

US Constitution is silent on towns and cities because there is no mention. Although local governments existed, so Courts made judgments.

A. Business

B. Revolution drives evolution

1. 1600s-1700s municipal corporations

1) Kings give right to govern to private corporations

a) Single authority to rule

i) Mayors appointed for life or the king liked you

ii) Right to participate in local politics required land

- Often secret and dominated by commercial elites

b) Focus on commercial protection

i) Control access of market → make money

- Sales tax

- Price fixing for commodities

ii) Commercial public works

- Ports and wharfs were used to help with trade

- Nothing about public health/safety

- Little law enforcement

2. Post-Revolution

1) Colonial structures in limbo

a) Charters were given by king

i) What happened to charters/mass corporations

b) Liberals distrusted liberal corporations

i) Ran by elites

ii) Wanted to get rid of municipality corporations

- Venue shopping/shifting

2) Venue shopping/shifting

i) Populists/liberals used state legislature to impose laws

- Get rid of municipal charters because it's bad for country

- Charters resisted

- Could state come in and revoke charter?

ii) Municipal governments were contracts

- Are they now illegal/null/void?

- Article 1, Section 10 prohibits state from passing laws that impair contracts → state effort to revoke contracts are illegal because it would be economic chaos

- Article 4, Section 4 all states shall have republican form of government → private corporation is not republican

3. Dartmouth v Woodward

1) Background

a) 1769, king granted charter for Indians

i) 1815, trustee fired president

- Fight over who should be president

- President appealed to NH legislation and repealed

- Appointed new college officials
 - ii) School says state violated contract
 - State says control was null after Revolution
 - State has power
 - b) Court ruled in favor of college
 - i) College charter is still a contract
 - State has no right to eliminate it
 - Marshall says contract could be revoked
- 4. Post-Revolutionary reforms
 - 1) 1820s, states are creating municipality
 - a) Government/policy reform
 - i) Cities would drive US political/economic life
 - Citizenship defined by residency, not by shareholding
 - Elections for all public officials
 - ii) Separation of legislative and executive governments
 - b) New democratic participation
 - i) Political participation was an all-time high
 - ii) Growth of political parties
 - 2) Policies
 - a) Market shift
 - i) Policy priority change
 - You want to satisfy public needs now
 - Police, fire department and etc.
 - Trade regulation declines, public wants to go up

C. Cities and American Federalism

- 1. Dillon's rule
 - 1) State government are unlimited except where specified by US Constitution
 - a) Municipal governments only have powers given by state
 - b) Local governments are creatures of state
 - 2) At the time, it wasn't used much
 - a) Dillon says USC doesn't say anything about local government
 - i) So let's look at state
 - ii) Local government control isn't specified in USC
 - 3) Merrill v Monticello (1891)
 - a) USC adopts Dillon's Rule
 - i) It's a legal theory, but not in USC
 - 4) Dillon vs Cooley on ideals
 - a) Background of Dillon
 - i) Corporation lawyer
 - ii) Venue shopping
 - iii) Works for Union Pacific railroad company
 - Prefer to go to state capital to get favorable legislature
 - Shift venue from local to state
 - b) Local governments would not have any power anymore

- i) Corporations didn't want to deal with municipality
 - c) Cooley
 - i) Municipalities govern as a sovereign institute
 - Jacksonian: power to municipalities
 - Give power to people
 - ii) Both agree that USC makes no mention of cities
 - Cooley thinks local government is protected by USC
 - d) Under Dillon's rule, state can take money from municipalities
2. Home Rule
- 1) In US, it's a set of legal principals
 - a) Officials break from Dillon's rule
 - i) Local government can do whatever as long as it doesn't interfere with federal government
 - ii) Without it, localities can only do what states allow
 - b) Charter city
 - i) HR applies only to certain cities
 - In general HR applied to Democrats
 - c) For HR
 - i) Reduces the burden on state legislature
 - ii) Speeds up local policy options
 - Empowers local citizens
 - d) Against HR
 - i) Inequality
 - Different governments in different states
 - Civil rights attorney love Dillon's rule
 - ii) Corruption
 - Local governments more susceptible to corruption
 - 2) Dillon's rule applied after Merrill
 - a) According to USC, states usually win vs local