, Macon and Clay.
12. Public Acts of 1870-71, Chapter 46, scheduled the terms of the Circuit Courts for every county in the State. Smith County would start terms of Circuit Court on the fourth Monday in March, July, and November.
13. Acts of 1872 (Ex. Sess.), Chapter 15, changed the dates of the Circuit Court terms in some of the counties of the Fifth Judicial Circuit, but Smith County remained on the fourth Monday in March, July, and November.
14. Public Acts of 1881, Chapter 92, provided that the Circuit Courts of Smith County would begin terms on the first Tuesday after the fourth Monday in March, July, and November. Public Acts of 1870-71, Chapter 46, above, was amended to conform to the Act.
15. Acts of 1885 (Ex. Sess.), Chapter 20, created fourteen regular and one special Judicial Circuit in Tennessee. The Fifth Judicial Circuit was composed of the Counties of Pickett, Fentress, Cumberland, Putnam, Overton, Clay, Jackson, Smith, Macon, and Trousdale. Courts began in Smith County on the first Tuesday after the fourth Monday in March, July, and November.
16. Public Acts of 1887, Chapter 12, changed the Circuit Court terms for some of the counties in the Fifth Judicial Circuit. Smith County's Circuit Courts were changed to meet on the first Monday after the fourth Monday in March, July, and November.
17. Acts of 1891 (Ex. Sess.), Chapter 3, scheduled the terms of court in the Fifth Judicial Circuit. Circuit Court would begin at Carthage for Smith County on the fourth Monday in March, July, and November.
18. Private Acts of 1897, Chapter 294, changed the dates for terms of Court for several of the counties in the Fifth Judicial Circuit. Smith County was rescheduled to begin its terms on the fourth Monday in March, July, and November.
19. Public Acts of 1899, Chapter 427, reorganized the entire lower judicial system of Tennessee. Dividing the State into fourteen Judicial Circuits. The fifth Judicial Circuit contained the counties of Pickett, Cumberland, Putnam, Overton, Clay, Jackson, Smith, Trousdale, White and Macon. The dockets of the Circuit Court in Smith County would be taken up on the fourth Monday in March, July and November.
20. Acts of 1901, Chapter 324, changed Circuit Court terms for all counties in the Fifth Judicial Circuit, assigning Smith County to the first Monday in April, August, and December. All bonds and process were required to conform to the act.
21. Acts of 1903, Chapter 457, amended Acts of 1901, Chapter 324, above, to change the times for holding Circuit Court in Smith County to the first Monday after the fourth Monday in March, July, and November.
22. Acts of 1907, Chapter 122, changed Circuit Court schedules in the Fifth Judicial Circuit. Smith County would begin terms of Court on the first Tuesday after the first Monday in January, May, and September. White, Cumberland, Pickett, Overton, Clay, Jackson, Putnam, Trousdale, and Macon Counties were the other counties in the circuit. A special provision required the Judge of this circuit to hold the Circuit Courts in Fentress County also.
23. Private Acts of 1919, Chapter 656, stated that the Judge of the Fifth Judicial Circuit would hereafter hold the Circuit Courts of Smith County and discharge all the functions of the Judge of the Fifth Judicial Circuit (Civil) in connection therewith. Acts of 1907, Chapter 122, above, was amended to schedule the terms of the Circuit Court on the first Monday after the fourth Monday in March and November and on the second Monday in August of each year.
24. Public Acts of 1931 (2nd Ex. Sess.), Chapter 38, reorganized the entire lower court system in Tennessee, forming twenty Judicial Circuits. The Fifth Judicial Circuit contained the Counties of Clay, White, Overton, Jackson, Putnam, Cumberland and Pickett for civil cases and White, Putnam, Jackson, Macon, Trousdale, Wilson, and Smith for criminal cases. Court terms for both civil and criminal cases would begin in Smith County on the first Monday after the fourth Monday in March, July, and November.
25. Private Acts of 1941, Chapter 359, repealed Private Acts of 1919, Chapter 656, above, and

provided that the Judge of the Circuit Court for the Fifth Judicial Circuit would hold Circuit Court in Smith County on the fourth Monday in February, June, and October of each year.

26. Public Acts of 1967, Chapter 10, created a new judicial circuit with civil jurisdiction only, composed of Jackson, Macon, Smith, Trousdale and Wilson Counties. Circuit Court terms in Smith County would be on the second Monday in February, May, August, and November. Provisions were made for the transfer of cases, the return of process, and the taking of bonds. The Governor was to appoint a Judge to fill the new office who would also be provided with a secretary.
27. Public Acts of 1968, Chapter 451, amended Public Acts of 1967, Chapter 10, so that the appointed Judge of the new Circuit would serve until September 1, 1974, instead of September 1, 1968, the successor to take office following election by popular vote in August, 1974.

### **Circuit Court - Clerk**

Clerk. They were repealed, superseded, or never received local approval.

1. Private Acts of 1827, Chapter 152, allowed William Hart, the Circuit Court Clerk of Smith County, to keep his office at his residence near the City of Carthage.
2. Private Acts of 1827, Chapter 167, provided that the Clerks of the County and Circuit Courts and the Clerk and Master in Smith County were allowed until the next January 1 to produce to the Treasurer of West Tennessee annual receipts of revenue.
3. Acts of 1903, Chapter 255, was a statewide salary act which determined the amount of compensation paid to clerks of circuit court according to population of the counties. The Circuit Court Clerk in Smith County would have been paid \$750 per year, provided a sworn, itemized statement, showing the total amount of fees collected, was filed with the County Judge or Chairman each January. If the fees did not meet the salary, the county would pay the difference, but, if the fees exceeded the salary, the clerk could retain the difference.
4. Private Acts of 1927, Chapter 765, stated that the Circuit Court Clerk of Smith County would receive all fees and commissions allowed him by law and collected by him or his office. In addition, the clerk would be paid annually, on December 31, \$100 from the county treasury by warrant of the County Judge.
5. Private Acts of 1941, Chapter 207, repealed Private Acts of 1927, Chapter 765, above, and provided that the Clerk of the Circuit and Criminal Courts in Smith County would be paid as compensation the sum of \$480 per year in addition to all the fees earned by that office. The money would be paid at the rate of \$120 per quarter on the warrant of the county judge or chairman.

### **Criminal Court**

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

1. Acts of 1907, Chapter 85, created a separate criminal division in the Circuit Courts of all the counties in the Fifth Judicial Circuit, conferring upon them all the criminal jurisdiction and authority formerly exercised by the Circuit Courts. Court terms were scheduled for the counties, and Smith County was assigned the term starting on the second Tuesday after the fourth Monday in March, July, and November. The Circuit Court Clerks would serve as clerks of these new courts and the Attorney General of the judicial circuit would prosecute cases for the State. The Governor would appoint a Judge for the judicial circuit until one could be popularly elected. The Criminal Court Judges were allowed to interchange with the Circuit Court Judges.
2. Private Acts of 1911, Chapter 648, changed the schedule of terms of the Criminal Court. In Smith County, the Criminal division of Circuit Court would begin trial of cases on the second Tuesday after the fourth Monday in March and November, and the second Monday in August.

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

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

1. Acts of 1817, Chapter 65, divided the State into Solicitorial Districts assigning the Counties of Smith, Wilson, and Rutherford to the Sixth District. The General Assembly would appoint an Attorney General for each District.
2. Public Acts of 1835-36, Chapter 28, made each Solicitorial District coincide with each judicial circuit having criminal jurisdiction and because of this arrangement, the Solicitorial Districts would

no longer be designated as such.

3. Acts of 1907, Chapter 381, created the office of Assistant Attorney General in the 5th Judicial Circuit, the officer to be appointed by the Attorney General, learned in the law, and at least twenty-five years of age. He would perform at the will and at the direction of the Attorney General. The position would be salaried at \$1,800 per year.
4. Private Acts of 1919, Chapter 166, repealed Acts of 1907, Chapter 381, above.
5. Public Acts of 1976, Chapter 563, provided for two additional Assistant District Attorneys General for the Fifth Judicial Circuit and made provisions for the appointment, compensation, and duties of the offices.

#### **Secretarial Assistance**

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

1. Public Acts of 1967, Chapter 134, provided for secretarial assistance to the Circuit Judge and Criminal Court Judge of the Fifth Judicial Circuit. Annual compensation for the secretaries was set at \$3,600.

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