

The Home Rule Act: A Historical Primer

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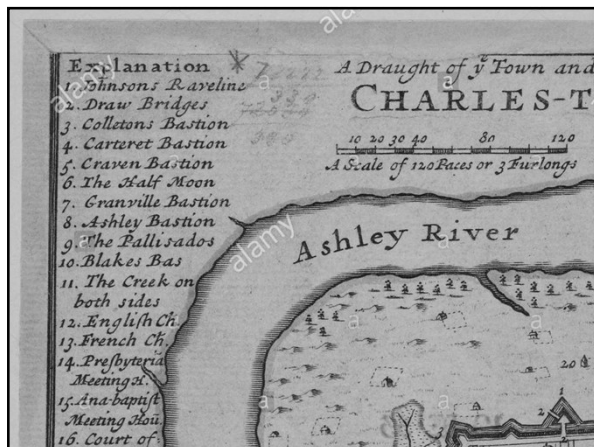
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- In 1682 the Lords Proprietors created three counties. Their functions were administering justice, granting land, and the election of representatives.
- The Church Act of 1706 established the Church of England in South Carolina and created ten parishes to carry out the church's work.
- In 1716, these parishes became election districts for the colony.

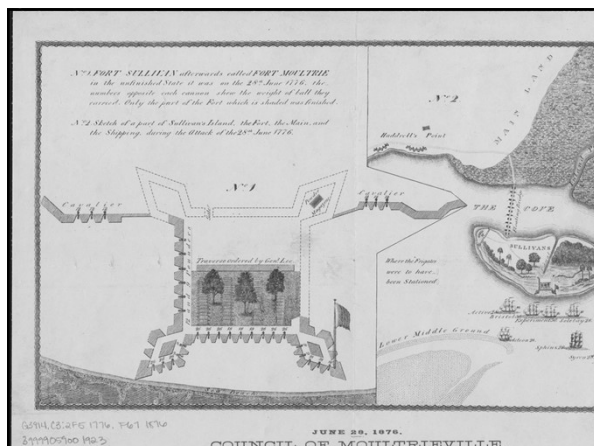
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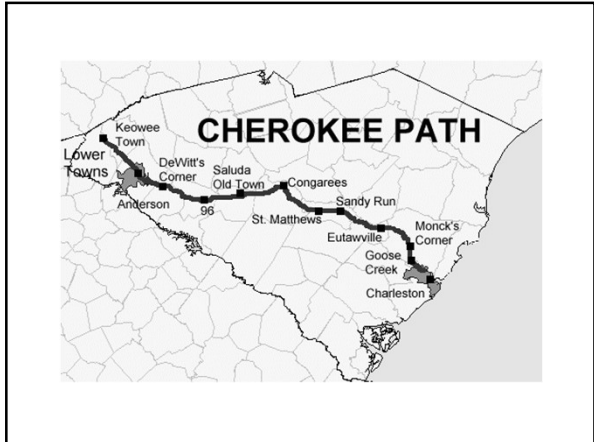
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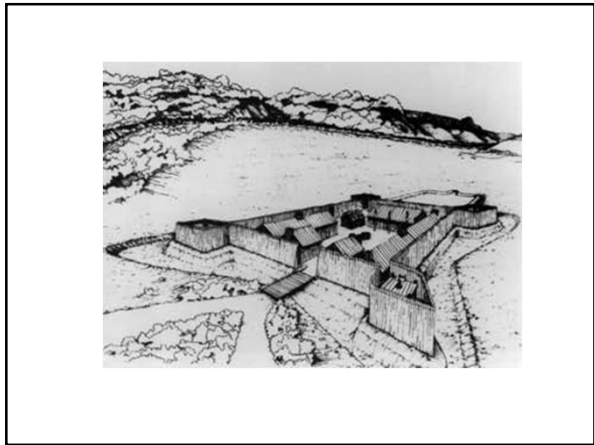
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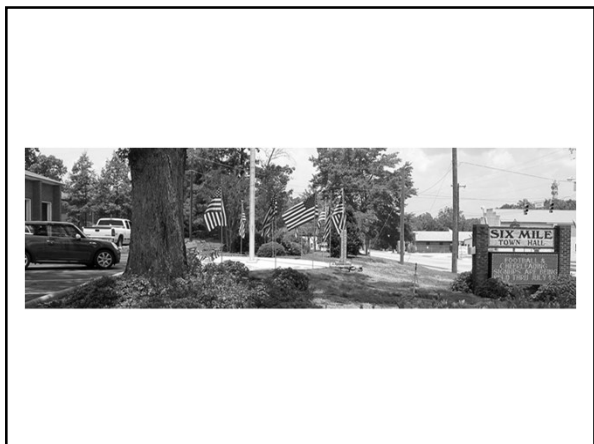
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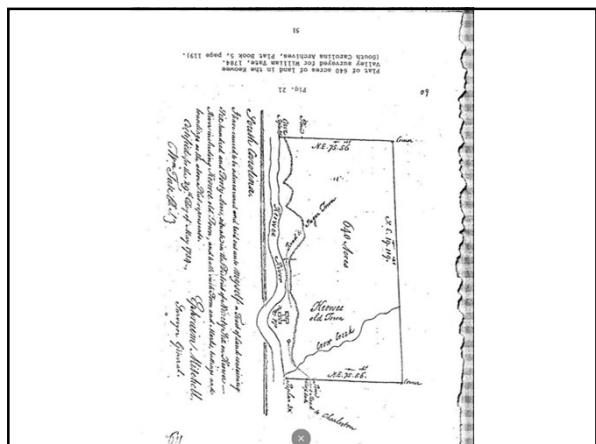
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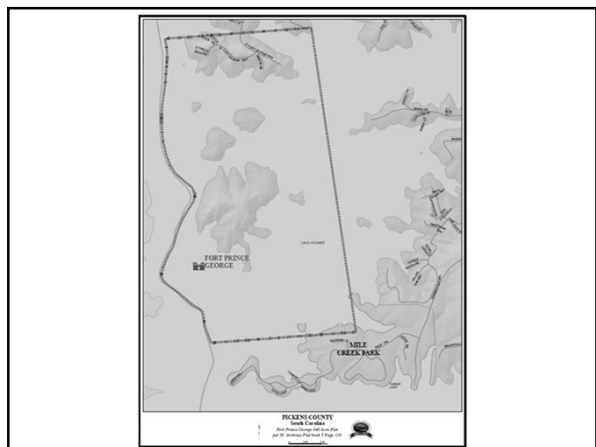
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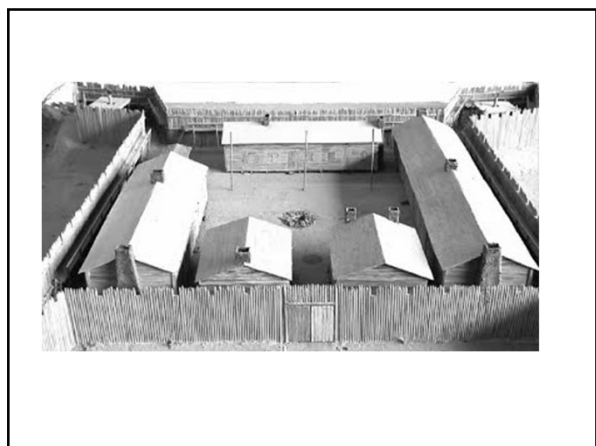
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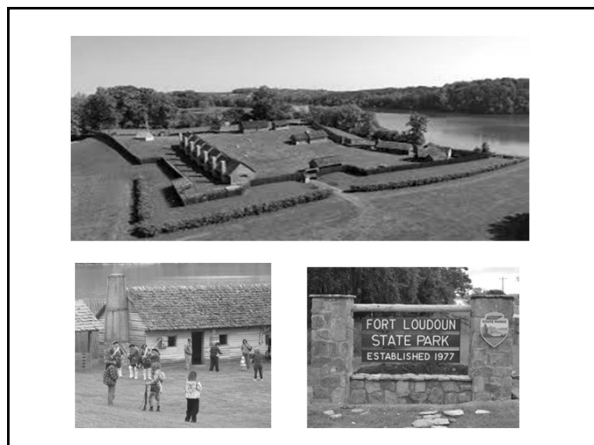
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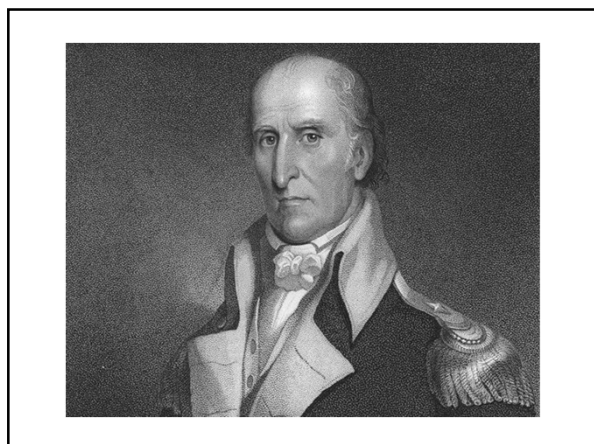
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**Jeffersonian Principle:
THAT GOVERNMENT THAT GOVERNS
CLOSEST TO THE PEOPLE, GOVERNS BEST.**

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- By 1770 there were twenty-four parishes, of which only three were in the backcountry.
- In 1769, seven judicial districts were created that incorporated all the settled area of the colony.
- Under the 1778 constitution, the parish and the district were election districts for the General Assembly.
- In 1785 the General Assembly created twenty counties and established a small claims court in each county. District justices continued to hold sessions at district courthouse towns.

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- In the 1800s, counties were unable to establish clearly their identity and utility as extensions of state government. Most became districts that assumed judicial responsibilities for their geographic areas. Although roughly the same size, these judicial districts had overlapping jurisdictions and responsibilities.
- Few changes were made prior to the end of the Civil War. Delivery of services which had previously been provided by the counties, such as education and road construction, were inconsistent.
- The Compromise of 1808 settled the issue of apportionment by apportioning seats based on population and tax collection.

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County Purpose Doctrine

- After the Civil War, counties in South Carolina underwent a significant transformation.
- In 1868 the state constitution abolished the parishes, designated judicial districts formally as counties, and created a three-man board of commissioners in each county, giving them the power to collect taxes and spend revenue for a limited range of services, including roads, bridges, schools, and public buildings. Their authority to tax and spend was limited to purposes specified by the General Assembly. This view of the responsibilities of county government became known as the "county purpose doctrine."

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Dillon's Rule

- Dillon's Rule was the prevailing principle on the roles and responsibilities of county government.
- Named for Iowa Supreme Court Justice John F. Dillon, a leading authority on municipal government, Dillon's Rule held that local governments were solely the creature of state government. As such they had no authority beyond that delegated to them by the state legislature. This became the accepted view in South Carolina and served to further limit the authority of county governments to provide services.
- Combining the county purpose doctrine and Dillon's Rule resulted in county government being limited to those powers expressly identified by the legislature. Hence, county government had little if any discretion and their very existence relied on the goodwill of the General Assembly.

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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".

--John F. Dillon



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- Dillon’s Rule was affirmed by the U.S. Supreme Court in 1903 and 1923.
- Airports, sewer systems, recreation, etc. all found by SC Courts to be beyond the scope of authority for local governments.
- It was the controlling principle in South Carolina law until the state supreme court case *Williams v. Town of Hilton Head* (1993), in which the court ruled that the principle was invalidated by Article VIII of the constitution.

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- Prior to home rule in South Carolina, the General Assembly exercised nearly total control over local governments. Legislative delegations made local policy as well as state policy. Counties, for example, typically had their annual budgets passed by their state legislative delegations in Columbia. Cities required special acts of the assembly to allow them to annex territory or provide a new service to their citizens. In short, the legislature engaged in what might be termed “micromanagement” of local government.

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Article VIII, South Carolina Constitution

SECTION 7. Organization, powers, and duties of counties; special laws prohibited.
 The General Assembly shall provide by general law for the structure, organization, powers, duties, functions, and the responsibilities of counties, including the power to tax different areas at different rates of taxation related to the nature and level of governmental services provided. Alternate forms of government, not to exceed five, shall be established. No laws for a specific county shall be enacted and no county shall be exempted from the general laws or laws applicable to the selected alternative form of government. (1972 (57) 3184; 1973 (58) 67.)

SECTION 17. Construction of Constitution and laws.
 The provisions of this Constitution and all laws concerning local government shall be liberally construed in their favor. Powers, duties, and responsibilities granted local government subdivisions by this Constitution and by law shall include those fairly implied and not prohibited by this Constitution. (1972 (57) 3184; 1973 (58) 67.)

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Home Rule Act of 1975

- Passed to implement the revised Article VIII of the state constitution adopted in 1973.
- Established standardized forms of city and county government.
 - Three forms of city government:
 - Weak-mayor, strong-mayor, and council manager
 - Four forms of county government:
 - Council, council-supervisor, council-administrator, and council-manager

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- The legislature intended to abolish the application of Dillon's Rule in South Carolina and restore autonomy to local government. When taken together, Article VIII of the S.C. Constitution and section 5-7-30 [the municipal general police power] bestow upon municipalities the authority to enact regulations for government services deemed necessary and proper for the security, general welfare, and convenience of the municipality or for preserving the health, peace, order and good government, obviating the requirement for specific statutory authorization so long as regulations are not inconsistent with the constitution and the general law of the state. *Williams v. Hilton Head Island*, 311 S.C. 417, 429 S.E.2d 802 (1993).
- Dillon's Rule, which stated that local governments had only those powers expressly granted, those necessarily or fairly implied as being incident to their express powers, or those essential to the accomplishment of the declared objects and purposes of the corporation, has been abolished. Unpublished Op. Atty. Gen., dated January 19, 1995.

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Meanwhile



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Pickens County Council Meeting – September 15, 1975

County Legislative Delegation members were present to explain the Home Rule Act. Senator Smith and Representative Hendricks expressed opinions that no referendum be held and as a result of taking no action, the County will continue under the Council-Administrator Form of government with five council members elected at large. After a lengthy discussion and question and answer period, Marvin Ellenburg made motion that Council go ahead and present this to the people to vote on it and they might come up with the third form or districts or whatever, but I would like to see us include on the ballot the five forms of government, whether to be elected at large or single member districts and in some way, I would like a memo type vote be taken on this three to twelve members in order to get the number. Wade Chastain seconded motion. Motion carried by unanimous vote. Resolution was presented by the Republican Party of Pickens County unanimously favoring single member districts and requesting that a referendum be held to determine such representation as well as the form of county government.

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Pickens County Council Meeting – November 17, 1975

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Chairman announced meeting sponsored by Clemson League of Women Voters on November 18, 8:00 P. M., Lakeview Plaza, to discuss Home Rule.

WELP announced live broadcast scheduled for the purpose of discussing Home Rule on Thursday, 6:05 P. M.

There was no further business; meeting adjourned.

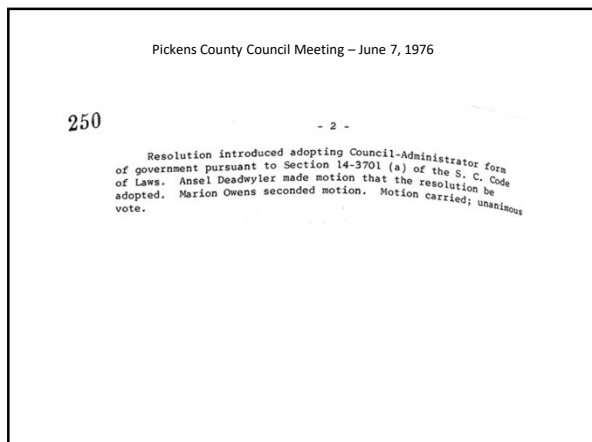
Approved:

Mendel H. Stewart
Mendel H. Stewart, Chairman

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Next Battleground for Home Rule?

GOLF CARTS AND DRONES?

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Sources:

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- Tyer, Charles B. "Local Government Act." South Carolina Encyclopedia. Last modified June 8, 2016. <http://www.scencyclopedia.org/sce/entries/local-government-act/>.
- "Home Rule Handbook for County Government." South Carolina Association of Counties. 2013. <https://www.sccounties.org/sites/default/files/uploads/publications/home-rule-handbook/homerulehandbook13.pdf>

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