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The Western Judicial Circuit Today and in Bygone Times

A Short History of Local Superior Court Judges—Part One

H. Patrick Haggard, appointed by Gov. Deal to fill the unexpired term of Judge Steve C. Jones, is the latest in a long line of superior court judges in the Western Judicial Circuit, which includes Athens. In this two-part article, adapted from a speech he gave at the UGA law school, Prof. Donald E. Wilkes, Jr. takes a look at the history of the circuit and the judges who have served it.

There are 159 superior courts in Georgia—one in each county. Of all the existing courts of this state, superior courts are the oldest. They were created 234 years ago by Georgia's first state constitution in 1777. By contrast, the Supreme Court of Georgia was not established until 1845, and the Court of Appeals of Georgia was not created until 1906.

Presided over by superior court judges elected by the people, superior courts are the most important trial courts in this state. Superior courts have general jurisdiction to try almost any civil or criminal case, and are the only courts with authority to exercise the powers of a court of equity or to try felonies. In addition to this expansive trial jurisdiction, superior courts even have appellate

jurisdiction to review certain decisions of probate courts and magistrate courts.

Superior courts of this state are grouped into 49 circuits with geographical names. The superior courts of Clarke and Oconee counties form the Western Judicial Circuit.

The Western Judicial Circuit was created by a 1797 statute, before Clarke County even existed. Along with the Eastern and Middle Circuits, it was one of the first three judicial circuits established in this state. The Western Judicial Circuit originally consisted of the superior courts of eight counties: Elbert, Franklin, Greene, Hancock, Jackson, Lincoln, Oglethorpe and Wilkes. Clarke County joined the Western Judicial Circuit when the county was created in 1801, and Oconee County has been part of the Circuit since the county's creation in 1875.

At one time or another, the superior courts in a total of 24 counties have been part of the Western Judicial Circuit. The most superior courts in the Western Judicial Circuit in any one period was between 1821 and 1822, when the Circuit included 11 counties: Clarke, Fayette, Franklin, Gwinnett, Habersham, Hall, Henry, Jackson, Newton, Rabun and Walton. From 1923 until 1972,

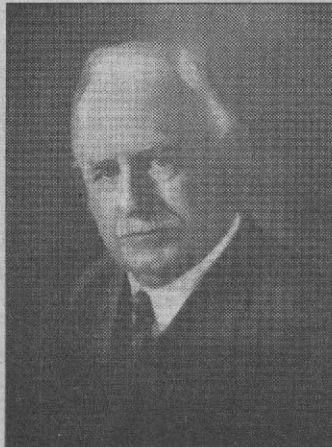
the Western Circuit consisted of the superior courts of Clarke, Oconee and Walton counties. In 1972 the superior court of Walton County was removed from the Western Circuit.

Until 1976, there was never more than one superior court judge of the Western Judicial Circuit at a time. A 1976 statute raised the number of judges to two, and a 1995 statute further increased the number to three. The current superior court judges of the Circuit are Lawton Stephens, David Sweat and H. Patrick Haggard. Haggard was recently appointed by Governor Deal to fill the vacancy created when Steve C. Jones resigned earlier this year to become a federal judge. Haggard will serve the unexpired portion of Jones' term and then, as he has announced, seek election for a full term. (Superior court judges are elected to serve four-year terms.)

There have been 28 superior court judges of the Western Judicial Circuit since its creation in 1797. (A list of these judges, with their terms of office, is set forth below in the box appended to this article.) Some of these judges are among the most illustrious jurists in the history of this state. The legendary James Barrow, for example, who died in 2000, was a judge, everyone knew, who strove for justice in every single case he tried. His decisions were hardly ever set aside by appellate courts, who well knew Judge Barrow's astonishing, proven reputation for wisdom and fairness.

Donald E. Wilkes, Jr.

Next week: colorful details from the lives of some of these superior court judges.



Judge Stephen C. Upson

Superior Court Judges of the Western Judicial Circuit and Their Terms of Office

Thomas P. Carnes (1798–1803; 1809–1813) · John Griffin (1803) · Charles Tait (1803–1809) · Young Gresham (1813–1816) · John Mitchell Dooly (1816–1819) · Augustin Smith Clayton (1819–1825; 1828–1831) · William H. Underwood (1825–1828) · Charles Dougherty (1831–1837; 1845–1849) · Thomas W. Harris (1837–1841) · Junius Hillyer (1841–1845) · James Jackson (1849–1857) · N.I. Hutchins I (1857–1868) · C.D. Davies (1868–1873) · George D. Rice (1873–1878) · Alex S. Erwin (1878–1883) · N.I. Hutchins II (1883–1899) · Richard B. Russell, Sr. (1899–1906) · Charles Hillyer Brand (1906–1917) · Andrew J. Cobb (1917–1921) · Blanton Fortson (1921–1940) · Stephen C. Upson (1940–1942) · Henry H. West (1942–1953) · Carlisle Cobb (1953–1962) · James Barrow (1962–1990) [Senior Judge (1990–2000)] · Joseph J. Gaines (1976–2002) [Senior Judge (2002–2007)] · Lawton E. Stephens (1991–present) · Steve C. Jones (1995–2011) · David R. Sweat (2002–present) · H. Patrick Haggard (2011–present)