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# Creation of the County

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Sincerely,

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# Creation of the County

## Acts of 1839-40 Chapter 10

**SECTION 1.** That a new county be, and the same is hereby established, by taking a part of the counties of M'Minn and Bradley, to be known and distinguished by the name of Polk County, in honor of his Excellency James K. Polk, Governor of the State of Tennessee.

**SECTION 2.** That the beginning corner of the county of Polk, hereby established, shall commence at the Georgia line, due south of the Boat Yard, on Conasauga river, then to the Boat Yard, thence in a north-easterly direction, in a straight line to James Foreman's old place, in Bradley county, then with the Armstrong ferry road to Armstrong's ferry, on Hiwassee river, then across the river and running with said road to the place where the line of the seventeenth civil district crosses the road in M'Minn county, then running with said district line until it strikes the boundary line between the Ocoee district and the Hiwassee district, then north to the corner of fractional township one and two north in range three east of the base line in said Ocoee district, then with said fractional township line south seventy degrees east to the North Carolina boundary line, then with said line to the Georgia line, then with the Georgia line to the beginning.

**SECTION 3.** That for the administration of justice for the said county of Polk, the several courts thereof shall be held therein at the town of Columbus, until the seat of justice for said county shall be located; and after the seat of justice shall be established, as hereinafter provided, for said county, the justices of the peace within said county, a majority being present, may at any county court thereafter held in said county, adjourn the sessions of said court to meet at the county seat to be so established, and the county courts and circuit courts shall thereafter be held at the county seat so adjourned to at such times as shall be prescribed by law. And all writs, recognizances, and other process made returnable to either of said courts at the town of Columbus, shall, after such adjournment made as aforesaid, be returned to said courts respectively at said county seat, and shall be as good and valid, and have all the legal effect as if on the face thereof they, any, or either of them had been made returnable to such county seat; and the said courts to be holden in and for said county of Polk, shall be under the same rules, regulations, and restrictions, and shall have, hold, exercise and possess the same powers and jurisdictions as are incident by law to the same courts in other counties in this State; and said county shall be attached to and form a part of the third Judicial circuit, and the circuit courts of said county shall be holden on the second Mondays of February, June and October, and at each term shall continue in session for one week, unless the business on the docket thereof shall be sooner disposed of: Provided, nothing in this act contained shall be so construed as to prevent the several courts of McMinn and Bradley counties from entertaining and exercising jurisdiction in all causes now pending or shall be pending in said courts at the time said county of Polk shall be organized as herein provided.

**SECTION 4.** That it shall be lawful for all officers, civil and military, within the bounds of said county of Polk, to hold their offices, and to exercise all the powers and authority by law appertaining thereto, until other officers shall be elected as provided by this act. The county of Polk shall elect her officers on the same day, and under the same rules and regulations, and in the manner provided by law for the election of such officers in other counties in this State, and shall be placed on equal footing, and possess equal powers and privileges in all respects with other counties in this State: Provided, nothing in this act contained shall be so construed as to deprive said counties of Bradley and M'Minn from having and exercising jurisdiction, as heretofore, over the territory included within the bounds of said county of Polk until the organization thereof as provided in this act: and provided further, that nothing herein contained shall be so construed as to prevent the sheriffs of M'Minn and Bradley counties from levying within said county of Polk, so taken from either county respectively, for taxes that may be due them, and selling for the same; and provided, the courts of M'Minn and Bradley counties shall, as heretofore, have power and authority to enter up judgments and condemn lands to sale within the limits of Polk county aforesaid for any taxes that may be due on the same to said sheriffs of M'Minn and Bradley respectively.

**SECTION 5.** That John Towns, Jonas Hoyl, James Hawkins, Andrew Stevenson, Erbey Boyd, John Williams, Allen Armstrong, Thomas Harper and John F. Hannah be, and they are hereby appointed commissioners, a majority of whom shall have authority to act, who shall, on the first Saturday of February, 1840, first giving twenty days notice at four of the most public places in the said county of Polk, open and hold an election for the purpose of fixing upon a suitable site for the county seat of said county; all those residing within the bounds of said county, who are entitled to vote for members of the General Assembly, shall be entitled to vote in selecting said site, and said election shall be held at seven several places, to be designated in said county, for the convenience of voters, by said commissioners in the notice of the election herein required to be given; and it shall be the duty of the commissioners to select and put

in nomination, to be voted for, two of the most eligible sites in their estimation for such county seat in said county, and the place receiving a majority of all the votes taken shall be, and the same is hereby established the county seat of said county of Polk, and said commissioners are hereby authorized to appoint suitable persons, and to administer to them the proper oaths, as officers and judges, to open and hold the election at the several places that may be appointed to vote, and to make return of the polls to the town of Columbus, where they shall be compared on the Monday next succeeding the day of election.

**SECTION 6.** That said commissioners are hereby authorized to purchase or otherwise procure a sufficient quantity of land, upon which to lay off a town, and to erect all necessary public buildings for said county, at the place selected by the qualified voters as aforesaid, and the commissioners shall take, to themselves as commissioners of the county of Polk, and their successors in office, a deed or deeds of conveyance, with general warranty, for the lands by them so purchased or otherwise obtained.

**SECTION 7.** That it shall be the duty of the commissioners herein appointed to cause a town to be laid off at said county seat into lots, streets and alleys, of such size and width as they may deem necessary and proper, reserving a sufficient quantity of land for a public square and for the public buildings, and when so laid off the town shall be called and known by the name of Benton, in honor of the Honorable Thomas H. Benton, a Senator in the Congress of the United States.

**SECTION 8.** That it shall be the duty of the commissioners of said county of Polk to sell all the lots in said town of Benton upon a credit of twelve months, after first giving thirty days notice of the time and terms of said sale in one newspaper at Athens, and one in Knoxville; and the commissioners shall take bond, with sufficient security, from the purchasers of said lots, payable to themselves as commissioners as aforesaid, and their successors in office, and they are hereby authorized and empowered to make to the purchasers of said lots titles in fee simple for the same.

**SECTION 9.** That the proceeds of the sales of the lots aforesaid shall be a fund in the hands of said commissioners to defray the expenses incurred in the purchase of the lands upon which said town may be located, and also the expenses of erecting the public buildings of said county.

**SECTION 10.** That said commissioners shall superintend the erection of the court-house and jail, and other necessary public buildings in said county; and they are hereby authorized and empowered to let out and make contracts for the erection of such public buildings as shall be ordered by the county court of said county, a majority of said justices being present, and upon such terms and conditions as said court, a majority being present, shall direct; and the commissioners aforesaid shall take bond, with sufficient security, from the contractor or contractors, in such penalties as said court shall prescribe, payable to themselves as commissioners of the county of Polk as aforesaid, and their successors in office, conditioned for the faithful performance of such contract or contracts as the case may be.

**SECTION 11.** That it shall be the duty of said commissioners to report all proceedings by them had under this act to the first county court of said county of Polk, to be holden therein after the first day of September next, and it shall be the duty of said court to enter the same upon their records.

**SECTION 12.** That said commissioners, before they enter upon the duties of their office, shall take an oath before some judge or justice of the peace, to honestly and faithfully perform the duties assigned them by this act, to the best of their judgment, and they shall moreover enter into bond, with approved security, in the penalty of five thousand dollars, payable to the chairman of the county court of Polk county, and his successors in office, conditioned for the due and faithful performance of the duties enjoined upon them by this act, and for the just application or forthcoming of such funds as shall come to their hands as commissioners aforesaid.

**SECTION 13.** That said commissioners shall keep a regular and fair statement and account of all monies by them received and expended, which statement shall, from time to time, when required by the county court of Polk county, be laid before said court, and when the public buildings of said county shall be completed, said commissioners shall, by order of said court, pay over any surplus money that may be in their hands, to the county trustee of said county, for county purposes, and they shall be allowed for their services such reasonable compensation as shall be adjudged them by said county court.

**SECTION 14.** That should any vacancy happen in the board of commissioners hereby appointed, by death, resignation, or refusal to act, of any one or more of said commissioners, the county court of said county, a majority of the justices being present, is hereby authorized, from time to time, to fill such vacancy by appointing another, who shall take a similar oath and enter into a similar bond to that herein prescribed for the other commissioners.

**SECTION 15.** That Abram Lillard, James M'Kamy, William Shields, Samuel Parks, John S. O'Neal, \_\_\_\_\_ Wells and Jacob Moore, or a majority of them, shall have power and authority, and they are hereby appointed commissioners to lay off said county into seven civil districts, in which there shall be elected justices of the peace and constables at the time prescribed by law for electing such officers in

other counties in this State.

**SECTION 16.** That David Ragan is hereby authorized and empowered to open and hold an election in each civil district in said county of Polk for sheriff, county and circuit court clerks, county trustee, county register, and other county officers authorized by the constitution to be elected by the people, on the same day prescribed by law for the election of such officers in other counties; and before he enters upon the duties of his appointment, he shall take an oath faithfully and honestly to perform the duties herein enjoined upon him, and he is hereby authorized and empowered to appoint as may deputies as may be necessary to assist him in holding said election, the polls of which shall be compared at the town of Columbus.

**SECTION 17.** [That] the commissioners of the county of Polk be, and they are hereby authorized, at any time after the passage of this act, to select two quarter sections of land in said county of Polk, which may be vacant and unappropriated, and to which there may be no bona fide occupant claimant or claimants, and said commissioners shall notify the entry taker of the Ocoee district of such selection, and it shall be the duty of said entry taker to mark such quarter sections upon his general plan, as selected by said commissioners, and said quarters shall not thereafter be subject to the entry of any other person or persons, but said commissioners may, at any time before the first day of August, 1841, enter said quarter sections in said entry office in their names, as commissioners of the county of Polk, upon paying to the entry taker at the time of such entry twenty-five cents per acre for land so entered; and it shall be the duty of the register of the Ocoee district, upon such entry, to issue to said commissioners, and their successors in office, a grant or grants for said lands, which lands the commissioners aforesaid are hereby authorized to dispose of or appropriate in such manner as they may deem most advisable for the purpose of aiding in making the public buildings in said county.

**SECTION 18.** That James M'Kamy be, and he is hereby appointed, to run and mark the lines in this act designated dividing the counties of Bradley and M'Minn from the county of Polk, and he shall receive for his services such compensation as shall be allowed him by the county court of Polk, to be paid him by the commissioners of said county, out of any monies that may be in their hands belonging to said county of Polk.

Passed: November 28, 1839.

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