



December 22, 2024

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# Acts of 1855-56 Chapter 320

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Sincerely,

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## Acts of 1855-56 Chapter 320

**SECTION 1.** Whereas, An act of the General Assembly, passed on the 1st February, 1842, entitled "an act to establish the county of Putnam, to perpetuate the name of General Israel Putnam of the Revolutionary War," chapter 179, and under the operations of said act and other acts subsequent thereto, the county was completely organized by the election of all the proper officers, both civil and military, and by the holding of circuit and county courts at the time established by law. This state of things continued until the spring of 1844; and a bill in equity and for an injunction was then filed in the chancery court of Overton county against William H. Carr, clerk of the circuit court and Joseph A. Ray, clerk of the county court, and other officers in Putnam county, enjoining them from further acting in their official capacity; and no answer or demurer or plea being put in, the bill was taken for confessed and the said injunction was rendered perpetual, and the said county was declared by the court of chancery not to have been legally and constitutionally established, and the functions of all the officers have ceased since that period. And whereas, the supreme court of this State have decided in the case of Ford vs. Farmer, et. al., 8th Humphreys, page 152, that after the organization of a county is complete, and the original commissioners have executed their duty, that it is not the province or within the jurisdiction of the courts of justice to enjoin the civil officers of a county from proceeding in their official duties; and, therefore, the decree of the court of chancery rendered in the case above specified was and is not binding, except as to the parties on record; and it is represented to this Legislature, by petition and otherwise, that the constitution has not been violated by the establishment of the county of Putnam, and the citizens residing within the limits of said county are desirous that the county may be reestablished. That said county of Putnam is hereby reestablished, with all the powers and privileges of other counties in the State of Tennessee, and with all the butts, bounds and lines that governed the limits of said county at the time said bill of injunction was filed against the officers of said county, except such as shall or may hereinafter be provided for in this act.

**SECTION 2.** That the bounds of said county of Putnam shall be as originally run by Mounce Gore, principal surveyor, and his deputies, with such alterations as may be necessary to preserve the constitutionality of said county, or better promote the interest of her citizens; provided, that in no case the change of any of the original lines shall affect the constitutional right of the old counties; and the beginning corner shall be on the south bank of Cumberland river where the line dividing Smith and Jackson counties crosses said river, running up said river with its various meanders to the mouth of Indian creek; thence in a southeast direction with Mounce Gore's last line, upon the extreme height of the dividing ridge, to a point from which an east line crosses Martin's creek, near the mouth of Shaw's branch; thence in an eastern direction with said Gore's line as last run, crossing the road leading from Sparta to Gainesboro, between the twelve and thirteen mile post at about twelve and a half miles from Gainesboro; thence with the said Gore's line through Jackson county to the west boundary line of Overton county, to the original corner of Putnam county on said line; thence with said Gore's last line through Overton county, bearing twelve miles south of Livingston to George McCormack's old stand in Fentress county, on the road leading from Brady's turnpike gate to Jamestown; thence with the original line of Putnam county in the direction of the Morgan county line, as far as two miles, if necessary to preserve the constitutional limits in territory to the said county of Putnam; thence in a southeastern direction, so as to strike the Morgan county line north of Johnson's stand on Walton's road, at or near the same distance that it may be necessary to run east of George McCormack's; thence with said Morgan county line south to said Johnson's stand on Walton's road; thence south two degrees, west five miles to the southeast corner of said county, marked P.C.; thence west five miles with said original line to the declivity of the Cumberland mountain; thence with John Welsh's last line through White county, leaving the town of Sparta at the distance of twelve miles, to the mouth of Hutchins' creek; thence down the Falling Water with its various meanders to the east boundary line of DeKalb county, where said line crosses said Falling Water near the falls; thence in a southern direction crossing said river and with said DeKalb county line one and a half miles; thence in a northwestern direction, crossing said Falling Water between the mouth of Cane creek and Riley Medly's old place on said river, and crossing Mine Lick creek twelve miles from the town of Smithville in DeKalb county; and thence in a western direction bearing twelve miles north of Smithville to the Jackson county line; thence west with the north boundary line of DeKalb county to the Caney Fork river; thence down said river with its various meanders to the mouth of Rock Spring creek in Smith county; and thence in a northern direction to a point in the line dividing Smith and Jackson counties south of Walton's road and opposite and upper end of Major James McDaniel's farm; thence north, crossing Walton's road with said Jackson county line to the beginning.

**SECTION 3.** That for the due administration of justice in said county of Putnam, the several different courts to be holden in said county shall be held at the house of Lewis Huddleston, or some other house on his premises, in the county of Putnam as originally established, until the seat of justice for said county shall be located, and a suitable house erected for that purpose; the county court in the intermediate time

shall have full power to adjourn to such other place as they may deem proper in said county, better suited for the holding of the same 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 process returnable to either of the places shall and may be returned to the place where said courts may have been removed by the county court aforesaid; and the said county of Putnam shall be under the same rules and restrictions, and shall have the same power and jurisdiction as are possessed by other courts of the same character and denomination in the other counties in this State.

**SECTION 4.** That all officers, civil or military, in said county of Putnam, shall continue to hold their offices and exercise all of the powers and functions thereof, until others are elected and qualified under the constitution and laws made in pursuance thereof; and it shall be the duty of the justices of the peace within the limits of Putnam county, as above described, including the fraction of Smith and DeKalb counties, at the first term of the county court, a majority of said justices being present, to proceed to appoint a suitable person to open and hold elections in each civil district in the county of Putnam and the fractions of the counties of Smith and DeKalb, as above described, for the purpose of electing county officers, according to the constitution and laws of the State; and said officers so appointed by said county court shall have and exercise all the authority and power of the sheriffs of other counties in this State, in holding said elections and appointing deputies and administering oaths, and in all things pertaining to holding said elections and making returns, be governed by the laws that govern such elections in this State.

**SECTION 5.** That said election shall be held on the first Saturday in June, 1854, and all future elections at the same time of other elections in this State, as established by law; and it shall be the duty of said county court to appoint a clerk, whose duty it shall be to prepare the necessary and usual bonds required by law, and to qualify the officers so elected under this act; and the officers so elected and qualified shall have the same powers and jurisdiction, subject to the same restrictions, and have the same fees and emoluments as the officers of other counties have by law; and the said county of Putnam shall be placed on an equal footing, possess equal powers and privileges, in all respects, as other counties in this State; provided, that nothing in this act shall prevent the counties of Jackson, White, Overton, Fentress, DeKalb and Smith from exercising jurisdiction over the territory composing said county of Putnam, as they now do, until the election of county officers, and said officers shall have been qualified and given bonds according to law in said county; provided, also, that nothing in this act shall be so construed as to prevent the counties aforesaid from entering up judgment, or the sheriffs of said counties from selling under such judgment, any lands within said county of Putnam for taxes for any preceding year, or to prevent the sheriffs thereof from collecting the taxes due for any preceding year.

**SECTION 6.** That the citizens of the county of Putnam, in all elections for governor, members of congress, for president and vice president, and members of the general assembly, shall vote with the counties from which they have been stricken off, until the next apportionment under the constitution.

**SECTION 7.** That the county of Putnam shall be attached to the 4th Judicial Circuit, and the circuit courts shall be held by the judge of said circuit on the second Monday of April, August and December, in each and every year. The first court in said county shall be held on the second Monday in December next, and the citizens of said county may file bills in chancery in either of the chancery courts held at Sparta, Livingston or Gainesboro, at their option, and all appeals in nature of writs or error shall be taken to the supreme court at Nashville; and the first county court shall be held on the second Monday in April, 1854, and afterwards as the county court of the other counties of this State; and when a suitable building is prepared at the established seat of justice, it shall be the duty of the county court to inform the judge of the 4th judicial circuit, and it shall be his duty to adjourn the court over to the same.

**SECTION 8.** That the said county of Putnam shall constitute one regiment, and shall be attached to the brigade to which they now belong, and the field officers of said county shall meet at the house of the said Lewis Huddleston on the first Saturday in June, and proceed to divide the militia of said county into two regiments and designate the bounds of each regiment and the place of holding each regimental muster; the senior officer in command shall preside and proceed to organize both regiments as soon as practicable.

**SECTION 9.** That John West, Amos Maxwell, John Lee, Burton Marchbanks, and John Bohanon, and Riley Medlin, are hereby appointed commissioners to superintend the resurvey of said county of Putnam agreeable to the provisions of this act, any three of whom may act, and shall employ Madison F. Conner, of White County to survey said county, a plat of which shall be returned to said commissioners designating the center of said county, which survey shall be made as near as possible in conformity to the boundaries of said county as described in the second section of this act, having due regard to the legal rights of Putnam county, and the constitutional rights of the old counties, and it shall be the duty of said commissioners to furnish said surveyor with all the information in their power to the faithful and speedy discharge of his duty, and deposite said plat in the County Court Clerk's office at as early a day as

possible.

**SECTION 10.** And whereas, a small fraction of the north east corner of DeKalb county, adjoining the county of Putnam, and a small fraction of the eastern boundary of the county of Smith, has by the citizens of said fractional parts of DeKalb and Smith county, prayed this Legislature by petition to be attached to said county of Putnam; therefore

That so much of the county of DeKalb, as lies north of the south boundary line, of the county of Putnam as described in the second section of this act, be and the same is hereby attached to the county of Putnam, to wit: beginning at the north-east corner of said DeKalb county, and running south with the east boundary line of said county, crossing the Falling Water near the falls, and with said line one mile and a half to a corner on the White county line, thence in a north western direction, crossing the Falling Water between the mouth of Cane Creek and Riley Medlin's old place; and crossing Mine Lick Creek, bearing twelve miles from Smithville to the north boundary line of DeKalb county, and said last described line shall be regarded as the line dividing the county of DeKalb and Putnam counties, and the said county of Putnam shall have and exercise jurisdiction over the fraction north of said line, and which shall hereafter be and constitute a part of the county of Putnam, any law or usage to the contrary notwithstanding. That so much of the fractional part of the county of Smith as lies east of the Caney Fork river, and a line running from the mouth of Rock Spring Creek in a northern direction to the eastern boundary line of said county of Smith as described in the second section of this act, establishing the boundary line of the county of Putnam, is hereby established as a part and parcel of the said county according to the prayer of the petitioners, and said Caney Fork river and line as above described, shall be the boundary line between the counties of Smith and Putnam counties; and all the citizens east of said river and line shall be subject to the authority, and under the jurisdiction of the county of Putnam, any former law or usage to the contrary notwithstanding; and it shall be the duty of the surveyor that surveys the county of Putnam, to include said territory in the county of Putnam as described by the second section of this act.

**SECTION 11.** That as soon as the survey of Putnam county is completed, and the center of the county found and shown to the commissioners by the said surveyor, and a plat of the same furnished them by the said surveyor, they shall deposite the same in the Clerk's office of the County Court, and it shall be the duty of said County Court to appoint at least nine commissioners to lay off said county, into not less than nine nor more than twelve civil districts of as near an average number of voters as practicable, and to suit the convenience of the citizens, and designate the place of holding the elections in each district describing the boundary, and the number of each civil district; the center district being (No.1). And it shall be the duty of said County Court to appoint three of said commissioners from the fractional part of Jackson county, and two from the fraction of Overton, and two from the fraction of White, and one from the fraction of Dekalb, and one from the fraction of Smith, and one from the fraction of Fentress county, and if any of said commissioners fail or refuse to act, the vacancy may be filled by the appointment of another commissioner in said fraction by any three of the board, and any five shall constitute a quorum, and do the business and report to the next County Court.

**SECTION 12.** That Joshua R. Stone, and Doctor Green H. Baker, of White county; Austin Morgan, and Maj. John Brown, of Jackson; and William Davis, and Isaiah Warthon, of Overton county; and William B. Stokes, and Bird S. Rhea, of DeKalb county; and Benjamin A. Vaden, and Nathan Ward, of the county of Smith, be and the same are hereby appointed commissioners to locate the seat of Justice for the county of Putnam, any five of whom shall have the power to act as a body; seven members shall constitute a quorum, and one from each county may act and adjourn from day to day, or fill any vacancy that may occur by the refusal of any of said commissioners to act, or from any other cause by appointing a disinterested man from the same county, such vacancy or refusal to act may occur, and it shall be the duty of the commissioners first appointed by this act, to superintend the surveying of said county on the receipt of the plat, and the center of said county, being shown to them by said surveyor, to appoint a day giving said commissioners ten days' notice at least to meet at the said center of the county of Putnam, and proceed to examine the different sites or places in the vicinity of the said central point of said county of Putnam, which may be deemed suitable for the county seat of said county, and after full examination it shall be the duty of said commissioners to select the nearest suitable site to said central point for the location of said town or county seat, taking properly into consideration the necessary quantity of water as well as the situation of the ground, and then and there place a stake at or near the spot where said court-house, for said county shall be erected, which spot so selected shall not exceed two miles and a half from the center of said county; and it shall be the duty of said commissioners or a majority of those who may act, to report to the next County Court of said county, specifying the place where they have selected as the site of said county of Putnam, and which shall be thereby established.

**SECTION 13.** That so soon as the said commissioners shall report, it shall be the duty of said County Court to appoint five commissioners, who shall proceed to lay off a town at the place designated, to be named Cookeville, in honor of Maj. Richard F. Cooke, of Jackson county, with as many streets and of such

width as they may deem proper, or necessary, reserving at least two acres and a half for a public square; a lot for a public jail, and for a male and female Academy, and for the erection of a church for public worship.

**SECTION 14.** That said commissioners, of said town shall first proceed to purchase or procure by donation, at least twenty acres of land, including the town to be laid off on the best terms they can, and report the same to the County Court, which title shall be made to the chairman of said Court and his successors in office for the use and benefit of said county of Putnam.

**SECTION 15.** That the said commissioners of said town shall, after said purchase and the laying off of said town is completed and a plan of said town laid down, proceed to sell the lots in said town on a credit of at least twelve months, first giving due notice thereof in some newspaper printed in this State, and shall take bond with sufficient security for the purchase money, payable to themselves and their successors in office, and shall make titles in fee simple to the respective purchasers of said lots; and the proceeds of the sale of said lots shall be a fund in the hands of said commissioners for defraying the expenses incurred in purchasing the land on which the town is erected, and for erecting the public buildings.

**SECTION 16.** That said commissioners shall superintend the building of a courthouse and jail, and let out the building of the same and upon such terms and of such dimensions as the county court of said county shall direct or order, and shall take bond and good security from the undertaker, payable to themselves and their successors in office, for double the sum for which said building may be undertaken, conditioned for the faithful performance of the contract.

**SECTION 17.** That the said commissioners, before they enter upon the duties of their offices, shall take and subscribe the following oath before the county court of said county, that they will well and truly perform the duties assigned to them by this act to the best of their ability, and shall moreover execute bond and security in the same of ten thousand dollars to the chairman of the county court, conditioned for the true and faithful performance of their duties, as enjoined upon them by this act, which bond shall be filed in the clerk's office of said county; and the said commissioners shall keep a fair and regular statement of all the monies received and expended, which statement, when required, shall, from time to time, be laid before the county court, and when all of the public buildings are completed, pay over what may remain, if any, to the county trustee of said county; and it shall be the duty of the county court to make a reasonable allowance to all the commissioners and surveyor, appointed under the provisions of this act, to be paid out of the treasury of said county.

**SECTION 18.** That an academy is hereby established at Cookeville in said county, with all the rights and emoluments of other counties in this State, and the county court shall appoint trustees, as in other counties, and shall name said academy.

**SECTION 19.** That if Madison F. Connor, the surveyor appointed by this act to survey said county of Putnam, shall refuse, or from any other cause fail to discharge the duties enjoined on him by this act, then the commissioners appointed by this act to superintend the surveying of said county, or any two of them, may, and it shall be their duty, to employ the county surveyor of Smith county to survey said county of Putnam, under all the provisions and restrictions provided for in the ninth section of this act; and it shall be the duty of the county court to provide for the payment of the same out of the county treasury.

**SECTION 20.** That it shall be the duty of the Clerk of the County Court of Putnam county, within three months after the said Clerk shall be elected and qualified, to call on the clerks of the Courts or other officers, who may have or hold the possessions of the original records of the county of Putnam, either in the county of Jackson, White, or Overton county; and it shall be the duty of said clerk or other person to deliver all marriage license and bonds of license, and the county Register Books, properly belonging to the county of Putnam, to the said clerk of Putnam county, whose duty it shall be to file said papers in his office, as future evidence of said transfers of land and marriages in said county, during the former two years existence of said county of Putnam, and all said transfers and sale of lands and marriages shall be as valid and legal as if said county had never been abolished.

**COMPILER'S NOTE:** Section 21 does not concern Putnam County. Therefore, it has been omitted.

**SECTION 22.** That the justices of the peace and constables that shall or may be elected at the next March election, which shall or may reside within the limits or bounds of said county of Putnam, as described in the second section of this act, shall continue to hold said offices until the next regular election, according to the constitution of this State, and nothing in this act shall be construed to the contrary notwithstanding; provided nevertheless, that when said county of Putnam is organized and the civil districts laid off, that said justices of the peace and constables shall be required to give such bonds to the county court of Putnam county as other officers of the same grade are required to do in this State; and the original bonds they may have given in the old counties, shall cease to be longer in force against

said officers; and each civil district shall at the first election fill all vacancies for said officers so that each district shall have two justices of the peace, and one constable, according to the constitution.

**COMPILER'S NOTE:** Sections 23, 24 and 25 of this act did not affect Putnam County and are omitted for that reason.

Passed: February 11, 1854.

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