

MINNESOTA STATUTES 1953 ANNOTATIONS

368.49 SPECIAL PROVISIONS; TOWNS

1002

The county board is without authority to spend moneys for the acquisition or maintenance of a private telephone system existing for the benefit of certain settlers. OAG Jan. 26, 1949 (125-A-55).

Where the county board has adopted a resolution dissolving the town government of a town, the town is thereby dissolved. It does not exist. The county board cannot create a new town where one does not now exist by amendment of a resolution adopted at a former meeting. If a town government is desired proceedings must be taken in accordance with the statutes for the organization of the town government. OAG Dec. 23, 1947 (441-B).

Where a town was dissolved under the provisions of section 368.47, a petition may be made under the authority of section 379.01 asking for organization of the area as a town. Section 379.01 is a statute granting a right. A specified number of legal voters in a specified area have a right to petition the county board to be organized as a town. The county board is required to act thereon but under the provisions of section 368.47 it is optional with the board to dissolve a town that fails to meet the requirements contained therein. OAG April 1, 1949 (441-B).

The county board may by resolution dissolve a town but, under Laws 1937, Chapter 419, the dissolution becomes effective upon the approval of the freeholders of the town. A town may be dissolved under the provisions of section 365.45 where the electors of the town may themselves dissolve the town, probably by placing the question on the ballot under the provisions of section 212.03. OAG April 27, 1949 (441-B).

368.49 DISTRIBUTION OF FUNDS

HISTORY. 1925 c 40 s 3; MS 1927 s 1002-3; 1949 c 326 s 1.

368.52 TAX LEVY TO RETIRE BONDS

HISTORY. 1939 c 287 s 3; 1951 c 397 s 1.

368.56-368.58 Local, Hennepin County.

368.59 Obsolete.

368.79 REMOVAL OF GARBAGE

No charge can be made to householders using their own garbage disposal unit, nor may a charge be made for the period when householders are absent from the city and not using the municipal garbage disposal service. OAG Aug. 22, 1952 (59-B-4).

A town has the right to provide a public dumping ground, purchase land therefor, and employ an overseer or watcher thereof. OAG Aug. 16, 1949 (434-A-6).

368.85 FIRE PROTECTION

HISTORY. 1949 c 204 c 1-9.

COUNTIES; COUNTY OFFICERS

CHAPTER 370

NEW COUNTIES, CHANGE OF BOUNDARIES

NOTE: The county as a unit of government, is older in point of time than either the state or the town.

MINNESOTA STATUTES 1953 ANNOTATIONS

1003

NEW COUNTIES; CHANGE OF BOUNDARIES 370.01

The word "county" signifies the same as the word "shire;" county being derived from the French and shire from the Saxon. Both words signify a portion of the realm into which the whole land is divided for the better government thereof and the more easy administration of justice.

As defined by Blackstone, a county is a civil division of a state or a kingdom for political and judicial purposes, formerly governed in England by an earl or count.

Kent defines a county as a public corporation created by the government for political purposes and invested with subordinate legislative powers, to be exercised for local purposes connected with the public good; and such powers are subject to the control of the legislature of the state.

The county existed as a community prior to the Roman Conquest and was governed by an ealdorman. After three centuries of Roman rule, and during the conquests of Britain by the Angles, Saxons, and Jutes, many new earldoms were created. By 449 A.D. these communities had definite boundaries, and for common protection the ealdormen selected one of their number as king.

The "shire-moot" consisted of the ealdorman, the sheriff, the bishop, and a reeve from each town. Their annual meetings were most elaborate affairs.

Wars between these independent counties brought about the unofficial position of thegn, forerunner of the landbaron, as a representative of the king. Under Eadwine the ealdorman was recognized as the superior officer; but the power of the thegn gradually increased. In 890, under Alfred the Great, the thegn was of noble rank and policed the county, commanded the military, and laid the taxes. The sheriff was an arm of the court and collected the taxes, while the earl presided over the shire-moot. The office of sheriff probably came into existence in the reign of Canute (1017-1035) at the time the four great earldoms were formed from the fifty counties and it was no longer possible for the earl to perform all his various administrative duties in person.

In the 12th century the office of coroner was created.

The county was from an early period regarded as a community and approached the King as a corporate body. It was an organic whole for the purpose of the conservation of the peace.

Under the Normans the earls and barons lost power. The kings were of foreign birth, and brought in their own retinue.

Under Richard I and John, the town became the unit of local government, and the office of town reeve became important.

Royal control was strengthened when Richard III created the office of justice of the peace and appointed the justices.

During the War of the Roses local government reached its lowest point of effectiveness. Edward I restored the earl and the sheriff to a high plane of power. Under Henry IV the earl was advisor to the King. The knight of the shire was elected to the House of Commons and represented the people. The sheriff presided over the shire-moot, then called the sheriff's court.

Between 1373 and 1692 the Crown granted to certain cities and boroughs the privilege of being counties of themselves, and they still remain counties.

The habit of treating the county as the unit of local government is one that dates back beyond the colonies. The idea of a government by means of counties was imported to the American colonies with the common law of England, and entered naturally into the frame of all their colonial governments, from whence it passed by easy transition into the government of the states. The usual state constitution does not expressly provide for counties. This division of government is taken for granted.

The Minnesota constitution inferentially recognized the existing territorial counties and authorized the legislature to change county boundaries and to create new counties.

MINNESOTA STATUTES 1953 ANNOTATIONS

370.01 NEW COUNTIES; CHANGE OF BOUNDARIES

1004

Most of the states are divided into counties for administrative purposes, the exceptions being Louisiana and some of the New England states.

In Minnesota the legislature created nine counties in 1849. Of these, the counties of Washington, Ramsey, and Benton were organized and the other six were established for the purpose of appointing justices of the peace and constables. Each of the unorganized counties was attached to an organized county for judicial purposes. In 1866 the state was divided into 73 counties, but only about one half of these were organized counties. There are now 87 counties in the state.

Each of these counties is a political governmental subdivision of the state, and is subject to legislative control; it is created by law and has only such powers as are conferred upon it. It is not an independent entity, but is an arm of the state government, formed for administrative convenience. It is not strictly a municipal corporation, but the legislature may authorize a county to perform specified powers of a municipality.

370.01 CHANGE OF BOUNDARIES; CREATION OF NEW COUNTIES

Counties are involuntary political corporations organized as subdivisions of the state for governmental purposes. Within constitutional limitations, the control of the legislature over counties is absolute. The general powers of the county board are prescribed by statute, and are purely statutory. There is no authority granted by section 275.18 or elsewhere empowering the county to lease fairgrounds owned by the county to private person for private purposes. OAG Feb. 2, 1948 (772-C-5).

370.18 RECORDS TRANSCRIBED

The present register of deeds of a new county should transcribe into his records from the records of the register of deeds of the old county the records therein omitted or overlooked in transcriptions made by his predecessors in office. OAG Sept. 11, 1950 (106-F) (373-B-18-C).

CHAPTER 373

POWERS, DUTIES, PRIVILEGES

373.01 POWERS

Counties are involuntary corporations, organized as political subdivisions of the state for governmental purposes, and are not liable for neglect on the part of their officers or agents unless expressly made so by statute. *Hitchcock v Sherburne County*, 227 M 132, 34 NW(2d) 342,

Under section 465.035 a county may, for public use, convey real estate to a village pursuant to a resolution of the board of county commissioners without meeting the requirements of section 373.01. *County of Hennepin v City of Hopkins*, M, 58 NW(2d) 851.

Public funds may not be expended in lobbying for benefits to accrue to the county or to the people of the area. OAG April 17, 1947 (107-B).

A county is without authority to adopt a curfew ordinance. OAG July 14, 1948 (125-A-14).

The county board operates within authority conferred by the legislature beyond which it cannot go. It cannot agree to indemnify the United States against loss. OAG March 18, 1949 (125-A-16).

The only consideration for a sale of the former Ramsey county courthouse and St. Paul city hall site must be the highest price obtainable and the proceeds must