

to adopt an instrument of home rule, that is, mandatory home rule.

Second, was whether to provide powers to the counties through a sharing of the State's powers, or by an express grant of enumerated powers.

Third, was how to limit public local legislation without at the same time unduly restricting the General Assembly in areas where state policy or interest requires action affecting localities.

Fourth, was how to provide a workable relationship between municipalities and the county and State; and

Fifth, was what provisions should be made for the solution of regional problems.

First, mandatory county home rule: This is covered in section 7.03. Unlike the counties of other states, Maryland's counties have been more than just administrative arms of the State. Counties have exercised extensive local policy-making and governing powers. The Committee therefore concluded that county governments should be strengthened.

At present Maryland counties are the units best able to furnish efficiently those local governmental services which should be provided to larger areas.

Although in some counties, municipalities furnish many local services, our investigation shows that the trend is toward provision of most local services by the counties.

Of course, the recommendation requires that each county adopt a form of home rule government that is suited to its particular circumstances, and that will permit it to perform functions and administer the powers it will obtain under the new Constitution.

Mandatory home rule had virtually the unanimous support of all the witnesses who testified and appeared before the Committee.

Second, shared powers for counties: this is covered in recommended section 7.05. We strongly recommend that the Constitution also provide that the State share its powers with the counties, except the powers denied the counties by the Constitution, by law, or by the counties' own instruments of government.

What do we mean by "shared powers"? There is no mystery to the phrase. We mean just what the words say. Counties could act freely, just as may the General Assembly, but, and this is the big "but",

first, the county could not act where a law of the General Assembly occupies the field. For instance, the law on wills, the commercial code, the landlord-tenant law, and most of the laws in the Maryland Code. These would preempt the field and prevent the county from acting in a way inconsistent with those general laws. Second, the county could not act if the General Assembly specifically said the counties could not act in a particular field.

For instance, the General Assembly might wish to deny counties the right to pass air pollution laws and require them to follow statewide or regional standards. The General Assembly has prohibited all counties from permitting slot machines.

THE CHAIRMAN: Delegate Moser, I think your presentation is obviously going to continue for some time. I think we had better suspend.

The Chair recognizes Delegate Powers.

DELEGATE POWERS: Mr. Chairman, I move the Committee of the Whole rise and report to the Convention that we still have under consideration Committee Recommendation LG-1.

THE CHAIRMAN: And have approved Committee Recommendation GP-3?

DELEGATE POWERS: And that Committee Recommendation GP-3 has been approved, with amendment.

THE CHAIRMAN: Without amendment.

DELEGATE POWERS: I am sorry—strike the "with amendment" and say "approved."

THE CHAIRMAN: Is there a second?

(The motion was duly seconded.)

THE CHAIRMAN: All those in favor, signify by saying Aye; contrary, No. The Ayes have it. It is so ordered.

(Whereupon, at 12:25 P.M., the Committee of the Whole rose, and the Convention reconvened.)

(The mace was replaced by the Sergeant-at-Arms.)

PLENARY SESSION

NOVEMBER 14, 1967—12:25 P.M.

PRESIDENT H. VERNON ENEY,
PRESIDING

THE PRESIDENT: The Convention will please come to order.