

## Senate Bill No. 814

May 18, 1977

Honorable Marvin Mandel  
Governor of Maryland  
State House  
Annapolis, Maryland 21404

Re: Senate Bill 814

Dear Governor Mandel:

We have reviewed Senate Bill 814 and it is our opinion that it is unconstitutional. The bill adds a new Section 380A to the Public Local Laws of Kent County (1968 Edition and 1975 Supplement, as amended) which reads in part as follows:

"(A) The County Commissioners of Kent County may charge a fee for the use of any public landing upon a navigable river, canal, bay, sound, or other navigable body of water in Kent County established by the County Commissioners pursuant to Article 25, Section 156 of the Annotated Code of Maryland.

(B) The County Commissioners may establish a fee for users who are residents of Kent County and a fee in a separate amount for users who are not residents of Kent County. The amounts of the fees shall be fixed to repay the County for expenditures in construction, equipment, upkeep, and improvement of the landings. The different amounts shall be fixed to insure the rights of the public generally to the use of the landings, and to avoid an undue financial burden on the residents of Kent County."

Kent County operates under the system of Code Home Rule established in Article XI-F of the Maryland Constitution, Annotated Code of Maryland (1977 Repl. Vol.). Section 9 of Article XI-F provides as follows:

"A code county shall not levy any type of tax, license fee, franchise tax or fee which was not in effect or authorized in the code county at the time it came under the provisions of this Article, until an express authorization of the General Assembly has been enacted for this purpose by a general law which in its terms and effect applies alike to all code counties in one or more of the classes provided for in Section 5 of this Article."

It is apparent to us that the "fee" authorized by