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Creation of County

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

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

Sincerely,

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Creation of County

Acts of 1870 (2nd Extra Session) Chapter 29

SECTION 1. That a new county be and the same is hereby established, to be composed of portions taken from the northern portion of Jackson and Overton Counties, to be known and designated by the name of County of Clay, and shall be bounded as hereinafter provided.

SECTION 2. That the general boundaries of said county shall be as follows, to-wit: Beginning at the common corner of Jackson and Overton Counties, upon the State line between Kentucky and Tennessee, running thence with said line east to a point in said line on the northern boundary of Overton County, to be fixed by the Commissioners to be hereafter designated in this act; thence south or southwest to a point in Overton County, to be also fixed and established by the said Commissioners; thence in a westerly direction through Overton and Jackson counties to a point to be fixed by the Commissioners; thence north with said line to the State line; thence east with said line to the beginning; Provided, That no line of said new county shall approach the Court-houses of Jackson and Overton Counties nearer than ten miles in a direct line from the same.

SECTION 3. That R. P. Brooks, Jas. G. Cunningham and Job M. Morgan, of Jackson County, and W. H. Turner and Thomas Armstrong, of Overton County, be and they are hereby appointed Commissioners, with full power and authority to run out and designate the boundaries of said county by actual survey; and they are authorized to employ a competent person to survey the same; and if, upon finding that their territory and population are sufficient to meet the requirements of the Constitution without infringing the constitutional territory or population of the counties from which said County of Clay is to be taken, then said Commissioners shall have the lines of said County of Clay plainly marked, and cause a correct map of the same to be made out and transmitted to the Secretary of State, who shall file the same in his office; and the County of Clay is hereby established upon the following conditions:

SECTION 4. That it shall be the duty of said Commissioners, as soon as they shall ascertain that there is territory and population sufficient to establish a new county under the requirements of the second and third sections of this act, after giving twenty days' notice in three or more public places of the time and place in each of the fractions proposed to be stricken off from the Counties of Jackson and Overton, to open and hold an election in each of the fractions proposed to be stricken off from the counties aforesaid, for the purpose of ascertaining whether two-thirds of the voters residing in those fractions, are in favor of or opposed to the establishment of said County of Clay; and all persons qualified to vote for members of the General Assembly who have resided in the fractions aforesaid six months immediately preceding the day of election, shall be entitled to vote; and each voter who desires the establishment of the new county, shall have on his ballot "New County," and those opposed to the new county shall have on their ballots "Old County;" and if upon counting the ballots, the judges of the several elections shall return that two-thirds of each of the fractions have voted for the new county, then the County of Clay shall be and the same is hereby established, with all the powers, privileges and advantages, and subject to all the liabilities of other counties in this State.

SECTION 5. That all officers in said county shall continue to hold their offices and exercise all the powers and functions thereof, until others are elected and qualified according to law, and the said County of Clay shall elect her officers on the day and under the same rules and regulations as provided by law for the election of officers in other counties in this State.

SECTION 6. That the Commissioners appointed by the third section of this act shall appoint such persons as they deem suitable to open and hold elections for county officers for the County of Clay; and the persons so appointed shall be and are hereby invested with full power and authority to appoint Deputies, Clerks and Judges, and by themselves and deputies to administer all necessary oaths, and to do and perform all other duties as by law are required of Sheriffs and other officers holding similar elections.

SECTION 7. That it shall be the duty of the Commissioners aforesaid, as soon after the County of Clay shall have been established as practicable, to select and secure, by purchase or otherwise, a suitable site for the seat of justice in said county, and the said Commissioners, having first caused a deed to be made to themselves and their assigns, with general warranty, to a sufficient quantity of land, including the site so selected, shall cause a town to be laid off thereon, with as many streets and alleys as they may deem sufficient, within a suitable square, for the erection of public buildings. Said Commissioners may reserve such lots as they may deem advisable, for the purpose of erecting a jail, and such other purposes as they deem proper, and said town, so laid off, shall be known by the name of _____; Provided, Said Commissioners shall consult the wishes and convenience of a majority of the citizens of said county; and said Commissioners shall open and hold an election at three or more places in said

county, first giving twenty days [sic] notice of the time and place, for the purpose of fixing upon an eligible site for the seat of justice in said County of Clay; and should said election be held, all qualified voters for members of the General Assembly, shall be entitled to vote in selecting said site. Should there be two or more places put in nomination and voted for, the place receiving a majority of the votes cast shall thereupon be declared, by said Commissioners, the seat of justice of Clay County: Provided, That said Commissioners shall have the right to hold elections, from time to time, until one place shall receive a majority of those voting.

SECTION 8. That the Commissioners of said county shall sell the lots in said town on a credit of at least twelve months, first giving due notice thereof in one or more newspapers, of the time and place, and shall take bond, with security, from the purchasers of said lots, payable to themselves or their successors in office, and shall make title, in fee simple as Commissioners, to the respective purchasers of said lots.

SECTION 9. That the proceeds of sale of said lots aforesaid, shall be a fund in the hands of said Commissioners for the defraying of the expenses incurred in the purchase of said tract of land on which the said county site shall be located, and, also, for defraying the expenses of erecting the public buildings for said County of Clay.

SECTION 10. That the Commissioners shall also appoint five Commissioners, whose duty it shall be to divide and lay off said county into civil districts, designate the place of holding elections therein, and do and perform all the duties relative thereto, which, by the laws of this State, such Commissioners are authorized and required to do.

SECTION 11. That the County Court of Clay County, when organized, shall be authorized to make such appropriations as they think proper to the Commissioners appointed under this act, to compensate them for their necessary expenses and services.

SECTION 12. That for the convenience of the citizens, and for the administration of justice, the County and Circuit Courts for the County of Clay shall be held at such place as may be designated by said Commissioners, until the public buildings for said county shall be completed, due notice of which shall be given to the clerks of the several courts of said county, by the Commissioners herein appointed, after which time they shall be held at the Court-house in the county aforesaid.

SECTION 13. That the Commissioners appointed by the provisions of this act, together with Surveyor employed to run out and designate the boundary of said county, shall, severally, before they enter upon the discharge of the duties assigned them, take an oath before some Justice of the Peace to discharge the duty assigned them, without partiality or prejudice, to the best of their judgment according to law.

SECTION 14. That the Commissioners of Clay County be, and they are hereby authorized to exercise all the powers conferred in this act, and such other powers as may be necessary and proper to the complete organization of the County of Clay.

SECTION 15. That the citizens of Clay County, in all elections for Governor, Representatives in Congress, and the election of President and Vice-President, shall vote with the counties from which they have been respectively stricken off, until the next apportionment.

SECTION 16. That the counties of Jackson and Overton shall retain complete jurisdiction over the fractions stricken off from said counties, until the County of Clay shall be completely organized.

SECTION 17. That the fractions of Jackson and Overton Counties, formed by this act into the County of Clay, shall continue liable for their pro rate of all debts contracted and owing by said Overton and Jackson Counties, as well as entitled to any portion of any stocks and credits belonging to said Overton and Jackson Counties.

SECTION 18. The public welfare requiring it, that this act take effect from and after its passage.

Passed: June 16, 1870.

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