

CELDF is pleased to share updated monthly excerpts from the book “*How Wealth Rules the World: Saving Our Communities and Freedoms from the Dictatorship of Property*,” by long-time staff member Ben G. Price. Here is Part Five

## HOW WEALTH RULES PART SIX

# THE MUNICIPAL COLONIES OF AMERICA

**Ben G. Price**

*“Let the National Government be entrusted with the defense of the nation and its foreign and federal relations; the State governments with the civil rights, laws, police and administration of what concerns the State generally; the counties with the local concerns of the counties, and each ward direct the interests within itself. . . It is by dividing and subdividing these republics from the great national one down through all its subordinations, until it ends in the administration of every man's farm by himself; by placing under everyone what his own eye may superintend, that all will be done for the best.” -- Thomas Jefferson <sup>1</sup>*

### **Dillon’s Rule and John Marshall’s Dead Hand: A Sycophant Never Forgets**

According to Duhaime’s Law Dictionary “Dillon’s Rule” is “*A rule of judicial interpretation that a municipality may exercise only those powers expressly conferred by statute, necessarily or fairly implied by the expressed power in the statute, or essential and not merely convenient.*”<sup>2</sup>

*Dillon’s Rule* isn’t in the U.S. Constitution. It’s a legal opinion developed by an Iowa Supreme Court judge in 1868. In 1819, well before the infamous 2010 *Citizens United v. Federal Election Commission* ruling by the Supreme Court, and even before the notorious *Santa Clara County v. Southern Pacific Railroad Co* ruling in 1886 declared corporations to be *persons* under the 14<sup>th</sup> amendment, the Court began the gradual separation of common people from governing power in the newly proclaimed “republic.”

There was a respite from constitutional meddling in local governments by the Court while the expanding American empire claimed more and more of the North American commons for itself. It created new territories and states. As it grew, new communities were intentionally

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<sup>1</sup> Thomas Jefferson, Letter to Joseph C. Cabell Letters, p. 1388. 1816.

<sup>2</sup> Duhaime's Law Dictionary, <http://www.duhaime.org/LegalDictionary/D/DillonsRule.aspx>

established as municipal corporations. Towns long-established prior to the states and the nation jealously guarded their autonomous status and rejected incorporation. But as empire rolled out across the continent on the iron bars of the railroad corporations, judges stepped in to defend the conquest and turn communities into colonies.

There were early expectations in America, following the Revolution, that community life would be guided locally, democratically, by community decision-making. The traditional New England town meeting perhaps came closest to the ideal. There, every eligible elector had a say in the regular business of the community. But it was not only in Massachusetts, Rhode Island, New Hampshire, and Connecticut that the ideal of direct citizen participation shaped local government.

The Township Act of 1798 in New Jersey incorporated 104 communities under a direct democracy town meeting style of government. White males 21 years of age and older who were residents of the town for six months, paid taxes, owned land, or paid rent of at least five dollars per year were eligible to vote. Direct limited democracy in the Townships was retained until 1899, when major revisions to the Township Act abolished the town meeting and a township committee assumed municipal legislative powers.<sup>3</sup>

Public opposition to establishing towns as municipal corporations was particularly keen in Boston, where town meetings embodied the ideal of communities making their own governing decisions with broad participation. *“Thus one pamphleteer lauded the existing town-meeting structure as ‘the greatest and most precious Privilege any Town or Society can be possessed of’ while direly predicting that ‘the Rich will exert the Right of Dominion’ in a government of aldermen and councilors. With the advent of the municipal corporation... ‘the Great Men will no more have the Dissatisfaction of seeing their Poorer Neighbors stand up for equal Privileges with them in the highest Acts of Town Government.’ Instead, under corporate rule these ‘Great Men’ will gain control, and Rich & Poor Men then will no more be jumbled together in Town Offices.”*<sup>4</sup>

Opposition by Federalists to direct citizen legislation was strong. James Madison, a critic of town meetings, wrote in The Federalist Number 55, *“In all very numerous assemblies, of whatever characters composed, passion never fails to wrest the scepter from reason. Had every Athenian citizen been a Socrates, every Athenian assembly would still have been a mob.”*

Thus, the so-called founding fathers of aristocratic temperament refused to accept that the American Revolution had finally established community self-determination. As we’ve seen, it was with the *Dartmouth v Woodward* rulings that the Court took the first step in freeing *private* business corporations from governance by the people.

Despite the *Dartmouth* ruling, the right of the people to use municipal corporations to engage in local democratic self-government was not challenged with ferocity until the end of the Civil War. The *Dartmouth* decision was eventually to prove fatal to the exercise of self-governing rights in American communities. But according to Hendrik Hartog, Chair in the History of American Law and Liberty Program at Princeton, *“the law of municipal corporations*

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<sup>3</sup> Albert J. Wolf, *A History of Municipal Government in New Jersey Since 1798*, New Jersey League of Municipalities, 2004, pp. 1-4

<sup>4</sup> Jon C. Teaford, *The Municipal Revolution in America: Origins of Modern Urban Government, 1650-1825*, The University of Chicago Press, 1975, p. 42

had not been invented.”<sup>5</sup> The courts rarely ruled on the nature and scope of local government authority.

Explaining further, Hartog wrote, “One reason why there was no ‘law’ of municipal corporations was because chartered cities were already part of an undifferentiated ‘law’ of corporations. Indeed, in the 1820s treatise writers still considered the borough the paradigm of corporation existence, echoing the traditional common law perception of a corporation as **‘property investing the people of a place with its local government.’** [Emphasis added] . . . For Stewart Kyd, whose *Treatise on the Law of Corporations* remained the leading work on both sides of the Atlantic until the 1830s; boroughs were simply one type of civil corporation. Nothing distinguished public from private entities; those terms played no part in his analysis.”<sup>6</sup>

American courts and legislatures declined to make a distinction between *private* and *public* corporations, despite the *Dartmouth* ruling, until incorporated municipalities became divested of their predominantly private characteristics. Once the uses of municipal corporations expanded beyond the protection of property interests, they no longer served the agenda of latter-day Federalists.

That transition marked a change in the deference shown to municipal autonomy by state governments. So long as it was used to protect property, the state took a *laissez faire* stance toward the governance of the locality. However, once the private nature of the charter waned and the city, borough or town began to behave in the public sphere, representing non-property interests of the inhabitants, state deference was withdrawn.

The state withdrew chartered governing rights on the presumption that the municipal corporation and the people it spoke for should not be allowed to make judgments impacting private ownership rights unless the municipality were made directly answerable to the legislature. In this way the role of the legislature as representative of property privileges and not of unalienable rights, was further clarified.

The *Dartmouth* decision was dusted off and reinvigorated in 1868 by the railroad lawyer turned Iowa Supreme Court judge, John Forest Dillon. Dillon spelled out what *Dartmouth* had tentatively accomplished for the propertied class. In the *City of Clinton v. Cedar Rapids and Missouri River Rail Road Company* case, he revived the Court’s privilege-affirming and rights-denying dicta with a ruling that protected a railroad corporation from a community’s local law-making.

Following Judge Joseph Story’s lead, Dillon denied the community’s authority to use the municipal corporation to enact laws to protect community interests against the business plans of the Missouri River Rail Road Company. He summarized his opinion years later in a legal treatise saying: “the great weight of authority denies in toto the existence, in the absence of special constitutional provisions, of any inherent right of local self-government which is beyond legislative control.”<sup>7</sup>

The short-hand Dillon used to summarize this opinion goes like this: local government is to the state as a child is to a parent – a dependent entity that has no legal agency of its own.

What is now known as *Dillon’s Rule* aggressively implements the anti-democratic potential of the *Dartmouth* ruling. Dillon went even further than Joseph Story. Not only did he

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<sup>5</sup> Hendrik Hartog, *Public Property and Private Power: The Corporation of the City of New York In American Law, 1730-1870*. Cornell University Press, p. 184

<sup>6</sup> Hartog, p. 185

<sup>7</sup> John Forrest Dillon, LL. D, *Commentaries on the Law of Municipal Corporations*, Fifth Edition, Vol. 1, 1911, pp. 154-156

think states' ownership of municipal corporations gave the states authority to alter or abolish any powers delegated to the municipality; he extended the power of the state to deny "*in toto*" the right of the people to local self-government.

This is important. Dillon asserted that the people's right of local self-government had been vested, with the adoption of the federal constitution, in municipal property owned by the states. It's an argument that purported to turn the right of local self-governance into a right vested in property – the state's property. By vesting what had been the democratic rights of the people in municipal property owned by the state, Dillon privatized a public right.

Here we have another example of the Court making the rights vested in property publicly enforceable while privatizing the right of self-government.

As a form of property infused with once-public rights, municipal corporations became *privileged property*. Municipal corporations convey to the state the right to govern the "tenants," as Dillon called the people dwelling within the jurisdiction of a municipality. The people and their democratic rights were thus subordinated to property, as the Federalists intended.

Dillon's Rule was applied to all American communities by the federal Supreme Court in 1891,<sup>8</sup> just five years after it declared private corporations to be *persons* protected by the Constitution's 14<sup>th</sup> amendment. The Court's application of Dillon's Rule to all American municipalities was reaffirmed and broadened in 1907.<sup>9</sup> The federal court legalized usurpation of every American's right of community local self-government. In doing so, the Court placed wealthy private corporations in a legally superior relationship to the counties and municipalities where people now live, bereft of self-governing authority.

*Dartmouth* inspired Dillon's Rule and by way of the *Contract Clause* stripped every American of the right of local self-governance. Dillon's Rule, like the *Contract Clause*, is a form of *private law* enforced as *public law*. And like other *private laws* it is exempt from public alteration, regulation, or revocation.

If the states own the municipal corporations, then who owns the states? If not the people, then who? Why is it a question of ownership, anyway?

The answer is to be found in the system of government that the Federalists erected. In every legal confrontation between unalienable rights and the rights vested in property, the courts never fail to remember the will of their dead Federalist masters. Dillon remembered Marshall, and judges today remember him. As a result, all municipal subdivisions of the states have been privatized, their governance centralized in the state, where the controlling interests of an aristocracy of wealth holds sway.

Revolutions have been justified for lesser transgressions of the public trust. If the Federalists could betray so fair and just a revolution as was waged with Tom Paine's inspiration, then the majority is supine and has no place to retreat. If we are to take a stand, it must be in the communities where we live. That has been the strategy of CELDF's community rights organizers since 2002.

### **Resource Colonies, Not Hometowns: The Legal Status of Municipalities**

The right to govern every American community is up for grabs by whatever combination of wealth takes control of the state legislatures. It's true that Congress can be relied upon to

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<sup>8</sup> *Merrill v. Monticello*, (1891)

<sup>9</sup> *Hunter v. Pittsburgh*, (1907)

forbid municipal and state governments from enacting laws to assert the will of the governed community, through the *Commerce Clause*. That requires lobbying and campaign funding at the national level. But the states are the more regular culprits when it comes to inventing pretexts for stripping citizens of local governing rights. Lawmakers do it by revoking all meaningful authority from the municipal corporations the people would otherwise use for this purpose.

There have been hundreds of recent state enactments focused on subordinating the rights of communities to the prerogatives of the propertied class. Just a few examples will do.

In 2005, the Pennsylvania state legislature enacted the “ACRE” initiative as Act 38, at the urging of agribusiness and waste-hauling lobbyists, including the PA Farm Bureau and PennAg, a consortium of factory farm corporations. This law empowers the citizen-elected state attorney general to sue municipalities to overturn local laws that regulate or ban factory farms and urban sludge dumping.

Notably, Act 38 places the highest law enforcement officer of the state at the private disposal of corporate waste and agribusiness interests. The legislators “representing” these communities enacted this measure after scores of municipalities adopted local rights-based ordinances to protect their residents and natural environment. CELDF organizers were instrumental in working with those communities, and in lobbying against an even more draconian version of the bill. Similar aggressive laws against community self-government continue to be adopted by state legislatures across the nation and around the world.

Less than a decade later, with widespread local opposition to the process of hydraulic fracturing (fracking) for the extraction of methane and other fossil gasses, industry non-profit advocacy groups busily lobbied dozens of state legislatures to enact preemptions that would block local fracking bans, prohibitions on pipelines, bans on export terminals and other industrial infrastructure. In Texas, soon after the city of Denton banned fracking by popular demand, the legislature passed a ban on such local bans.

Texas House Bill 2595 followed directly on the heels of the ban on local frack bans. It prohibits cities from validating initiative petitions for local ordinances that would “. . . *restrict the right of any person to use or access private property for economic gain. That means if voters in a city attempted to petition to, for example, ban hydraulic fracking, as they did in Denton, it would be tossed out [before the first signature was gathered] because it violates the rights [sic] of mineral owners.*”<sup>10</sup>

These and their many companion preemptions are the legacy of the *Dartmouth* ruling. Everything from local bans on plastic shopping bags, to minimum wages, to prohibitions on water privatization and assault weapons have been overturned at the request of corporate lawyers and front groups. The denial of community self-governing rights is encoded in a legal theory that can no more be located in the Constitution than can the terms “corporation” or “political party.”

The cynicism of proponents of Dillon’s Rule and the planned incapacity of every American to engage in self-government at home is boundless. While agreeing that each citizen has a constitutional and natural right of self-government, they argue that the state has the authority to forbid public corporations – municipal state property -- from being used for the purpose.

It is akin to the state conceding that the law guarantees the right of every citizen to ride a horse, and then enacting a law that prohibits any horse from bearing a rider.

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<sup>10</sup> Nicholas Sakelaris Staff Writer- Dallas Business Journal, Denton frack ban spawns another bill that limits city petitions, May 11, 2015, 2:34pm CDT, <http://www.bizjournals.com/dallas/news/2015/05/11/denton-frack-ban-spawns-another-bill-that-limits.html>

## **Business Corporations are For-Profit; Municipalities Are for Profit**

The category of *public* municipal corporations includes not just general-purpose governing municipalities like cities, boroughs, towns, and so-forth, but also development corporations, water authorities and school districts. Certain types, especially development corporations, are regularly chartered at request of *private* corporate and commercial interests, so that it is a wealthy minority, empowered by public rights and money vested in state property, who directly benefit.

The creation of new towns, boroughs and cities became a municipal marathon, as the territorial claims of the American continental empire expanded westward. Leonard Curry, scholar of US antebellum and urban history, wrote that *“The city charters that emanated from the new state governments in the late years of the eighteenth century...reflected a hesitant concern to make city governments patterned on Old World models both more responsive to popular will and more in harmony with the political theories of the Revolutionary era. Nevertheless, they also bore the marks of a residual (and, indeed, renewed) distrust of ‘popular’ government.”*<sup>11</sup>

Perhaps more candidly, University of Michigan Research Professor Nancy Burns tells us that the idea of incorporating new communities had no legal merit except as it advanced the speculative and pecuniary designs of land “developers.” She writes: *“The first general incorporation law passed in the Louisiana Territory in 1808. Nine years later, similar legislation passed in Indiana and Ohio. In 1825, Missouri passed a general incorporation law. Nine states soon followed. [Illinois, 1831; Pennsylvania, 1834; Arkansas and New York, 1837; Iowa, 1847; Wisconsin, 1849; Tennessee and California, 1850; Michigan, 1857.]”*

Burns continues: *“One example of the efforts of these early developers is the founding of Grand Junction, Colorado. In 1881, settlers were officially allowed into western Colorado. To ensure that the town they wished to build would have citizens, the speculators pressed settlers to incorporate the town of Grand Junction. The thirty-three voters complied. The speculators set up all the ingredients of the town; they built the post office, started a newspaper, imported residents, and set up the meeting to propose incorporation. The developers paid the first mayor’s way to the federal land office in Leadville to file for incorporation. As [Kenneth T.] Jackson and [Stanley K.] Shultz argue, in nineteenth century America, real-estate speculators spent much of their time building cities.”*<sup>12</sup>

The rules for municipal annexation and for incorporating a municipality out of unincorporated land in a county or township vary from state to state, but regularly give to the largest landowners the authority to allow or disallow changes in governing jurisdictions. Local majorities are left out of the decision-making. In short, it is the interests of property and wealth that can partake of local self-government in a way that is even more effective than early property qualifications at keeping the rabble, that is, community majorities, out of the business of voting, governing, and defining new governments.

## **Anti-Dillon: It Didn’t Have to Be This Way**

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<sup>11</sup>Leonard P. Curry, *The Corporate City: The American City as a Political Entity, 1800-1850*, Greenwood Press, 1997. P. 3

<sup>12</sup> Nancy Burns, *The Formation of American Local Governments: Private Values in Public Institutions*, Oxford University Press, 1994. p. 33

To the continued chagrin of the friends of democracy, the legal establishment, at the same time it embraced John Forrest Dillon's legal theory, rejected the opinion of Michigan Supreme Court Judge Thomas Cooley, one of the era's leading scholars of constitutional law. Cooley argued that municipalities receive their power directly from the people and thus have a kind of limited autonomy. It is the state whose power to curtail local authority that is limited -- by general rights.

Cooley wrote that "*The sovereign people had delegated only part of their sovereignty to the states. They preserved the remainder for themselves in written and unwritten constitutional limitations on governmental actions. One important limitation was the people's right to local self-government.*"<sup>13</sup>

Cooley argued that for the people to create state legislatures and then subordinate themselves to their dictates would be absurd. It would contradict the principles espoused in the Declaration of Independence which says, "*to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed.*"

But through a long chain of decisions, the courts have generally rejected Cooley. Dillon's "rule" was not a legally necessary conclusion. It was a choice made by judges to side with property against general rights.

Officials elected to merely administer state law within local jurisdictions cower in the shadow of Dillon's Rule. They regularly inform their local constituents that they "*wish they could help, but their hands are tied.*"<sup>14</sup>

During a weekend Democracy School (CELDF's signature seminar / workshop), I presented the municipal structure of local governance to members of the Lakota nation residing at Pine Ridge Reservation in South Dakota. Debra Whiteplume, a class participant, gazed at an illustration I'd drawn on a flip chart. After some silent contemplation she announced "*Huh, the white man's municipalities are just reservations, like ours. The difference is, we know we live on reservations. The white man doesn't.*"

That about sums it up.

### **Local Self-Government and the American Revolution**

What was really on the minds of average American colonists when they revolted against the empire is easy to discover. Their complaints are listed in the Declaration of Independence. Let's take a quick look at the Declaration and compare the vision of self-government it laid out to the government we ended up with. Did it really call for a central government with veto power over every American community's laws? Did it demand that democratic rights either serve commerce and wealth or face the usurping preemption of Congress, the Supreme Court, and every state?

The Declaration signed on July 4th, 1776, wasn't the original work of Thomas Jefferson, although he gets most of the credit. Some of the inspiring language was lifted from the writings and speeches of the Levelers and Diggers of England. A century before the American Revolution those radical groups had manned the New Model Army that Oliver Cromwell and the wealthy men of commerce raised to depose King Charles I.

Jefferson borrowed phrases like *consent of the governed* and ideas like *the people are the source of governing authority* from the peasants who demanded the British House of Commons

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<sup>13</sup> Ibid., p. 52

<sup>14</sup> This phrase is the single most often heard excuse from municipal officials for why they cannot or will not enact protective measures when requested by residents of the municipality.

be revamped to represent the common people, and that, everyone being equal, peasants should take the reins of power in England.

When Jefferson listed the colonist's grievances against the crown, he borrowed from resolutions sent to the Continental Congress by more than ninety towns and counties throughout the colonies.<sup>15</sup> Among the thirty or so complaints he listed, the very first one mentioned in Jefferson's Declaration is the preemption of local laws by the central government: "*HE [the king] has refused his Assent to Laws, the most wholesome and necessary for the public Good...*"

The revolutionaries were not talking about being prevented from making state or federal laws. There were no "states" and there was no nation. It was the usurpation of the people's right to enact and enforce laws in their own communities that had them up in arms.

Today, across the country, this is exactly what is happening in town after town.<sup>16</sup> States and the federal government are preempting local laws<sup>17</sup> intended to protect workers, immigrants, the homeless, and to fend off resource stripping, toxin dumping and property confiscation. What American revolutionaries listed as their first order of business to correct through revolution is now the chief counter-revolutionary project of the American Legislative Exchange Council (ALEC). Today's Federalists are as opposed to democracy as were their predecessors.

This first salvo against the empire's preemption of local laws was not the last. Other complaints filled the second half of the Declaration. Most of them condemned interference from London in matters of local self-government. In the absence of local lawmaking authority, appointed colonial governors were also forbidden to enact laws that represented colonial interests. The Declaration says: "*HE has forbidden his Governors to pass Laws of immediate and pressing Importance, unless suspended in their Operation till his Assent should be obtained; and when so suspended, he has utterly neglected to attend to them.*"

In many states today, local laws have no effect until they are approved by officers of the state.

The revolutionaries rejected the paternalistic idea that the empire would wisely provide for colonial needs so long as the colonists abandoned their right to representation in Parliament. On this point the Declaration says: "*HE has refused to pass other Laws for the Accommodation of large Districts of People, unless those People would relinquish the Right of Representation in the Legislature, a Right inestimable to them, and formidable to Tyrants only.*"

We're no better off today. The Federalist's frame of government that replaced British rule institutionalized the exile of American communities from legislative representation. However well state voting districts are drawn, even without blatantly partisan gerrymandering; communities *per se* have no representation in state legislatures, as we'll see in Part 8 of this series.

Americans today have a lot in common with the colonists who found their lives and freedoms curtailed by bureaucratic shell games. The next grievance Jefferson listed against the empire read: "*HE has called together Legislative Bodies at Places unusual, uncomfortable, and distant from the Depository of their public Records, for the sole Purpose of fatiguing them into Compliance with his Measures.*"

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<sup>15</sup> Pauline Maier, *American Scripture: Making the Declaration of Independence*, 1997

<sup>16</sup> Simon Davis-Cohen, "Across the U.S., Courts are Keeping Voter Initiatives Off Local Ballots," *The Progressive*, April 24, 2018

<sup>17</sup> Christiana McFarland, "Reclaiming Our Local Democracy," *National League of Cities*, April 5, 2018, <https://citiesspeak.org/2018/04/05/reclaiming-our-local-democracy/>



What activist hasn't had to skip a day of work and travel to a hearing half-way across the state to testify before legislators, bureaucrats, and regulators? It's a situation that would be rare if the people's representatives remained in the communities they supposedly serve, to learn the will of their constituents, rather than gather in ostentatious capitols where lobbyists and paid persuaders have their ear every day.

Like communities across America today, the revolutionaries were outraged when the empire legalized the violation of people's rights. And when colonists challenged that oppression with local laws to protect their safety, the empire nullified, vetoed, and preempted them, making local officials and local laws irrelevant. Jefferson framed their complaint this way: "*HE has dissolved Representative Houses repeatedly, for opposing with manly Firmness his Invasions on the Rights of the People.*"

Much as modern regulatory agencies have multiplied into an alphabet soup of administrative bodies, by the time American colonists decided to declare their independence from the ministerial form of government imposed on the colonies, they were seething with anger: "*HE has erected a Multitude of new Offices and sent hither Swarms of Officers to harass our People and eat out their Substance.*"

This *ministerial* style of government places bureaucrats between the 99% and the propertied 1% who have the real authority to make decisions. Anyone who has ever had their hopes of prevailing at a regulatory hearing dashed because the agency lacked discretionary power will understand how the colonists felt.

These days Americans can find their local attempts at democratic legislation preempted by international trade agreements. Treaties that protect foreign business interests against local laws that "erect barriers to free trade" were no stranger to the revolutionaries. They objected to such imperial policies that ignored their right of self-determination and Jefferson included it in the Declaration: "*HE has combined with others to subject us to a Jurisdiction foreign to our Constitution, and unacknowledged by our Laws; giving his Assent to their Acts of pretended Legislation.*"

American courts today don't consider the Declaration of Independence a precedent-setting document. That only makes sense when we realize that the Federalist counter-revolution opposed its democratizing doctrines. Robert L. Brunhouse authored a detailed account<sup>18</sup> of how unpropertied commoners took control of the Pennsylvania colonial assembly in 1776 and precipitated a vote in the Continental Congress to adopt the Declaration. Without their insurrection against property qualifications for voting and holding office, New York and other states would not have agreed to the Declaration, and the colonies would not have seceded from the British Empire.

Brunhouse's book documents how, following adoption of an ultra-democratic state constitution in Pennsylvania and the revolution's success by commoners in pursuit of parallel aspirations, the Federalists' counter-revolution unraveled those democratic gains with their conspiratorial drafting and rush to ratify their federal constitution.

The government the Federalists gave us mimics the one that justified the Declaration of Independence. Reviewing the "*causes which impel[led] them to the separation*" from England puts into perspective our plight today. It can help us to understand why people in a growing number of American communities are challenging their treatment as mere colonies of the empire.

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<sup>18</sup> Robert L. Brunhouse, *The Counter Revolution in Pennsylvania 1776-1790*, The Pennsylvania Historical and Museum Commission, 1971

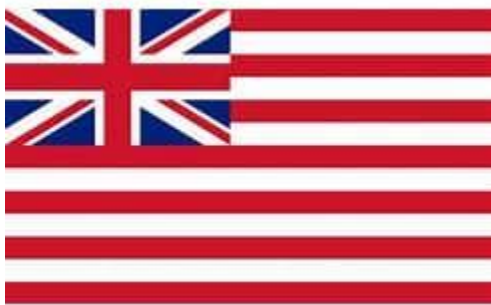
## Federalist False Flag Waving: Irony and the Star-Spangled Banner

The federalism we got is not what American Revolutionaries fought for. The missing ingredient under the current system of government is people deciding their own affairs.

Reference to local government cannot be found in the U.S. Constitution. Latter day Federalists justify this oversight claiming that efficiency demands that local governments comply with state and federal micromanagement. Anti-Federalist Thomas Jefferson and his mostly rural colleagues disagreed. While the urban Federalist minority spread disinformation as they pressed for a new constitution, Anti-Federalists protested vehemently. The leadup to ratification of the Constitution saw threats of tarring and feathering, among other coercive scare tactics, for anyone who openly opposed its ratification.

Americans today uncritically accept the Federalists' betrayal as the intended realization of our nation's revolutionary heritage. We need to shake free of this deception. We can't correct the mistakes of the past without admitting them and without rejecting the legal obligation to repeat them as hallowed precedent in every legal proceeding.

The average American believes that the Federalists were the *founding fathers*. They celebrate them on national holidays with bunting and stars and stripes everywhere. But they celebrate a changeling history. False memory has replaced truth with fact-free flag-waving. Even the old yarn about Betsy Ross and the stars and stripes covers up the irony of the Federalists' true loyalties.



The American flag is a close replica of the banner flown by the British East India Company.<sup>19</sup> That's the giant British corporation whose tea Sam Adams and the Sons of Liberty dumped into Boston Harbor. Those hot-heads were protesting the treatment of American colonists as second-class British citizens. They thought Americans deserved representation in the British Parliament more than the company's directors, who engineered a corporate tax amnesty and had the empire tax the colonist "consumers" to make up for lost revenue.

Like today, it was the owners of chartered corporations who held sway over government, not ordinary people. Now those corporate red and white stripes are flown triumphantly across the continent. Curious minds might wonder who really won the Revolutionary War.

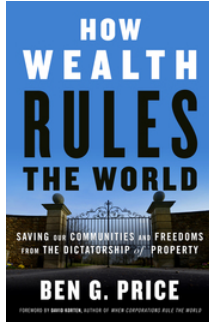
## NEXT MONTH

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<sup>19</sup> Sir Charles Fawcett, "The Striped Flag of the East India Company, and its Connexion with the American 'Stars and Stripes' "in *The Mariners Mirror*, October 1937

# HOW WEALTH RULES PART SEVEN

## THE NEW THREE-FIFTHS CLAUSE



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