

# Foundation & Structure — of — County Government

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# The Idaho Constitution and Counties

- The Idaho Constitution specifies:
  - Form and structure of county government ([Article XVIII](#))
  - County officers and basic roles ([Article XVIII, Section 6](#))
  - County law making powers ([Article XII, Section 2](#))
  - County taxation powers ([Article VII, Section 6](#))
  - Limitations on county indebtedness ([Article VIII, Section 3](#))
  - Uniformity in county governments ([Article XVIII, Section 5](#))

# Statutory Authority of Counties

- Crimes & Punishment ([Title 18](#))
- Criminal Procedure ([Title 19](#))
- Juvenile Corrections ([Title 20, Ch. 5](#))
- County Jails ([Title 20, Ch. 6](#))
- County Government ([Title 31](#))
- Elections ([Title 34](#))
- Highways ([Title 40](#))
- Taxation ([Title 63](#))
- Purchasing ([Title 67, Ch. 28](#))
- Land Use Planning ([Title 67, Ch. 65](#))
- Open Meetings ([Title 74, Ch. 2](#))
- Public Records ([Title 74, Ch. 1](#))
- Ethics ([Title 74, Ch. 4](#))
- Contracts with Officers ([Title 74, Ch. 5](#))

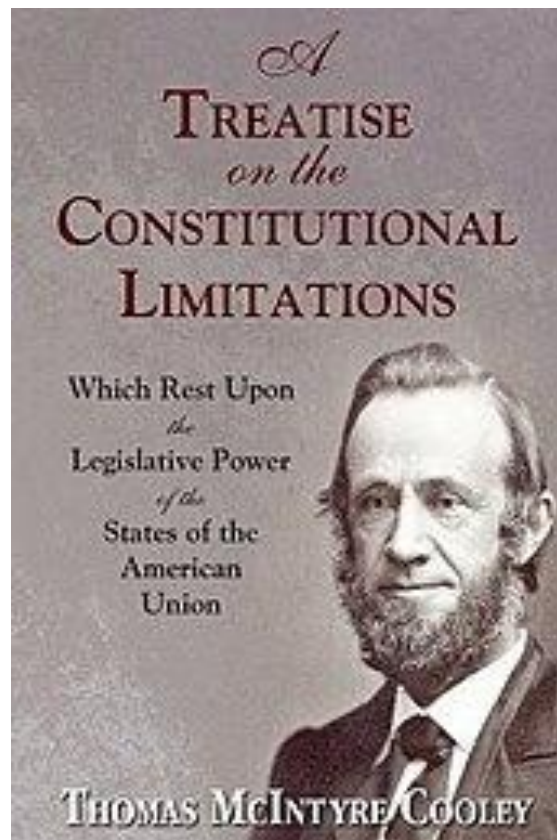
# Dillon's Rule



"Municipal corporations owe their origin to, and derive their powers and rights wholly from, the legislature. It breathes into them the breath of life, without which they cannot exist. As it creates, so may it destroy. If it may destroy, it may abridge and control."

*Clinton v Ceder Rapids and the Missouri River Railroad, 24 Iowa 455 (1868)*

# Home Rule (Cooley Doctrine)



"Local government is [a] matter of absolute right; and the state cannot take it away."

*People v Hurlbut*, 24 Mich. 44, 108 (1871)

# Dillon's Law vs Home Rule in Idaho

- Idaho is a "Dillon's Law" state:
  - "Every county is a body politic and corporate, and as such has the powers specified in this title or in other statutes, and such powers as are necessarily implied from those expressed." (§31-601)



# Police Powers, Quasi Judicial Powers, and Government Powers

- Police power is the authority to enact and enforce laws
- Government power is the authority to administer government functions
- Quasi judicial power is the authority of a non judicial body to make a judgement of decision which has the affect of law

# County Police Powers ([Article XII, Sec. 2](#))

“Any county or incorporated city or town may make and enforce, within its limits, all such local police, sanitary and other regulations as are not in conflict with its charter or with the general laws.”



# County Government Powers (§31-604)

- Sue and be sued
- Enter into contracts
- Purchase or lease real or personal property
- Levy and collect taxes
- That which is “necessary to effectively carry out the duties imposed ... by ... Idaho code and [the Idaho] constitution.”

# State Mandates

- Most county services are mandated by state code or the constitution
- A mandate is a services which counties are required by law to perform
- Constitutional mandates includes things like uniformity in county governance, uniformity in the judiciary, and uniformity in taxation, etc.
- Statutory mandates include services like consolidated elections, property tax administration, felony prosecution, district court operations, etc.



# Jurisdictional Authority of Counties

- All Idahoans reside in a county, BUT:
  - County ordinances only apply in the unincorporated areas of the county
  - City ordinances apply within incorporated areas of the county
- Example:
  - A county land use ordinance cannot be enforced within the limits of an incorporated city
  - A city's animal control ordinance cannot be enforced in the unincorporated areas of a county

# Forms of County Government

- Traditional form of county government
  - 3 member BOCC with elected officials ([Article XVIII, Sec. 6](#))
- Optional forms of county government:
  - BOCC-Executive ([Title 31, Ch. 52](#))
  - BOCC-Manager ([Title 31, Ch. 53](#))
  - 3 member BOCC with appointed officials ([Title 31, Ch. 54](#))
  - 5 member BOCC with appointed officials ([Title 31, Ch. 55](#))
  - 7 member BOCC with appointed officials ([Title 31, Ch. 56](#))

