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Acts of 1839-40 Chapter 2

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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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Table of Contents

Acts of 1839-40 Chapter 2	3
----------------------------------------	----------

Acts of 1839-40 Chapter 2

SECTION 1. That the act passed 11th day of December, 1837, established DeKalb county, but which was not published in the book purporting to contain all of the acts passed by the General Assembly of Tennessee during their regular session in 1837-38, is hereby declared to be in full force, and every thing done in accordance with the provisions of said act since its passage, is declared to be as valid and binding as if said act had been published in the book containing the acts passed in 1837-38.

SECTION 2. Said act is in the following words, viz: "An act to establish the county of DeKalb, in honor of Baron DeKalb, the friend of American liberty, who fell at the battle of Camden in the war of the Revolution."

"SECTION 1. That a new county is hereby established of parts of Cannon, Franklin, White and Jackson counties, to be called DeKalb, in honor of Baron DeKalb, the friend of American liberty, who fell at the battle of Camden, in the war of the Revolution.

"SECTION 2. The county of DeKalb shall be bounded as follows, viz: beginning at the corner between Smith and Cannon counties, on the Wilson county line, near Alexandria, and running thence south twenty-three degrees east, with the old line between Smith and Wilson counties, eight miles to a point in said line; thence south forty-eight degrees east, eleven miles and three quarters, to the Warren county line at John Martin's; thence north eighty-three degrees east, seven miles to a point twelve miles north from M'Minnville; thence south eighty degrees east, four miles and three quarters, to Caney fork river, at the mouth of Barren creek; thence down said river with its meanders to the mouth of Townsend's creek; thence to an Oak on the road from Sparta to Dibrell's ferry, four miles from said ferry; thence north thirty-seven and a half degrees east, nine miles and three fourths, to a point on the stage-road from Sparta to Carthage; thence north two miles, to a corner between White and Jackson counties, on Cane creek; thence south seventy-five degrees west, sixteen miles and a half, so as to strike the north-west corner of Cannon county, on the Caney fork river; and thence with the line run by Thomas Durham, between Smith and Cannon counties, to the beginning.

"SECTION 3. For the due administration of justice in the said county of DeKalb, the different courts shall be holden at the house of Barnard Richardson until the seat of justice for said county shall be located, and a suitable house erected for that purpose. The county court shall, in the intermediate time, have full power to adjourn the courts to such other place in the said county as they may deem better suited for the holding of the same, and for the public convenience, and to adjourn to the seat of justice whenever, in their judgment, the necessary arrangements are made, and all writs and other precepts returnable to either place shall and may be returned to the place to which said courts may have been removed by the county court aforesaid, and the said courts to be holden in and for said county of DeKalb shall be under the same regulations and restrictions, and shall have, hold, exercise and possess the same powers and jurisdiction as are possessed by said courts in other counties in this state.

"SECTION 4. All civil and military officers in said county of DeKalb may hold their office, and discharge the duties of the same, during the time for which they were elected; and should there be vacancies in said county of DeKalb, such vacancies shall be filled as the law directs, and it shall be the duty of the sheriff of Cannon county to hold elections to fill the same until a sheriff shall be elected for DeKalb county; and if any civil district or districts should be divided, by the lines of the said county of DeKalb passing through them, it shall and may be lawful for the county court of said county, and the courts of the several counties from which said county has been taken, to attach the said fractions to other districts in their respective counties, or form a district or districts of one or more fractions, as said courts may think proper; and the said county of DeKalb shall be placed upon an equal footing, possess equal powers and privileges, in all respects, as other counties in this State: Provided, nothing in this act contained shall be so construed as to prevent the counties of Cannon, Warren, White and Jackson from entering up judgments, or the sheriffs of said counties from selling under such judgments any lands within the bounds of said county of DeKalb for taxes, cost and charges for the present or any preceding year, nor to prevent the sheriffs of either of said counties from collecting from the citizens of said county of DeKalb any taxes due for the present or any preceding year.

"SECTION 5. It shall be the duty of the sheriff of Cannon county, with the power to appoint as many deputies as may be necessary, to hold an election in all the precincts in said county of DeKalb, on the first Friday in February next, for the election of one sheriff and all other county officers to which other counties in this State are entitled, whose elections are required to be

submitted to the voters of the whole county; and the said officers, when elected, shall be commissioned in the same manner, and have the same powers, duties and emoluments as other officers of the same grade and denomination in other counties in this State.

"SECTION 6. The first term of the county court in said county shall commence on the first Monday in March next, during which term said court shall put in nomination two or more places for the location of the seat of justice in said county; and the sheriff of said county, by himself and deputies, or such persons as he may appoint, shall open and hold an election between all places put in nomination, at each precinct in each civil district, on the third Friday in April next; and it shall be the duty of the said sheriff to advertise said election for a seat of justice, at least thirty days previous to the day of election, in at least two public places in each civil district in said county, which advertisement shall fully specify the places put in nomination by the county court, and if any citizen or citizens of said county may desire the seat of justice for said county to be at any place not put in nomination by the county court, any additional places may be put in nomination by any citizen or citizens of said county, at any period previous to, or on the day of election; Provided, that the seat of justice shall not be more than two and a half miles from the centre of said county. In every thing pertaining to the opening and holding said election, the sheriff and his deputies, and all others assisting to hold the election in each of the districts, shall conform to, and be governed by the laws now in force, in relation to the holding of elections for members of the General Assembly of this State; and every man shall be entitled to vote in said election who shall be, at the time of voting, a citizen of said county of DeKalb, and twenty-one years of age. The votes polled in said election shall be compared by the sheriff on Saturday, the next day after the election, in the presence of the county and circuit court clerks, or any two justices of the peace for said county, at the house of Barnard Richardson, the place designated in this act for holding courts in said county; and if it shall appear that a majority of the votes have been given for any one place, that place shall be the county seat. But should it appear that no one place has been voted for by a majority of all voting in the election, then the sheriff, within thirty days thereafter, shall hold another election between the two places which received the highest number of votes, having given at least ten days notice, by advertisement, as required before the first election; and whenever it shall appear that a majority of all the votes given at either election hereby authorized were in favor of one place, that place shall be the seat of justice of said county of DeKalb, and shall be called Smithville.

"SECTION 7. At the first term of the county court after the seat of justice shall have been established, as required by this act, it shall be the duty of the county court to appoint five commissioners, whose duty it shall be to procure, by purchase or otherwise, at least fifty acres of land at said county seat, for which they shall cause a deed or deeds to be made to themselves, or their successors in office, by general warranty, and on said fifty acres of land said commissioners shall immediately proceed to lay off a town, with as many streets and of such width as they may deem necessary, reserving at least two acres for a public square, and a lot sufficient for building a jail.

"SECTION 8. The said commissioners, appointed by the county court, shall sell the lots in said town, on a credit of at least twelve months, first giving due notice thereof in one or more newspaper printed in this State, and shall take bonds, with approved security, for the purchase money, payable to themselves, and their successors in office, and shall make titles in fee simple, as commissioners, to the respective purchasers of said lots.

"SECTION 9. The proceeds of the sales of the lots aforesaid shall be a fund in the hands of said commissioners for defraying the expenses incurred in the purchase of the said tract of land on which the said county seat is located, and also for defraying the expenses of erecting public buildings.

"SECTION 10. The said commissioners shall superintend the building of the court house, jail, and other necessary public buildings, and shall let out such buildings as the county court in said county shall order to be built, upon such terms and conditions as the said court shall direct, and shall take bond, with sufficient securities, from the person or persons to whom the same is let, payable to themselves and their successors in office, in the sum of ten thousand dollars, conditioned for the faithful performance of his or their contracts.

"SECTION 11. The said commissioners, before they enter upon the duties of their office assigned them by this act, shall take an oath or affirmation that they will truly and faithfully execute and perform the different duties by this act enjoined on them, according to the best of their judgment; and moreover, shall enter into bond, with approved security, payable to the chairman of the county court of DeKalb county, and his successors in office, in the sum of five thousand dollars, conditioned for the due and faithful performance of the duties enjoined upon them by this act, which bond shall be deposited in the office of the county court clerk in said county, and shall not be so construed as

to make one of the commissioners security for another.

"SECTION 12. The said commissioners shall keep a fair and regular statement of all the monies by them received and expended; which statement, when required, shall, from time to time, be laid before the county court. And when all the necessary public buildings are completed, the said commissioners shall, by order of the county court, pay over all surplus money to the county trustee for county purposes, and they shall be allowed by the county court a reasonable compensation for their services.

"SECTION 13. The said commissioners, in laying off the town, shall also reserve as many lots as they may deem necessary, to be given to the different religious denominations, on which to erect houses of public worship, and also a lot for a public burying ground; and said commissioners shall also reserve lots for a male and female academy, of such size as they may think necessary.

"SECTION 14. That the county of DeKalb be, and the same is hereby attached to the 13th Judicial circuit, and the courts therefor shall be held by the Judge of said circuit on the first Mondays of January, May and September of every year.

"SECTION 15. That said county of DeKalb is hereby attached to the Chancery district composed of the county of Smith, and the courts therefor shall be holden at Carthage, as heretofore provided.

"SECTION 16. That the said county of DeKalb shall form one regiment, and that said regiment, in all its relations to the militia of this State, shall assume the place of the 141st regiment, at present in Cannon county, and shall take the number of said regiment in Cannon county.

"SECTION 17. That the field officers included in said county of DeKalb, shall meet at the house of Barnard Richardson, on the second Friday in February next, and divide said regiment into battalions and companies, and provide for electing all officers in said regiment, where there may be vacancies, in the manner pointed out, and as provided for by the militia laws of this State.

"SECTION 18. That it shall be the duty of the sheriffs for the counties of Cannon, Jackson, White and Warren, each, at the different precincts hereby stricken from his county, to open and hold an election on the second Friday in January next, in the same manner as herein provided for the election of a county seat for said county of DeKalb, and the votes given in each fraction of a county taken off in the formation of said county of DeKalb shall be compared by the sheriff holding said election, at the house of Barnard Richardson, on Saturday, the next day after said election, and if a majority voting in each fraction shall vote in favor of being attached to and included in said county of DeKalb, said county of DeKalb shall be considered as established; but if a majority in either fraction shall vote against being included in said county of DeKalb, this act establishing it shall then be void. In the formation of said county, no county from which a part may be taken shall be reduced below its constitutional amount of territory, and the voters stricken off from White county shall vote at Davis', Dibrell's, and Henry P. Burton's.

Passed: December 11th, 1837.

SECTION 3. The reenacting and republication of the act above recited shall not in any way be taken to invalidate any portion of a supplemental act or amendments to the same passed at the last session of the General Assembly of Tennessee.

SECTION 4. That the county of DeKalb, as organized under the act above recited, and the acts referred to, is hereby declared to be established as one of the lawful and constitutional counties of this State, according to the provisions of this and the aforesaid acts.

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