

# Virginia Town & City

Volume 19  
Number 4  
April 1984

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# Virginia Town & City

## Editor

Christine A. Everson

## Editorial Assistants

Joni Terry

Mary Ann Cornell

Telephone 804/649-8471

Volume 19

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Number 4

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## On the Cover

The Old Church Tower at Jamestown is the only standing ruin from the 17th century town. The first representative legislative assembly was said to have convened May 30, 1619 in an earlier wooden church located on this site. It was at an assembly in Jamestown in 1634 that Virginia's first eight counties were created.

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# People

## Weeks Leaves VML

**Richard F. Weeks Jr.** has left his position with the Virginia Municipal League to become administrator of the newly-formed Virginia Innovation Group (VIG).

Weeks, who holds a master's in public administration from the State University of New York, joined the league in 1977 as a staff associate. He served as the league's director of intergovernmental relations from July 1981 through October 1983 when he was made associate director. Throughout his years with the league he has worked with the league's policy committees in the formation of league legislative policies, he has been an active lobbyist for the league during the General Assembly sessions, he has written the *Legislative Bulletin* for a number of years, and last year he was directly responsible for coordination of the league's annual conference.

In his new position, Weeks will travel throughout the state and work closely with local governments. VIG is an organization of Virginia cities, towns,

counties and private companies joined for the purpose of expanding the use of science and technology products in local governments. VIG currently has 21 members and is expected to expand to 50 members by next summer.

## Chesterfield Hires Recreation Chief

**Gary N. Fenton** has recently joined the staff of Chesterfield County's Department of Parks and Recreation as chief of recreation. He comes to Virginia from Ohio where he had served as director of recreation for the city of Marion since 1975. Prior to that he was director of parks and recreation for Grandview Heights, OH. He holds a degree in recreation and outdoor education from Southern Illinois University and currently serves on the board of regents of the North Carolina State University School of Sports Management. Fenton is married and has two children.

## Blacksburg Hires Planning Director

Lynchburg City Planner **William B. West Jr.** has been named Blacksburg's planning director replacing William Issel who left in January to become the first full-time planning director of Hilton Head Island, SC.

West, who had served as Lynchburg's city planner for 10 years, was chosen for his "technical expertise and interpersonal skills," according to Blacksburg's town manager Robert Stripling. He will be actively involved in Blacksburg's downtown design, industrial park master plan and the comprehensive plan rewrite now in progress.

West has also served as a planner for the city of Columbus, GA. He holds a master's in urban and regional planning from the University of Mississippi and a bachelor of arts and political science from Delta State College in Cleveland, MS.

## Brady Leaves Public Works

**Thomas F. Brady** has resigned his position as director of public works in Roanoke to become project manager for J. M. Turner & Co., a Salem contracting firm. He has been Roanoke's director of public works for five years.

Brady, who has worked for the city for 10 years, has played a key role in the city's downtown revitalization and economic development programs, the Neighborhood Partnership and the cost-saving efforts of the city.

## Woodstock Appoints New Mayor

**Oliver L. Burkett** has been appointed the new mayor of Woodstock. He replaces William H. Coffman who was transferred to Bridgewater.

Burkett previously served as the mayor of Woodstock from 1970 to 1978 and has served on the town council 14 years. He is a retired dentist and a native of the nearby community of Mount Jackson.

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# Virginia Celebrates 350 Years of County Government

1984 marks the 350th anniversary of county government in the United States. In recognition, Gov. Charles S. Robb has proclaimed the last week in April "County Government Week," noting that in 1634 the Virginia General Assembly passed an act to establish the first counties in the United States which came to serve as models for the rest of the country, and which today continue to serve the needs of Virginia's citizens. As we celebrate this milestone, we must recognize the significant role Virginia played in the development of local government in the United States.

Considering Virginia's history, it is perhaps ironic that the first settlers to come to Virginia were little concerned with government. Unlike our northern neighbors who came to New England to escape religious persecution, Virginia's settlement was primarily an economic adventure, and those who came to Virginia were originally governed by the Virginia Company of London, an English joint stock company granted charters in 1606, 1609 and 1612.

Virginia's settlers came to the New World for economic and the gamut of personal reasons; however, they initially encountered starvation and unfriendly Indians. Even though the original charter, in a somewhat unusual move and possibly as an enticement, guaranteed the protection and privileges the common law would have accorded any man in England, the settlers' immediate concern was not government, but survival. In fact, only 60 of 500 settlers lived through the winter of 1609-10, known as the "starving time."

Beyond the company, the plantations and churches were the first bodies of authority or local government in the New World. Commanders of the plantations,

who often were officers in the militia also, were responsible for their territories and probably handled civil matters. The plantations themselves later came to represent natural divisions for representative government. The local church also had a great deal of responsibility, keeping legal records such as those of marriages and births and handling social matters.

Once the colony had taken hold, however, it did not take long for the influence of the mother country to spread. In 1618, Gov. George Yeardley arrived in Virginia with instructions to convene a general assembly. The assembly, which was to meet annually if not more often, was to be composed of a council chosen by the company and a house of burgesses elected by the freemen of the colony.

The first assembly convened July 30, 1619 in Jamestown, meeting in the "Quire of the Church" as there was no other place to hold a public meeting. Not unlike today, the assembly formed committees, debated legislation and after three readings enacted bills into law. Having judicial and administrative as well as legislative authority, the assembly also heard cases and passed sentences and attended to matters such as taxes and roadbuilding. The assembly continued to meet in this form at least annually until the company's charter was revoked in 1624 and Virginia became a royal colony.

Also in 1618, Gov. Yeardley ordered monthly courts to be held at convenient places. These early courts were established primarily to take some of the workload off the assembly and as a matter of convenience as the colony grew. They shared legislative, administrative and judicial powers with civil and military officers and the churches. The duties of the monthly courts, which included such local matters as construction of tobacco warehouses and

licensing taverns, were considerable and they soon became seats of local government.

In 1619 the colony was divided into four "incorporations" which in turn were composed of plantations, and by 1634 the colony had grown large enough to be divided into eight "shires," or counties, following the established form of government in England. The counties were represented at the General Assembly and eventually replaced the plantations as the representative units of local government.

Very little is known about the actual enactment of the legislation which formed the original counties other than it was an act of the General Assembly of 1634, that the governor at the time was Gov. John Harvey, that the assembly met at the governor's home, that he was known to complain about the expense of this, and that the assembly consisted of 32 burgesses representing 21 areas.

The original eight shires were Accomack, Charles City, Charles River, Elizabeth City, Henrico, James City, Warrosquoake and Warwick River. They eventually became Accomac County, Charles City County, York County, the city of Hampton, Henrico County, James City County, Isle of Wight County and the city of Newport News.

Each county had a sheriff who was appointed by the governor or recommended by the county court. The sheriff served warrants, executed judgements, collected taxes, supervised elections and, in time, became quite powerful. Counties also had clerks, surveyors and other officers.

This form of "county government" soon became entrenched in the New World as the number of counties flourished from 50 in 1750 to more than

*Continued, page 22*



# Benefits Roll In

## *from the Virginia CDBG Program*

**By Shea Hollifield**

A 90,000 square foot plant expansion will create 200 new jobs in the town of Independence. An inner harbor has been built and reinforced to help sustain local commercial fishing in Northampton County. A failing septic system which has contaminated well water for several years is being replaced by public sewer service in Montgomery County. What do all of these activities have in common? They are all projects funded by the Virginia Community Development Block Grant Program.

In 1982 the commonwealth of Virginia began administering the community development block grant (CDBG) program, a federal program offering funding for construction grants for community facilities, housing and economic development to primarily benefit low and moderate income people. Since the Virginia Department of Housing and Community Development became responsible for administration of the program, some very significant benefits have accrued to Virginia citizens. A total of 58 new construction projects have been funded, providing some impressive services across the commonwealth.

The town of Independence, Northampton County, Loudoun County, Montgomery County and the city of Suffolk are just a few of the localities now

implementing CDBG funded projects which will benefit their residents.

In Independence, the CDBG program helped finance a significant plant expansion by Nautilus of Virginia Inc. This private-public partnership resulted in a 90,000 square foot building and will create approximately 200 new jobs, most of which will go to low and moderate income people. The new plant is expected to begin production this spring.

In Northampton County, the Virginia CDBG program is helping retain 355 jobs and provide the safe and efficient harbor needed to ensure continuation of the local commercial fishing industry. In cooperation with the U.S. Army Corps of Engineers, the Willis Wharf Harbor basin which was becoming impassable is being dredged. New bulkheads, boat ramps and moorings are being installed and work also is being done on support facilities. This innovative project will enable the Willis Wharf Harbor to expand its commercial activity in the future.

While economic development and jobs have been generated by the Virginia program, other important community needs also have been addressed. In 1983 Loudoun County received funding to rehabilitate 31 houses which had documented sanitation and safety problems. Loudoun County will soon be able to provide 31 low and moderate income homeowners with decent, safe housing

while contributing to the overall improvement of the county's housing stock.

In Montgomery County, two residential areas were faced with a long-standing health hazard caused by failing septic systems contaminating ground and well water. Virginia CDBG funding will help correct this problem by providing public wastewater collection and treatment for 1,293 people, three-fourths of whom are low and moderate income.

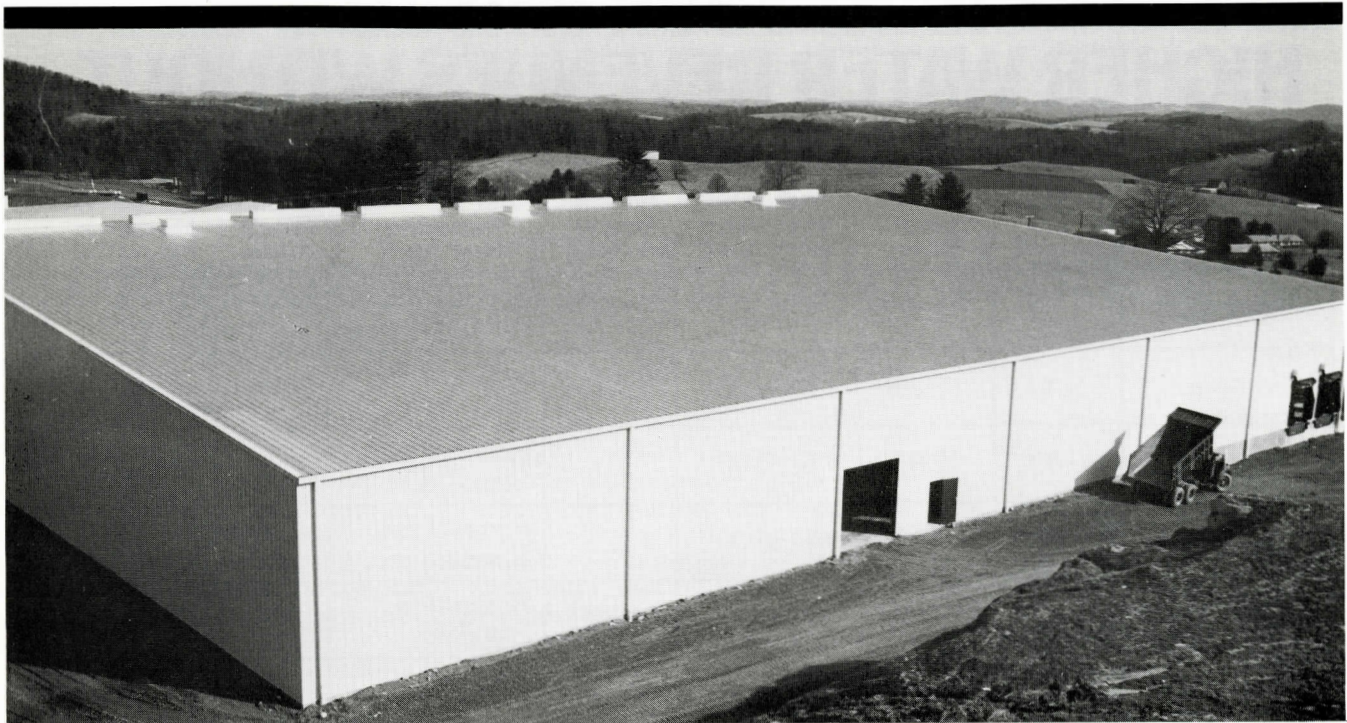
The city of Suffolk can now provide municipal water and sewer service in the Pughsville area for the first time with the assistance of Virginia CDBG funds. Shallow wells in this area were not dependable and had become increasingly contaminated. Connection to city water and sewer service will guarantee 416 low and moderate income citizens sanitary water and safe, adequate wastewater disposal.

These are only a few of the results accomplished since the Department of Housing and Community Development assumed the CDBG program in 1982. Total benefits have been even more extensive.

### **Program Wide Benefits**

In 1982, 22 projects were funded through the CDBG program. Eleven





*This 90,000 square foot plant expansion in Independence, VA was jointly financed by the Virginia CDBG program and Nautilus of Virginia Inc. It will create approximately 200 new jobs for low and moderate income individuals.*

counties, seven towns, and four cities received a total of \$13.5 million in community development funding. Thirteen community facilities projects, eight economic development projects and one housing project are now underway as a result of the 1982 Virginia Community Development Block Grant program.

In 1983, \$16 million in community development funds was distributed to twelve counties, fifteen towns and one city. These grantees are now implementing seventeen community facilities projects, eight economic development projects and three housing projects. In addition to these grants, eight localities received a total of \$4.4 million from the Emergency Jobs Bill, which provided for special, supplemental community development funding in 1983. As a result, six counties and two towns are now working on three community facilities projects and five economic development projects creating 776 new jobs.

In the two years that Virginia has administered the Community Development Block Grant program, 5,000 jobs will be created, improved housing will be provided to 458 citizens, and 26,000 people will have new or improved water and sewer service. A total of 31,458 Virginia residents will experience direct benefits from the 1982 and 1983 program. The program has stimulated

other investments as well. To date, \$98,885,781 in public and private funds have been leveraged through the CDBG program.

In addition to the 58 projects funded by the CDBG program under the commonwealth's administration, 21 multi-year commitments previously made by the U.S. Department of Housing and Urban Development also have been fulfilled. These multi-year commitments were met by the end of 1983, and as a result, 10,500 Virginia residents will receive direct benefits from improved housing, new water and sewer services or other community services.

#### **The CDBG Program for 1984**

Now that the commonwealth has had two years of experience in community development administration, proposals to refine, streamline and improve the program are being considered. Revisions have been proposed to increase local governments' flexibility and responsiveness to economic development needs, and suggestions by local government and changes in federal legislation are currently being incorporated into the 1984 program. Workshops and public hearings on suggested program modifications will be held April 24 in Wytheville, April 25 in Harrisonburg and April 26 in Dinwiddie.

Approximately \$22.2 million in CDBG funds will be available in 1984 to small

cities, towns and rural counties eligible to participate in the program. These include cities and towns with populations below 50,000 and counties with populations below 200,000.

New jobs; expanded economic opportunity; safe, efficient water and sewer service; decent, standard housing; and adequate public facilities are all good reasons for a community development program. Many Virginians are now enjoying these results provided through local government participation in the CDBG program. For more information on the Virginia Community Development Block Grant Program, contact the Department of Housing and Community Development, 205 N. Fourth Street, Richmond, VA 23219-1747, (804) 786-4474.

#### **About the Author**

Shea Hollifield is a technical assistance planner for the Department of Housing and Community Development Office of Community Development Planning and Technical Assistance. She has been with the department 1½ years and has worked with communities providing program information and assistance in the application process. She has also provided training on various community development issues and topics.



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Rocky Mt.	4,000	96.0%	\$156.00	1,125	Rockwell SR* Standard	5	\$ 3,806,981
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# Highlights of the 1984 Session

"Man and beast can rest easy—the General Assembly has adjourned!" goes the old wag. The 1984 General Assembly adjourned March 12, after 62 days in session. It was a session highlighted by debate on a broad range of public policy issues such as the coal slurry pipeline, uranium mining, the need for a sales tax increase, drunk driving legislation, implementation of the intermediate court of appeals, and a high-tech research center. In the final days, prolonged negotiations by budget conferees on the \$15.9 billion budget for 1984-86 took center stage.

When it was over the 1984 General Assembly had passed 807 of the 1,471 bills that came before it and carried over 229 bills until the 1985 session. It also adopted 227 of 317 resolutions introduced. The Virginia Municipal League staff identified some 600 bills and resolutions that directly impacted local governments.

As is the case in most sessions, bills that did not pass represent good news to local government. Among those bills that failed or were carried over were several public employees collective bargaining bills, a measure to restrict the use of local government work forces to carry out public works projects, bills that would have substantially altered annexation procedures, legislation to mandate 10 percent annual salary increases for teachers, a bill to require an immediate roll back on business, professional and occupational license taxes, and legislation to require expensive newspaper display ads for all increases in the aggregate amount appropriated for local budgets.

## Telephone Rates

A bill of considerable interest to local governments that was carried over to the 1985 session was Senate Bill 239, which would have placed all localities under the jurisdiction of the State Corporation Commission for the setting of telephone related rates and charges. Passed by the Senate by a 19-18 vote, the legislation was assigned to the House Committee on Corporations, Insurance and Banking where extensive testimony was offered by all interested parties. With a final committee vote scheduled for the following day, those local government officials attending the VML Legislative Day on February 22 were given a direct role to play in determining the final outcome of the issue.

The committee first voted 14-6 to defeat the bill and then voted to carry it over to the next session. Efforts to negotiate with C&P Telephone Co. on local government telephone rates have begun again by the VML/VACO joint steering committee.

## Finance Bills

A number of finance related bills failed this session, the most significant of which were measures to increase the state sales tax. The Virginia Municipal League's legislative priority for the 1984 session was enactment of an additional 1 percent sales tax with proceeds dedicated to primary and secondary education. Despite strong evidence of the need for this additional revenue, passage of appropriate legislation began to look doubtful early in the session as administration and key leadership in both houses came out in opposition to any major tax increase this year. Sales tax measures were introduced in both houses but none were reported from committee.

A number of revenue measures were introduced despite the administration's opposition to a sales tax measure. The administration introduced bills to increase user fees on several health service programs including septic tank permits, inspection fees for restaurants, migrant labor camps, hotels and motels and campgrounds. All were killed by either House or Senate in the session's closing days.

As usual, many finance measures affecting local governments did pass. The most significant were in the area of personal property taxation. House Bill 827, introduced by Del. Morrison, D-Newport News, removed cable television tuners and converters from local personal property taxation.

House Bill 320, introduced by Del. Morrison, removed motor vehicles not licensed by the state from personal property taxation, categorizing them as local machinery and tools. The bill's largest impact will be in Morrison's own community of Newport News, since shipyards have a number of unlicensed motor vehicles and a machinery and tools tax rate significantly below the personal property tax rate.

House Bill 112, Del. Diamonstein, D-Newport News, authorizes localities to allow private businesses which collect taxes for local governments to withhold up to 5 percent of monies collected.

This withholding could apply to local consumer utility taxes and meals and lodging taxes.

House Bill 258 passed both houses and will permit localities to impose a fee on local telephone bills to finance recurring maintenance costs of enhanced 911 emergency telephone systems. Current law allows a fee for capital and installation costs only. Also, telephone companies may now withhold 3 percent of the amount collected.

The General Assembly passed a major bill which recodified all of Title 58, the tax code. This bill generally intended to clean up the code, however, changes concerned local governments. Most significant was elimination of language concerning meals, lodging and admission taxes. An amendment, adopted by Senate Finance, makes clear that local governments authorized to impose this tax will continue to have that authority.

A major piece of legislation benefiting local governments establishes an authority to assist in financing water and sewer facilities. Senate Bill 229 establishes an authority which would issue bonds under the moral obligation of the state. These bonds are expected to be issued at one rating below the state's current AAA rating. The authority would then grant loans to localities at a slightly higher rate than the bonds received. The difference would finance operation of the authority.

Two identical bills were introduced to remove wine sales from ABC stores. House Bill 919 and Senate Bill 400 become effective July 1, 1986. This potentially could have a negative impact of more than \$1 million on ABC profits distributed to localities. VML was successful, however, in amending the Appropriations Act to provide that also beginning July 1, 1986, Virginia's counties, cities and towns would receive 44 percent of wine tax revenues as opposed to the current 22 percent. The amendment also adds towns to wine tax distribution and could generate as much as \$7 million for local governments in the 1986-88 biennium.

A measure narrowly defeated could have had a significant long-range impact on local governments. Senate Joint Resolution 28 would have limited growth in state expenditures to growth in the state economy. This bill passed the Senate but was narrowly defeated in the House Privileges and Elections Committee by a 10-10 vote. If this measure

*Continued, next page*



had passed, it would have appeared on the November ballot and likely would have been adopted. VML's concern was that additional expenditures would be imposed on local governments since the state would be restricted from meeting any new needs.

### Public Procurement

House Bill 169, sponsored by Del. Axselle, D-Henrico County, passed with little opposition. The bill which provides local governments greater flexibility in acquiring professional services was promoted by VML, the Virginia School Board Association and statewide architectural and engineering groups. This bill does not, however, change the law for towns under 3,500 in population as they are exempt from this portion of the statute.

Under H.B. 169, effective July 1, 1984, significant changes are made in the manner in which local governments procure professional services.

1. When the cost of professional services is expected to be under \$20,000, local governments no longer have to follow the exact provisions of the Procurement Act and are authorized to develop alternative policies.
2. Local governments may interview "two or more" candidates who seek work and no longer have to interview "all offerors" that are qualified, suitable, etc.
3. Competitive requirements are no longer required when acquiring legal services.
4. Localities can talk about non-binding cost estimates for professional services during interviews.
5. Public bodies may acquire goods and personal services for direct use by recipients of public assistance or fuel assistance programs without following formal competitive procedures.

With no advance warning, Sen. Willey, D-Richmond, introduced a bill that would have repealed the 1982 Public Procurement Act and reinstated prior law. Sen. Willey amended the bill, however, to simply give greater flexibility to the General Assembly in its purchasing practices. In essence, the chairman of either House or Senate Rules may exempt specific purchases from the act. An outgrowth will be review of the Procurement Act prior to the 1985 session.

Several other bills passed which modify the 1982 Public Procurement Act. S.B. 329, Sen. Wilder, D-Richmond, amends Section 11-49 of the Code of Virginia to facilitate participation in procurement transactions by small businesses and businesses owned by women and minorities. S.B. 247 and

H.B. 557 increase to \$100,000 from \$25,000 the size of construction contracts before bid bonds and performance and payment bonds are mandatory.

House Bill 556, Del. Marks, D-Hopewell, passed the House but was carried over to next year by Senate General Laws. This bill would allow local governments to give preference to an in-town bidder as long as his bid is not more than 2 percent greater than the lowest out-of-town bidder or not greater than \$500 in total value.

### Conflict of Interest

The new Conflict of Interests Act that passed last year superseded all state laws, charters and ordinances. House Bill 299, however, sponsored by Del. Callahan, R-McLean, allows local governments to pass conflict of interests ordinances and regulations which are more stringent than the new act.

Senate Bill 304, Sen. Marye, D-Shawsville, and House Bill 308, Del. Parrish, R-Manassas, give greater flexibility for firms employing a member of a local governing body to contract with the local government of that official. The official, however, must disqualify himself and not participate in the decision to contract. House Bill 308 expands to \$500 from \$100 the current exception in the Conflicts Act for small contracts otherwise prohibited by the act. Officials and employees of towns and cities under 10,000 in population will continue to enjoy their much larger contract exemption in the present act for contracts under \$10,000, or \$25,000 per year if awarded on a sealed bid basis.

Another Senate bill sponsored by Marye allows conflict of interests opinions rendered by town attorneys to be introduced as evidence in a trial. Present law gives this authority to only county and city attorneys.

### Antitrust

Senate Joint Resolution 19, sponsored by Sen. Waddell, D-Sterling, at the request of Fairfax County and VML, urges the U.S. Congress to amend the federal antitrust laws to fully protect local governments and their special purpose units from application of federal antitrust laws. According to the National League of Cities, the Virginia General Assembly is the first state legislature to urge Congress in this fashion to amend the antitrust laws. VML localities are encouraged to pass similar resolutions. A copy of this resolution appears on the opposite page.

No bill was introduced to protect local governments under the Virginia Antitrust Act even though several Virginia localities have been sued under the act. VML did not seek legislation in this area

after Attorney General Gerald L. Baliles provided VML a letter of opinion that local governments presently have considerable protection under the state act.

### Hazardous Waste

Senate Bill 170 establishes a comprehensive process that must be followed if state government or private entities seek to establish a commercial hazardous waste facility in Virginia. Although a seven-member state siting board would be given the final decision whether to approve the location, the local government where the site is proposed would be kept informed at each stage of the siting process and would be given considerable opportunity to participate in the process.

The local government also would be given money from a state technical assistance fund to determine the effect of the site in the area and would have the opportunity of negotiating a siting agreement with the party seeking the site. A key issue in the negotiations could be mitigation or compensation for economic detriment suffered as a result of the site.

Senate Joint Resolution 21, Sen. Macfarlane, D-Roanoke, requests the Solid Waste Commission to study policy options available to the commonwealth to encourage alternatives to land disposal of hazardous waste.

Senate Bill 204, Sen. Macfarlane, creates a \$10,000 fine for each day of violation for any person who knowingly transports hazardous waste without a permit.

### Freedom of Information Act

This year only one bill of this nature directly relates to local governments. House Bill 24 totally prohibits use of conference calls by governing bodies in lieu of face to face meetings. Gov. Charles S. Robb supported this bill.

### Grievance Procedure

House Bill 506, Del. Stambaugh, D-Arlington, and others, amends the state grievance procedure, which applies to local governments, to require the grieving party and the governmental entity to comply with all substantial procedural requirements or a decision will result against the party that has not complied unless there is just cause. The party not in compliance will be given five working days after receiving written notice to correct the non-compliance. Senate Joint Resolution 38, by Sen. Schewel, D-Lynchburg, creates a study commission to study the state grievance procedure prior to the 1985 session.

### Town/County Relations

Although resolutions calling for a study of town/county relations were defeated, the Joint Legislative Audit and

*Continued, page 12*



## 1984 SESSION

LD1254136

### SENATE JOINT RESOLUTION NO. 19

Offered January 17, 1984

*Memorializing the Congress of the United States to adopt legislation which will fully protect municipalities and their special purpose units of government from liability under federal antitrust laws.*

Patrons—Waddell, DuVal, and Russell, J. W.; Delegates: McDiarmid, Cody, Parrish, Callahan, Medico, Keating, Gordy, Andrews, and Bagley, F. C.

Referred to the Committee on Rules

WHEREAS, the United States Supreme Court, in *Parker v. Brown*, 317 U.S. 341 (1943), established the Parker Doctrine, a state action exemption test granting immunity to states from federal antitrust liability; and

WHEREAS, the United States Supreme Court, in *Community Communications v. City of Boulder*, 455 U.S. 40 (1982), held that the Parker Doctrine did not automatically give local governments immunity from federal antitrust liability; and

WHEREAS, until the Boulder decision and other recent court decisions it had been assumed that the Parker Doctrine applied to local as well as to state government; and

WHEREAS, the Boulder decision has exposed local governments to litigation in many of their regulatory, planning, franchising and other day-to-day activities; and

WHEREAS, federal antitrust law suits are being filed in ever-increasing numbers against municipalities as a result of the Boulder decision; and

WHEREAS, claims for monetary relief seeking hundreds of millions of dollars for treble damages under the federal antitrust laws threaten the fiscal integrity of municipalities; and

WHEREAS, even frivolous antitrust suits can be extremely time consuming and expensive to defend because of the need to hire outside counsel; and

WHEREAS, the activities of local government, like the activities of state and federal governments, are particularly unsuited to the application of federal antitrust statutes; and

WHEREAS, there is no logical reason why local governments, including special purpose units of local government such as authorities and commissions, should not have antitrust immunity similar to that available to state governments and the federal government; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly of Virginia memorializes the Congress of the United States to adopt legislation which will fully protect municipalities and their special purpose units of government from liability under the federal antitrust laws; and, be it

RESOLVED FINALLY, That the Clerk of the Senate transmit copies of this resolution to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to the members of the Virginia Delegation to the Congress of the United States.



from page ten

Review Commission has agreed to study this problem during the summer.

#### Other Issues

A bill to establish a refund deposit law for beverage containers was killed as was a bill to require local governments to observe the same holidays as state government.

Several issues important to local government were deferred. House Bill 269 would have required local governments to pay their bills in a timely fashion or pay whatever finance fee the vendor normally charges. House Bill 444 would have pumped approximately \$10.3 million into fire training and prevention at state and local levels by imposing a 1.2 percent surcharge on fire insurance company premiums, and House Bill 817 would have reorganized state programs dealing with the mentally and physically disabled and set forth the rights of disabled persons.

Uranium mining questions have also been deferred. In fact, after last minute negotiations and compromises between interested parties, no bills were introduced this session.

House Bill 574 passed creating a permanent State Water Study Commission to study all aspects of water supply and allocation problems in the commonwealth and coordinate legislative recommendations.

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## BUDGET HIGHLIGHTS

### ABC Profits & Wine Tax

	1984-85	1985-86
ABC Profits	\$19,599,000	\$13,967,000
Wine Tax	\$ 3,400,000	\$ 3,600,000

Revenue estimates for 1985-86 ABC profits reflect removal of the floor for local government profits. Language increases the share of wine tax proceeds to local governments to 44 percent from 22 percent and includes towns.

### Commission on Local Government

Funding is included to increase staff to four from three.

### Hazardous Waste Siting Board

\$60,000 is included to establish the board.

### Public School Employee Fringe Benefits

\$3,587,290 is added in 1985-86 to increase state support of fringe benefits to 55 instructors per 1,000 students from 54 instructors per 1,000.

### Standards of Quality

\$1,605 is provided in 1984-85 and \$1,776 in 1985-86 for per pupil basic aid payments. Language increased the personnel standard to 49 instructors per 1,000 students.

### Teacher Salaries

"The intent of the General Assembly is that classroom teacher salaries be improved throughout the state by 10 percent each year of the biennium. Sufficient funds are included in the act to finance, on a statewide basis, the state's share of this salary objective within 54 professional staff per 1,000 students in average daily membership in the first year and 55 professional staff per 1,000 students in average daily membership in the second year. Each governing body, school board and division superintendent is requested to allocate increased local funds to meet their locality's share of this critical goal."

### Virginia State Library

Full funding of the formula set out in Title 42.1, Chapter 3, of the code is provided for the biennium.

### Community Health Services

General funds are provided in 1984-85 to continue current environmental health services, but total revenue projections are reduced by \$5,843 and the employment level is reduced by 198 employees in 1985-86. Senate Bill 450 and House Bill 888, which proposed a series of user fees, failed to pass.

### One for Life

An additional \$640,000 in 1984-85 and \$670,000 in 1985-86 are provided in general funds for emergency medical services by legislation extending the "one for life" provision to pickup and panel trucks.

### Deinstitutionalization

New language requires reports from the Department of Mental Health and Mental Retardation on the phased reduction of patients in state institutions, proposed housing arrangements and administrative procedures to insure appropriate housing and continuing care.

### Medical Assistance Services

A cost containment study is requested by Oct. 1, 1984. Provisions for the reserve fund are reinstated as a result of carry over action on House Bill 878.

### Welfare Administration

The state Board of Social Services is required to present a plan to reduce state mandates and regulatory requirements by Jan. 1, 1985. Financial assistance to local welfare boards for administration is reduced by \$839,730 in general funds and \$928,122 in non-general funds in 1985-86 to reflect anticipated reductions in state mandates.

### Juvenile Delinquency

"There shall be no commitment of general funds to support juvenile delinquency prevention programs initiated with federal funds after July 1, 1984 without prior approval of the General Assembly."

This grandfathers in localities currently receiving state funds for this program.



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# Reagan Prescribes Success Formula For Nation's Cities

President Ronald Reagan drew several rounds of applause as he spoke before some 2,500 city officials gathered March 5 at the National League of Cities Congressional City Conference in Washington.

Reagan told officials that the country had moved away from the basic principles that were the foundations of our cities and the country, and that "America cannot get back on its feet with its cities on their backs."

Reagan cited the four keys to success for the nation's cities as strong and steady economic growth, federalism, public/private partnerships and a return to basic values and the renewal of community life.

The president drew applause when in speaking on his policy of new federalism he said, "We believe local officials can do a better job than the bureaucrats in Washington."

Discussion surrounding the federal deficit and the 1985 budget permeated the four-day conference which included policy talks and meetings with congressional and administration leaders. Efforts to restrict the uses of tax-exempt financing, cable television legislation, community development and job training, environmental programs, natural



President Reagan addresses city officials at the National League of Cities Congressional City Conference while NLC President George Latimer, mayor of St. Paul, MN, bottom left, listens. NLC Past President Jessie M. Rattley of Newport News, to Reagan's right, was seated at the head table.

gas pricing, infrastructure and municipal antitrust liability were issues of focus.

Speakers at the conference included House Majority Leader Jim Wright, D-TX, leader of the House Democratic effort on deficit strategy, and Rep. John Dingell, D-MI, chairman of the House Energy and Commerce Committee,

who spoke on cable legislation.

Virginia Municipal League members gathered the last day of the conference, as did members of other state leagues, for a legislative briefing over breakfast and were then released to visit the Virginia delegation on Capitol Hill.

## VML Day Draws Local Officials

More than 225 local government officials participated in the February 22 Virginia Municipal League Legislative Day activities at the Hotel John Marshall in Richmond.

The afternoon session featured an overview of key local government legislative issues and a review by Secretary of Finance and Administration Wayne Anderson and Deputy Director of the Division of Budget Development and Execution Ray Sorrell of the state budget and its impact on local governments. This was followed by a panel discussion featuring delegates Harry J. Parrish, R-Manassas, and John C. Brown, R-Bristol. A reception honoring members of the Virginia legislature was held at the conclusion of the discussion.

Betty J. Diener, Virginia's secretary of commerce and resources, spoke at the luncheon meeting of the Women in Local Government Task Force held in conjunction with the VML Legislative Day activities. Diener delighted the luncheon crowd of about 35 women with

stories of some of her more humorous experiences in office. In addition, she discussed some of her innovative programs within the Department of Commerce and Resources and some of the

sexists attitudes women in office may sometimes encounter.

Diener noted that "success for women brings a stronger obligation to help other women."



—Secretary Diener—



—Secretary Anderson—



## Waterside Triples Projections

In a joint news conference, Norfolk Mayor Vincent J. Thomas and Waterside developer James W. Rouse announced that sales and visitors to the festival marketplace have far exceeded expectations. Tax revenues for the building, which opened June 1, 1983, more than tripled projections in the first seven months of operation. In addition to bringing new jobs, businesses and dollars to the Norfolk economy, The Waterside has been a catalyst to other downtown development, including increased tourism and conventions and the investment of millions of dollars by the private sector in building and renovating downtown office buildings, hotels, housing, restaurants and recreational facilities.

## Fairfax Becomes Tree City USA

Fairfax County has been named a "Tree City USA" by the National Arbor Day Foundation, a Nebraska-based organization dedicated to encouraging tree care and tree planting programs across the country.

To qualify for this award, Fairfax County had to have a community tree ordinance, a legally constituted tree board or department, a comprehensive urban forestry program supported by a minimum of \$1 per capita, and an Arbor Day proclamation and public tree planting ceremony. The county code has included a tree ordinance since 1973, the same year in which the County Tree Commission and the Arborist Office were established. The county's urban forestry program is concerned primarily with the planting and maintenance of trees on public property such as parks

and governmental grounds, and Arbor Day celebrations take place each year in April.

As a Tree City USA community, the county will receive a flag bearing the Tree City logo, a plaque and appropriate road signs. The county will receive its awards April 30 during Arbor Day activities.

## New Manual Contains Safety Regulations

The Department of Labor and Industry has published a new manual containing all administrative regulations for its occupational safety and health programs, combining for the first time regulations governing both the public and private sector. The new manual consolidates and replaces two previously used manuals dating from 1974 and 1978 and incorporates several new changes in state policy and regulations.

VOSH, the Virginia Occupational Safety and Health program, constitutes a major responsibility of the Virginia Department of Labor and Industry. The new manual, the first complete volume of all administrative procedures governing VOSH, is designed to assist employers in understanding their rights and obligations under both the federal Occupational Safety and Health Act of 1970 and those Virginia labor laws adopted by the General Assembly to regulate occupational safety and health within the commonwealth. Among other critical administrative procedures, the manual explains the regulations governing emergency and temporary standards, variances, contest of citations, civil penalties, the protection of trade secrets, and the statutory applications of the Freedom of Information Act.

Copies of the new manual may be obtained by writing VOSH Administrator, Virginia Department of Labor and Industry, 205 N. Fourth St., Richmond, VA 23241.

## Power Conference Scheduled At New Site

Michael J. York of the Harrisonburg Electric Commission and president of the Municipal Electric Power Association of Virginia (MEPAV) announced recently that the association has changed its 1984 conference site to the Cavalier Hotel located at 42nd and Atlantic avenues in Virginia Beach. The conference dates, May 30-June 1, remain the same.

York expects an even bigger and better conference this year at the new site. The three-day conference will include programs on supervised control and data acquisition, software engineering packages, annexation laws affecting municipal electric systems and the state of the art of handheld meter reading devices. In addition, a program for women on the care and quality of oriental rugs is being planned. The conference also will include the traditional cocktail receptions on Wednesday and Thursday evenings.

For more information, contact Christy Everson at the Virginia Municipal League, P.O. Box 753, Richmond, VA 23206, (804) 649-8471.

## Groups Publish Tax Rates

The Virginia Municipal League, in cooperation with the Institute of Government at the University of Virginia and the Virginia Association of Counties, has published the second edition of "Tax Rates in Virginia Cities, Counties and Selected Towns."

The publication, prepared and written by Albert W. Spengler of the Institute of Government, is divided into two sections. Section I is in narrative form and discusses municipal taxation of cable television companies and selected 1983 legislative changes to the Virginia Code regarding the taxes studied. Section II also includes a list of additional readings. Section II consists of 17 appendices that present in tabular form the actual tax rates and tax provisions for a variety of local taxes.

The handbook has been mailed to each VML member locality. Additional copies are available to VML members for \$7.50 and to non-members for \$15. They may be ordered from the league by mailing a check for the appropriate amount to VML, P.O. Box 753, Richmond, VA 23206.



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# Reading, PA—Where Community TV Really Works

By Neal R. Peirce

READING, PA. — Each Friday morning Eugene L. Shirk — former mayor of this small Pennsylvania city and one of America's most quick-witted, energetic octogenarians — hosts "Bridging the Generation Gap" on Reading's popular cable station, BCTV.

With Shirk in the studio, as volunteers man the cameras and telephones, are several 75-plus-year-olds. But they aren't "alone." Virtually the whole program is split screen, the other half occupied by seniors and juniors from a Reading high school.

The medium is called interactive community-cable television. And the human dynamic is extraordinary as young and old debate issues from compulsory draft registration to institutionalization of the elderly. Discussions move quickly from foreign policy to whether a teen-ager should be thrown out of the National Honor Society because she's pregnant.

Across the 50 states, there may not be a community-cable effort that equals BCTV's. Begun in 1976 with a start-up grant from the National Science Foundation and assistance from New York University, it's grown into a major Reading institution. The city council hasn't held a meeting "off-camera" in years.

Cosmetic dentistry, hospices, police practices, alcoholism, farmland preservation, Hispanics' immigration experiences, Camp Fire girl meetings, financial advice, and world peace issues — all have been discussed on BCTV, with viewer participation on and off camera, in the last several months.

BCTV airs 15 to 20 hours of live programming each week and expands to 30 to 40 hours as each live show is rebroadcast. Each week there's a hearty "Sing-along" led by an 83-year-old singer and an 85-year-old pianist. The seniors in the central studio have a video hookup to a state mental hospital where some long-term patients have become reacquainted with old friends after years of separation.

Reading's BCTV is a world apart from

cable television's standard staples: pay movies, sporting events, rock-music videos, 24-hour news. It's also distinctly different from the widely publicized "Qube" experiment in Columbus, Ohio, which permits viewers to rate politicians, play game shows or order library books by punching buttons on a console.

Reading's cable station, says Kettering Foundation associate Bruce Adams, offers a "rare marriage of community spirit and technology." The Reading model "shows that citizen participation can work when you have people talking to people."

BCTV's amateur version of high technology sets it apart. "They picked community-oriented people and not technicians at the start. We aren't engineers or NBC-type personalities," BCTV executive director Kate Stutzman told my associate, Robert Guskind. Even the studio is unelaborately designed, so guests won't feel intimidated.

Considering BCTV's production record—1,144 live programs last year—the annual operating budget of \$183,000 is phenomenally low.

The station's outreach also seems extraordinary. During an average month, 62 community groups, ranging from the Reading Community Players to the Italian Heritage Society, are involved in programs. In 1983 there were no less than 3,860 studio participants and 3,723 homeviewers calling in questions or comments on the air.

Outside of expanding social frontiers for senior citizens (and giving many retirees a new volunteer career), the station's biggest impact has been on government. In earlier years, ex-Mayor Shirk recalls, city-council hearings drew "just a few chronic complainers." With interactive cable and call-in telephone, effective attendance ballooned.

"Now people feel they know the mayor and council on a personal basis," says Shirk. "Councilmen sometimes get raked across the coals, but they also relish the opportunity" to explain their

positions directly on television. And not, apparently, without effect. BCTV estimates that 50 to 75 percent of the system's 52,000 subscribers tune in at least once a week.

The toughest question about BCTV — despite strong public cable access, promised or actually delivered, in New York, Dallas, Boston, Knoxville and Denver — is why its homespun quality and extensive public involvement hasn't been equaled elsewhere.

One reason is hostility of cable companies, some of which are shaky financially and believe cities have badgered them into too many concessions for local-access and low-cost service. Even Reading's cable company, says Stutzman, "would very much like us to disappear into the night. But if they pulled the plug, there would be an outcry in the community."

The optimist's scenario for other cities is that citizen and public leadership could coalesce to create other BCTVs. Success requires multiple elements, says Adams — access, money, community spirit and representation, good management and a sense for promotion.

The pessimistic view is that the savage nature of the cable industry as it fights its franchise wars will overwhelm community efforts wherever they appear — even though 60 percent of the country is still "unwired" and many smaller cities' cable franchises are now coming up for renewal.

The potential that Reading presents is a glittering one. "It's like an electronic small-town newspaper but even more," Adams says. "George Orwell saw great danger in the spectre of two-way television. But in Reading people are a key to the technology. It's not an Orwellian nightmare; it's the opposite."

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# Innovation Group Elects Officers



NEC sales manager John Elicker talks about the personal computer he is holding while (l-r) Steve Crosby, county administrator, Fauquier County; Ed Brower, town manager, Warrenton; and Bob Williams, city manager, Newport News, listen.

The Virginia Innovation Group (VIG) held its start-up business meeting in February in the Virginia Municipal League Offices and elected Douglas Harman, city manager of Alexandria, its

chairman. Robert Williams, city manager of Newport News, and Robert Noe, county executive of Prince William, were elected vice chairmen.

The group is an organization of cities,

towns and counties joined with private companies for the purpose of expanding the use of science and technology products in local governments. It's parent organization, The Southeast Innovation Group, is a non-profit, tax-exempt corporation with the ability to enter into contracts with public and private entities for the purpose of science and technology research, transfers and applications in local government.

Richard F. Weeks Jr., formerly of the VML staff, and Robert Havlick of the Florida Innovation Group worked with Harman, Williams and Noe in the formation of the new organization which will hold its first technology steering committee meeting in May. In addition, Weeks has been hired as the organization's administrator.

Representatives of 18 localities attended the first meeting which included technology presentations by representatives of Columbus McKennon Corp. and NEC Home Electronics Inc.

Anyone interested in more information about the group should write The Virginia Innovation Group, P.O. Box 466, Richmond, VA 23203.

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# Legal Guidelines

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## Exceptions to Constitutional Restrictions In Letting Some Public Contracts

**By Howard W. Dobbins,  
VML Legal Counsel**

Considerable attention has been given in recent years to utilization of public contracts to bolster the economy or a sector of the citizenry of a locality involved in letting such contracts. Although in many cases such provisions have sociological and economic desirability, care must be taken to avoid constitutional restrictions. In two recent federal court cases, the Equal Protection Clause and the Privileges and Immunities Clause of the United States Constitution were the basis of challenges to ordinances which endeavored to designate contracts for the purpose of favoring black contractors on the one hand and citizens of the locality on the other.

In *South Florida Chapter of Associated General Contractors of America, Inc. v. Metropolitan Dade County, Florida*, 52 L.W. 2451, the Court of Appeals for the 11th Circuit in an opinion dated Jan. 27, 1984 held permissible a Dade County ordinance requiring all county contracts to be reviewed to determine if race-conscious measures could bolster participation by black contractors and subcontractors. The ordinance, which the United States district court originally hearing the case held violated the Equal Protection Clause, allows the county to "set aside" contracts for bidding solely among black contractors and contains provisions setting goals by which the county can require a certain percentage of a contract's value to be subcontracted to black contractors. Litigation resulted because construction of a subway station in a black neighborhood was set aside for competitive bidding exclusively among black contractors and because the county also required 50 percent of the contract's dollar value to be awarded to black subcontractors.

Under provision of the ordinance, before a set aside or subcontractor goal is approved it must pass through three levels of administrative review: the county department must suggest to the county manager which, if any, race-

conscious measures are appropriate for the project, those suggestions are reviewed by a three-member review committee and the review committee's recommendations are further reviewed by the county board of commissioners which must make findings that a set aside would be in the best interests of the county.

On appeal, the circuit court for the 11th Circuit concluded the review provisions provided adequate assurance the program will not continue beyond the point necessary to redress effects of past discrimination. The district court had ruled that even though the program itself was constitutional, it was unconstitutionally applied to this project. In reversing the district court on that point, the circuit court concluded that the estimated \$6 million cost of the subway station was less than 1 percent of the county's annual expenditures on contracts, just over 1 percent of the money spent to date on the subway system, and therefore, the effect of the set aside was not disproportionate to either the number of blacks and black contractors residing in the county or the goal increasing black business participation.

On Feb. 21, 1984, the Supreme Court of the United States announced its opinion in *United Building and Construction Trades Council of Camden and Vicinity v. Mayor and Council of the City of Camden* (81-2110), 52 L.W. 4187. The ordinance of the city of Camden under review requires that at least 40 percent of the employees of contractors be Camden residents. United Building and Construction Trades Council challenged the ordinance as violative of the Privileges and Immunities Clause of the United States Constitution. The Supreme Court of New Jersey rejected that attack on the ground that the Privileges and Immunities Clause is not applicable in the context of a municipal ordinance that has identical effects upon out-of-state citizens and New Jersey citizens not residing in the locality. In support of its decision, the New Jersey court contended that the clause only applies to

laws passed by a state, and secondly, that the clause only applies to laws that discriminate on the basis of state citizenship.

The United States Supreme Court rejected the first contention because, in the view of the court, a municipality is merely a political subdivision of the state, and even if the ordinance had been adopted solely by Camden and not pursuant to a state program or with state approval, the hiring preference must still comply with the Privileges and Immunities Clause.

The court also struck down the argument that the clause only protects against discrimination on the basis of state citizenship, reasoning that an out-of-state citizen who ventures into New Jersey cannot enjoy the same privileges as New Jersey citizens residing in Camden even though New Jersey citizens not residing in Camden will be affected by the ordinance as well as out-of-state citizens.

The court, however, indicated that the Privileges and Immunities Clause is not an ironbound, absolute protection for out-of-state residents and does not preclude discrimination against citizens of other states where there is "substantial reason" for the difference in treatment. The court quoted from *Toomer v. Witsell*, 344 U.S. 385, as follows:

The inquiry in each case must be concerned with whether such reasons do exist and whether the degree of discrimination bears a close relationship to it. . . . As part of any justification offered for the discriminatory law, non-residents must somehow be shown to constitute a particular source of evil at which the statute is aimed.

Camden contended that the ordinance was necessary to counteract grave economic and social ills, arguing that "spiraling unemployment, a grave decline in population and a dramatic reduction in the number of businesses located in the city have eroded the prop-

*Continued, next page*



## Legal Guidelines

erty value and depleted the city's tax base," and that the resident-hiring privilege was designed to increase the number of employed persons living in Camden and to curtail the "middle-class flight" currently plaguing the city.

Although the opinion reflects agreement by the court that these reasons could justify discrimination and form a basis for overriding the impermissibility of restricting the right of the citizens of several states to work in other states, the Supreme Court stated it was unable to evaluate Camden's justification for an exception to the clause on the basis of the record before the court. No trial had been held, no findings of fact made, and the court determined the case should be remanded for further proceeding in that respect.

As we have long known, constitutional constrictions are somewhat elastic. As evidenced by the cases reviewed here, they can be stretched or bent when courts conclude that circumstances justify exception. Normally, however, those exceptions have been for sociological reasons rather than solely economic or political reasons.

## Counties Celebrate 350 Years

from page five

100 before 1830 and to 178 before West Virginia broke away in the Civil War. The formation of towns was encouraged but without much luck as Virginia was largely rural. As a result, the type of government that evolved in Virginia whereby towns became subdivisions of counties differed considerably from that which developed in New England where independent townships evolved from local parishes.

Virginia's system of county government underwent few changes until the last half of the 19th century when two rewrites of the constitution made significant changes. The Constitution of 1850 established justices and sheriffs elected by the people for four-year terms, thus diminishing the authority of these previously appointed and open-ended offices, and the Constitution of 1870 created county boards of supervisors, finally separating judicial and administrative and legislative functions.

Many festivities will take place this year to celebrate this anniversary of the establishment of county government which took place 350 years ago in Virginia. Martha V. Pennino, vice chairman of the 350th Anniversary Committee of

the Virginia Association of Counties, recently remarked, "Our lives may have changed, but the inherent intent of county government to serve the needs of the people has not changed in 350 years."

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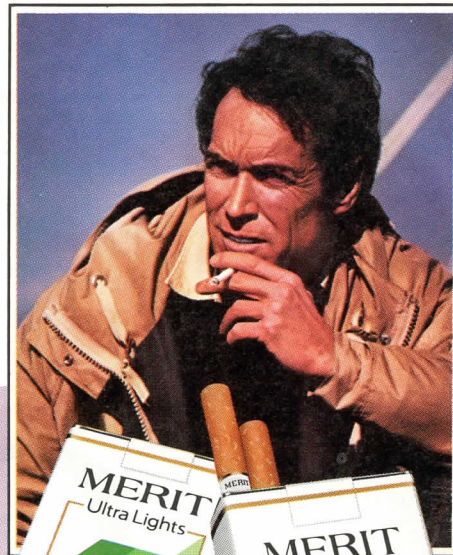
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