

## CONSTITUTIONAL REVISION AND MUNICIPAL HOME RULE

The query is presented: Does the present State constitution contain, either expressly or by implication, undesirable provisions affecting the subject matter of municipal home rule? This is supplemented by the suggestion that possibly the constitution could be amended with a view to expressly giving powers to the municipalities which they do not or cannot enjoy under the present constitution.

I have studied the constitution pretty thoroughly and cannot find any provision in it which unduly restricts municipalities. Any legislation of a practical character required to give municipalities any rights and privileges which they do not now have under the law can readily be granted and fixed by legislation which in no measure will conflict with the constitution.

What is it that municipalities want or require that they can't have with legislative assent? Further, what restrictions on the municipal government that are not now fully provided by law should be further imposed upon municipalities? There is nothing in the constitution, as now written, which prevents the Legislature from *limiting* the powers of municipal governments in any practical direction required. Municipalities are all creations of the Legislature, constituted under legislative control. They should be. There is no reason in the world why any municipality, Jersey City, Newark, or any other, should be a little kingdom all by itself. Restraint and control by the Legislature has been the salvation of more than one municipality.

Prior to 1875, special legislation particularly applicable to individual communities had almost developed into a scandal. That was all corrected by the amendments adopted by the Legislature years ago providing that the Legislature should not pass private, local or special laws in any of the enumerated cases specified in the constitution as amended, particularly by

the provisions relating to the internal affairs of towns and communities; appointing local offices and commissions to regulate municipal affairs; and that provision reading "providing for the management and support of free public schools." The constitution therefore now provides that all these things and others mentioned in the amendments referred to shall be governed by general law.

Under our constitution, as now written, legislation has been enacted creating state boards and commissions which have limited control of municipalities and their financial operations. I personally would like to see these laws strengthened, but this can be done by legislative enactment at any time under the constitution as it is.

The present so-called home rule legislation now on our statute books seems very ample, in my opinion, but as suggested, if it needs further amplification, simple legislation can readily meet such requirement. The home rule cry has no basis in the propaganda for a new constitution.

I have been asked to write simply on this limited phase of the situation. Frankly, I feel what I have said covers this phase fairly completely, so I will stop right here.

ROBERT CAREY.