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Local Government

COUNTY HOME RULE AND CHARTER MAKING¹

NOTE ON HOME RULE

As has been stated time and again, the term "home rule" lacks a rigid definition. Historically, the home-rule movement was an attempt to create, to some small degree, a federal relationship between the states and their political subdivisions. The movement found its greatest impetus in urban areas, which resented the rurally dominated state legislatures' interference through local and special laws.

As the home-rule movement grew, the desire to divide state from local functions was coupled with the adoption of local charters. Thus, in the first home-rule provision, which was included in the Missouri Constitution of 1875, Sections 20 to 26 of Article IX endowed St. Louis with certain powers of local self-determination, including the power to "frame a charter."

DEVOLUTION OF POWER AND CHARTER MAKING

It must be pointed out that, although most constitutional grants of home-rule powers only become applicable with the adoption of a charter, there is no reason this must always hold. Thus, the Idaho Constitution—Article XII, Section 2—grants to all counties and incorporated cities and towns the power "to

make and enforce, within its limits, all such local police, sanitary and other regulations as are not in conflict . . . with the general laws." Yet the Idaho Constitution does not include a charter-making provision. Therefore a constitution could include a mandatory devolution of power on the political subdivisions while leaving the question of charter-making to local determination.

ALTERNATIVES TO CHARTER MAKING

At present, the following eight state constitutions authorize the legislature to establish optional forms of county government: Georgia (1945), Louisiana (1921), Missouri (1945), Montana (1922), New York (1935), North Dakota (1940), Ohio (1933), and Virginia (1928). There is no reason that a similar system could not be adopted in Maryland. Since political subdivisions will already have received a grant of power, it would seem that the code county proposal should not be included in a new constitution, but rather should

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