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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 Franklin County, but are no longer operative.

1. Acts of 1807, Chapter 72, provided that the newly created County of Franklin would be a part of the Winchester District and would send three jurors to the superior court at Carthage.
2. Acts of 1809 (Sept. Sess.), Chapter 49, Section 15, authorized the Court of Pleas and Quarter Sessions of Franklin County to summon 39 jurors for the Circuit Court and to levy a tax to pay them provided that a majority of the Justices were present at the Court when the tax was levied.
3. Acts of 1817, Chapter 128, authorized counties, including Franklin, through their County Courts at their first session in each year to lay a tax to provide additional compensation to jurors attending the Circuit and the County Courts, so long as a majority of the Justices were present when the tax was levied, and that the extra compensation did not exceed fifty cents per day.
4. Acts of 1905, Chapter 233, created a three-member Board of Jury Commissioners for Franklin County, the members to be appointed for terms of two years by the judge or judges holding Circuit or Criminal Court. The members were to be discreet persons, freeholders and householders of the County, who were not practicing attorneys or state or county officers. The duty of the Board was to select from tax books and other sources the names of between 250 and 1000 men of intelligence, integrity, and sound judgment. The list would be the jury list for two years. It would be kept secret and under lock and key. The names from the list were to be written on slips of paper and placed in a Jury Box kept locked and sealed. Prior to each term of Circuit or Criminal Court, the Board was to unlock the box and have a child under the age of ten years draw the names of the jury panel for that term of court. The Sheriff, after taking an oath to keep the names of jurors secret, would summon each person and instruct him not to divulge the fact that he had been summoned as a juror. Records and lists of jurors were to be kept by the Clerk of the Circuit Court who would act as clerk for the Board. Only a judge could excuse a person from service. Criminal penalties were imposed for any person requesting to be placed on the jury list and for any board member, clerk, sheriff, or deputy who revealed any secrets of the Board or who tampered with the Jury Box. Compensation for a Jury Commissioner was \$2.00 per day while he was engaged in making up a jury list.
5. Private Acts of 1925, Chapter 81, exempted Franklin County from the provisions of Public Acts of 1919, Chapter 37, which was a general law requiring criminal court judges and circuit judges having criminal jurisdiction to appoint the foreman of the grand jury in their respective counties.

## **Chancery Court**

The following acts form an outline of the development of equity jurisdiction in Franklin 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, stated that the Chancery Courts of Tennessee would be held by one of the Justices of the Supreme Court at the present places of holding the Supreme Court at least once each year. The Equity Courts would be held at Rogersville on the first Monday in November, at Knoxville, on the third Monday of 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 and at Columbia on the second Monday in January, each term to continue for two weeks, six weeks in Nashville, unless the docket was completed sooner.
2. Public Acts of 1824, Chapter 14, Section 8, required the Judges of the Supreme Court to make arrangements among themselves to hold the Chancery Court of the State at least twice a year. Franklin County was served by the Court sitting in McMinnville on the second Monday of June and December. Courts were also to be held at Greeneville, Rogersville, Kingston, Franklin, Columbia, Charlotte, Jackson, and Carthage.
3. Public Acts of 1827, Chapter 79, repealed all laws giving the Judges of the Supreme Court of Errors and Appeals jurisdiction to hear original chancery cases. It divided the state into two Chancery Divisions, the Eastern and the Western. Franklin County was in the Eastern Division and continued to be served by the Court sitting in McMinnville. One chancellor was to be appointed by the General Assembly for each division, to be compensated by a salary of \$1,500 per year.
4. Public Acts of 1827, Chapter 88, stated that the Chancellors for each Chancery Division were state judges and could interchange with one another from court to court as necessary on account of

- constitutional disability, or as necessary for their own convenience. This act changed the court days in McMinnville to the third Monday in June and December.
5. Public Acts of 1829, Chapter 103, allowed the two Chancellors of the State to adopt a set of rules to regulate practice in the Chancery Courts.
  6. Public Acts of 1835-36, Chapter 4, created an additional Chancery Division to be the Middle Division and subdivided each of the three divisions into numerous districts. Franklin County composed the entire Seventh District of the new Middle Division. The Court for the district was to be held in Winchester on the third Monday of February and August. The new Chancellor was to be appointed by the General Assembly for eight-year terms. The Chancellors were granted the authority to interchange among the several Chancery Courts of the State as necessary, to adopt a set of rules for practice in the courts which were to be revised every four years, and to appoint their respective Clerks and Masters for six year terms.
  7. Acts of 1837-38, Chapter 116, changed the court terms for several Chancery Courts in the Eastern and Middle Division of the State but made no change in Franklin County.
  8. Acts of 1839-40, Chapter 21, page 42, provided that the Chancery Court would meet at Winchester on the third Monday of February and August.
  9. Acts of 1839-40, Chapter 33, created the Fourth Chancery Division in the State and authorized an additional Chancellor to be elected. The new division was composed of the then current Chancery Districts holding court in Livingston, Carthage, McMinnville, Winchester, Lebanon, Murfreesboro and Shelbyville.
  10. Acts of 1845-46, Chapter 82, changed the court terms for the Chancery Court at Winchester to the Wednesday after the third Monday in February and August.
  11. Public Acts of 1857-58, Chapter 88, prescribed a schedule for the times and place of holding Chancery Courts across the State in all six Chancery Divisions. The time of meeting of the Chancery Court in Franklin County remained the same, the Wednesday after the third Monday in February and August.
  12. Public Acts of 1866-67, Chapter 33, created the 12th Chancery Division, containing White, Van Buren, Grundy, Franklin, Coffee, Putnam, Smith, DeKalb, Cannon, and Warren Counties. Court terms at Winchester would begin on the first Monday in February and August. The Governor was to appoint a Chancellor for the new division to hold office until his successor was elected.
  13. Public Acts of 1869-70, Chapter 52, changed the court terms of the Chancery Court at Winchester to the fourth Monday in January and June.
  14. Public Acts of 1869-70 (2nd Sess.), Chapter 32, reorganized the state Chancery Courts into twelve districts each consisting of certain named counties. The Counties of Franklin, Lincoln, Bedford, Rutherford, Cannon, Coffee, Warren, and Grundy comprised the Fourth District.
  15. Public Acts of 1869-70 (2nd Sess.), Chapter 47, fixed the times for holding Chancery Court in the various divisions, setting the time in Franklin County as the fourth Monday in January and June.
  16. Acts of 1885 (Ex. Sess.), Chapter 20, was a major reorganization of the lower court system in the State. Eleven chancery divisions were formed. The Counties of Franklin, Warren, Cannon, Rutherford, Bedford, Lincoln, Moore and Marshall comprised the Fourth Chancery Division. In Franklin County, court was to be held on the fourth Monday in January and in June. Chancellors were to be elected.
  17. Acts of 1891 (Ex. Sess.), Chapter 6, detached Franklin County from the Fourth Chancery Division and placed it in the Third Chancery Division.
  18. Public Acts of 1895, Chapter 37, changed the court terms for Franklin County's Chancery Court to the fourth Monday in January and July, with the return days for process being changed to coincide.
  19. Public Acts of 1899, Chapter 104, changed the time for holding Chancery Court at Winchester for Franklin County to the fourth Monday in January and the second Monday in June.
  20. Public Acts of 1899, Chapter 427, divided the state into ten Chancery Divisions. Franklin, Rhea, Bradley, James, Marion, Coffee, Bledsoe, Sequatchie, Grundy, McMinn, Moore, Warren, Monroe, Polk, Meigs, and Hamilton Counties were all in the Third Chancery Division. Terms in Franklin County would start on the fourth Monday in January and July.
  21. Acts of 1903, Chapter 587, changed the time for starting Chancery Court terms in Winchester back to the fourth Monday in January and the second Monday in June.
  22. Private Acts of 1911, Chapter 435, created the Twelfth Chancery Division composed of all the

counties of the Third Chancery Division except Hamilton County which alone would then constitute the Third Chancery Division. Court terms would remain as they were except Hamilton would have five terms of court annually. The Governor would appoint a Chancellor until one was elected by the people for the new Division.

23. Private Acts of 1911, Chapter 516, set the rate for taking depositions in Franklin County at \$1.00 for each deposition not exceeding one thousand words and ten cents for each one hundred words over and above the initial one thousand.
24. Private Acts of 1917, Chapter 455, changed the term for Chancery Court in Franklin County to the second Monday of June and December.
25. Private Acts of 1917, Chapter 727, was a Senate bill and it was worded the same as Private Acts of 1917, Chapter 455, above, which was a House bill. Both bills passed the General Assembly and were signed into law by Governor Rye.
26. Public Acts of 1931 (2nd Ex. Sess.), Chapter 38, organized the judicial structure of the state by dividing it into fourteen Chancery Divisions. The Twelfth Division was composed of Rhea, McMinn, Warren, Bledsoe, Sequatchie, Marion, Van Buren, Bradley, Meigs, Polk, Grundy, Coffee, Monroe and Franklin Counties. Court at Winchester would commence on the second Monday in June and December. (All legislation for the Chancery Courts from this point on was by public act now codified in T.C.A.).

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

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

1. Private Acts of 1929, Chapter 431, set the annual salary of the Franklin County Clerk and Master at \$1800 and required the Clerk and Master semi-annually to file an accounting of fees with the County Judge and pay those fees into the county treasury. Fees for allowances while acting as a court-appointed receiver and commissions on land sales were exempt from the reporting and payment requirement.
2. Private Acts of 1933, Chapter 750, allowed the Clerk and Master of Franklin County additional compensation not in excess of \$1,200 a year, over and above his fees, commissions and emoluments, provided that all of them together did not exceed \$2,000 annually. The extra pay could be awarded only upon petition of the Clerk and Master to the Chancellor who would determine the amount of such compensation as in his judgment was warranted under all the circumstances.
3. Private Acts of 1935 (Ex. Sess.), Chapter 47, vested power in the Quarterly County Court of Franklin County to vote an appropriation to the Clerk and Master in such amount as the Court deemed best as compensation for "ex officio" duties rendered the public as Clerk and Master.
4. Private Acts of 1943, Chapter 468, authorized the Clerk and Master of Franklin County to employ a clerk or stenographer to be paid a salary of \$600 per year.

### **Circuit Court**

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

1. Acts of 1809 (Sept. Sess.), Chapter 49, formed five Judicial Circuits in the State. The Third Circuit contained the Counties of Smith, Warren, Franklin, Sumner, Overton, White, and Jackson. Courts would be held in all circuits twice each year by the five Circuit Judges, appointed by joint ballot of the General Assembly and commissioned by the Governor. The Judges would appoint a Clerk for the Courts in their Circuit. In Franklin County the Circuit Court terms would begin on the second Monday in February and August.
2. Acts of 1812, Chapter 68, rearranged the terms of the Circuit Courts in several of the counties. Franklin County's Circuit Court would start its terms on the third Monday in January and July of each year.
3. Acts of 1817, Chapter 138, rescheduled the terms of the Circuit Courts in the Third, Fourth, Fifth, and Sixth Judicial Circuits. Courts would open in Franklin County on the first Monday in February and August and remain open until the business of the courts was completed or the judge had to leave to attend court in another county.
4. Private Acts of 1821, Chapter 172, stated that the Circuit Court for Franklin County would be held at the Courthouse in Winchester beginning on the fourth Monday in January and July and continue for two weeks unless its business was finished sooner.
5. Public Acts of 1824, Chapter 88, ordered the Judge of the Third Judicial Circuit to hold a special

term of the Circuit Court at Winchester to try all civil cases pending in law and equity, starting on the second Monday in November, 1824, and continuing until completed. The sheriff was to summon 26 jurors to serve the court at regular pay with such substitutes being called as might be necessary.

6. Public Acts of 1825, Chapter 9, provided that the Circuit Court of Franklin County would be held on the second Monday in January and July and continue for a period of four weeks if the business of the court so required.
7. Private Acts of 1826, Chapter 29, said that all suits at law then pending in the Circuit Court of Marion County relating to lands lying in that part of Franklin County which formerly belonged to Marion County would be transferred to the Circuit Court of Franklin County and the Clerk would furnish a complete transcript for each case.
8. Public Acts of 1829, Chapter 52, created the Eleventh Judicial Circuit, consisting of Warren, Franklin, Bedford, Rutherford, and Wilson Counties.
9. Public Acts of 1835-36, Chapter 5, was enacted after the adoption of the 1835 Constitution and established the Circuit Courts of Tennessee in eleven Judicial Circuits. Courts would meet for three terms a year instead of two. The Fifth Judicial Circuit was composed of the Counties of Wilson, Rutherford, Bedford, Coffee, and Franklin and the Circuit Court in Franklin County would convene on the fourth Monday of the next April and thereafter on the fourth Monday of March, July, and November.
10. Private Acts of 1835-36, Chapter 52, provided that the next term of the Circuit Court for Franklin County would convene on the fourth Monday in April rather than the second Monday in January, and thereafter, the Court would be held on the days specified by the act which reorganized the judicial structure of the State, that is, Public Acts of 1835-36, Chapter 5, above.
11. Acts of 1837-38, Chapter 3, organized the Circuit Courts of the State into fourteen Judicial Circuits. The Thirteenth Circuit consisted of Franklin, Lincoln, Warren, and Coffee Counties.
12. Acts of 1837-38, Chapter 116, provided that the Circuit Court in Franklin County would meet on the second Monday of January, May and September.
13. Acts of 1839-40, Chapter 21, provided that the Circuit Court in Franklin County would meet on the third Monday in March, July and November.
14. Acts of 1843-44, Chapter 155, Section 5, changed the times for convening Franklin County's Circuit Court to the first Monday of January, May, and September.
15. Acts of 1847-48, Chapter 53, changed the times for court sessions, after the next term of court, for Franklin County's Circuit Court to the second Monday in March, July and November.
16. Acts of 1847-48, Chapter 181, changed the times for convening the Circuit Court terms in the Thirteenth Judicial Circuit with the term in Franklin County starting on the third Monday in March, July and November.
17. Acts of 1849-50, Chapter 206, changed some of the times for convening Circuit Court in the Thirteenth Judicial Circuit, shifting Franklin County to the fourth Monday in March, July and November.
18. Public Acts of 1857-58, Chapter 98, completely reorganized the system of Circuit Courts in the state into sixteen Judicial Circuits. The Eighth Circuit consisted of the Counties of Franklin, Grundy, Van Buren, Warren, Coffee and Lincoln. The schedule for beginning each term of court remained the same in Franklin County, that is, the fourth Monday in March, July, and November.
19. Public Acts of 1869-70 (2nd Sess.), Chapter 31, reorganized the Circuit Court system by reducing the number of Judicial Circuits in the state to fifteen. Franklin, Grundy, Warren, Coffee, Lincoln and Van Buren Counties were placed in the Sixth Judicial Circuit.
20. Public Acts of 1869-70 (2nd Sess.), Chapter 46, established the times for convening the Circuit Courts of the State. The time for holding Circuit Court in Franklin County in the Sixth Circuit was set on the fourth Monday in March, July, and November.
21. Acts of 1885 (Ex. Sess.), Chapter 20, was a complete revision of the lower court system of the state. Fourteen regular and one special Judicial Circuits were established. The Sixth Judicial Circuit consisted of Franklin, Van Buren, Grundy, Coffee, Warren, Moore, Lincoln, DeKalb, and White Counties. Terms of court in Franklin County were set to begin on the fourth Monday in March, July, and November.
22. Public Acts of 1887, Chapter 8, changed the times for convening the Circuit Court in the Sixth Judicial Circuit. Franklin County would start court on the first Tuesday after the first Monday in

April, August, and December.

23. Acts of 1891 (Ex. Sess.), Chapter 2, detached Bledsoe County from the Fourth Judicial Circuit and attached it to the Sixth Judicial Circuit and detached Franklin County from the Sixth Judicial Circuit and attached it to the Fourth Judicial Circuit. Court in Franklin County would begin on the first Monday in April, August and, December. Provisions were made for a change of judge and attorney-general in the two counties.
24. Public Acts of 1899, Chapter 102, changed the time for Circuit Court terms to the third Monday in April, August and December.
25. Public Acts of 1899, Chapter 427, divided the state into fourteen Judicial Circuits. The Sixth Judicial Circuit consisted of Franklin, Sequatchie, Marion, and Hamilton Counties. Court terms were to begin in Franklin on the first Monday in April, August and December.
26. Acts of 1903, Chapter 131, changed the time for convening the Franklin County Circuit Court to the third Monday in April, August, and December.
27. Acts of 1903, Chapter 361, created a Criminal Court Circuit composed of Franklin, Hamilton, Sequatchie, and Marion Counties. The Act conferred on the new court jurisdiction over all criminal matters arising in the named counties. The terms of the court were to begin in Franklin County on the third Monday in April, August, and December. Civil jurisdiction remained with the Sixth Judicial Circuit, the terms for which were to be held beginning on the third Monday in April, August, and September.
28. Public Acts of 1915, Chapter 18, detached Franklin, Marion and Sequatchie Counties from the Sixth Judicial Circuit leaving Hamilton County as the sole County in the Circuit.
29. Public Acts of 1915, Chapter 19, created the Eighteenth Judicial Circuit composed of Franklin, Marion, Sequatchie, Grundy, Bledsoe, Rhea, Meigs and James Counties. The Governor was to appoint a judge and attorney-general for the new circuit to serve until the next general election in 1916. Court terms in Franklin County would commence on the first Monday in January, May, and September.
30. Private Acts of 1925, Chapter 81, exempted Franklin County from the provisions of Public Acts of 1919, Chapter 37, which required judges of the Criminal Court and of the Circuit Courts having criminal jurisdiction to appoint the foreman of the grand jury in their respective counties.
31. Private Acts of 1925, Chapter 511, amended Acts of 1915, Chapter 19, above, so that the terms of the Circuit Court were to begin in Franklin County on the first Monday in January, the fourth Monday in April, and the fourth Monday in August.
32. Public Acts of 1931 (2nd Ex. Sess.), Chapter 38, was a complete reorganization of the lower court system of Tennessee. Twenty Judicial Circuits were formed. The Eighteenth Circuit was composed of Franklin, Sequatchie, Bledsoe, Marion, Grundy, Meigs, and Rhea Counties. The Circuit Court in Franklin County was to meet on the first Monday in January and the fourth Monday in April and in August.

### **Circuit Court - Clerk**

The following acts have no current effect, but once applied to the Franklin County Circuit Court Clerk. They were repealed, superseded, or never received local approval.

1. Private Acts of 1824, Chapter 101, authorized the Circuit Court Clerk of Franklin County to build an office on the Public Square in Winchester, the site to be designated by the County Court. Upon resignation or death of the clerk, the successor in office would have the benefit of the building by paying the value of it to the resigned clerk or to his heirs.
2. Public Acts of 1825, Chapter 259, authorized the Sheriff and Clerks of the County and Circuit Court to publish their advertisements and orders in the Franklin Gazette then being published in Winchester.
3. Acts of 1903, Chapter 255, set forth a schedule of annual salaries for Circuit Court Clerks based upon the population of the county in which the Clerk was serving. According to population figures, the Circuit Court Clerk of Franklin County would be paid \$1,000 annually under the Act. The Clerk was required to file an annual, sworn, itemized statement with the County Judge, or Chairman, showing the amount of fees collected by the office during the year. If the fees were less than the salary, the County would supply the difference. If the fees exceeded the salary, the Clerk could retain the surplus.
4. Private Acts of 1919, Chapter 248, amended Acts of 1903, Chapter 255, above, regulating the compensation of Circuit Court Clerks so that the Clerk in Franklin County would be paid \$1,200

annually.

5. Private Acts of 1929, Chapter 479, provided that in addition to the then current compensation of the Circuit Court Clerk in Franklin County the Clerk would be paid \$900 yearly in equal monthly installments.
6. Private Acts of 1951, Chapter 533, set the salary of the Circuit Court Clerk of Franklin County at \$2,400 annually.

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

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

1. Acts of 1817, Chapter 65, divided the state into ten Solicitorial Districts. Franklin, Lincoln, and Bedford Counties constituted the Eighth District.
2. Public Acts of 1927, Chapter 86, allowed an assistant Attorney General to be appointed in the Eighteenth Judicial District at an annual salary of \$2,500.
3. Public Acts of 1967, Chapter 82, authorized the District Attorney in the Eighteenth Judicial District to appoint an additional Assistant District Attorney with an annual salary of \$4,800.
4. Public Acts of 1971, Chapter 192, authorized one Criminal Investigator for the Eighteenth Judicial Circuit whose duties would be to investigate crime, take witness statements, and perform tasks assigned by the District Attorney General.
5. Public Acts of 1976, Chapter 561, created an additional full time position for an Assistant District Attorney in the Eighteenth Judicial District.

#### **General Sessions Court**

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

1. Private Acts of 1933, Chapter 751, set forth a procedure in small offense cases whereby the Justices of the Peace of Franklin County would submit reports to the County Judge so that costs to the County in those cases could be better controlled.

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