

# Virginia Town & City

VOLUME 13 • AUGUST 1978 • NUMBER 8

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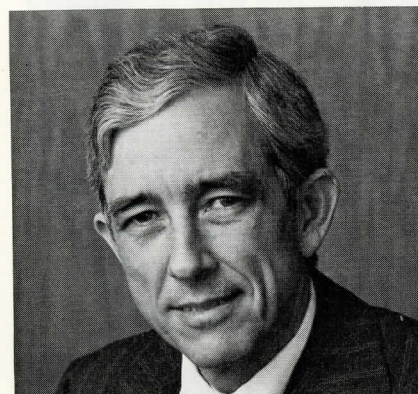
# Editorial



Mayor Vincent J. Thomas



Vice Mayor, Dr. Mason C. Andrews



G. Conoly Phillips



## WELCOME

The Norfolk City Council joins me in extending a warm and cordial invitation to you and your family to visit Norfolk on September 17-19 for the 1978 Convention of the Virginia Municipal League.

The League has planned its best Convention yet, and we in Norfolk are making every effort to host you well while you are here in our city.

I hope you will be able to take the time to enjoy our community. Much has happened in Norfolk since the League met here in 1973. We have added a new convention hotel, a new airport, new downtown office buildings, new branch libraries, new parks and more "news." Some of our older neighborhoods are becoming showplaces, and we have started a dynamic new development on our western waterfront.

I know that you and your family will enjoy the variety of attractions that draw thousands of visitors each year to Norfolk. Our Botanical Gardens are more beautiful than ever, and you should see the rose garden. The national reputation of the Chrysler Museum continues to grow; the museum has been recognized as one of the top twenty in the country by the *Wall Street Journal*. Our Lafayette Zoo and historic homes are well worth a visit, and the MacArthur Memorial offers a fascinating family visit back into the days of General Douglas MacArthur—his long career, his memorabilia and final resting place.

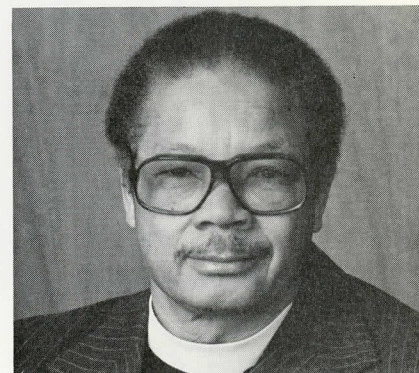
We of the official Norfolk family look forward to seeing you in September. We will have an opportunity to discuss some of the potentials and problems facing all of us in urban government. Here in Norfolk we are encouraging business development, continued downtown revitalization and growth as an international port, and we are proceeding full speed ahead with the aggressive redevelopment program that has transformed our city over the last three decades. At the same time, the vitality of Norfolk's programs of culture, recreation, education and entertainment have never been stronger. We want to share with you our experiences, and hear of yours. It is this sharing that makes the Virginia Municipal League Convention an exciting event.

We welcome you and look forward to being your host.

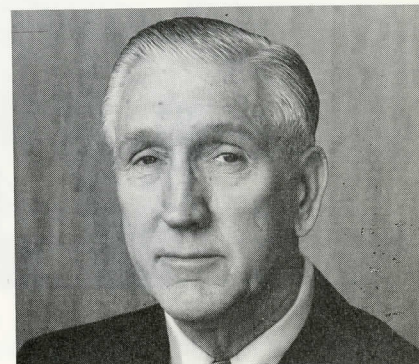
*Vincent J. Thomas*



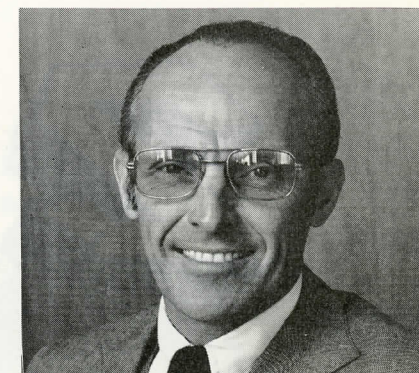
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## DEPARTMENTS

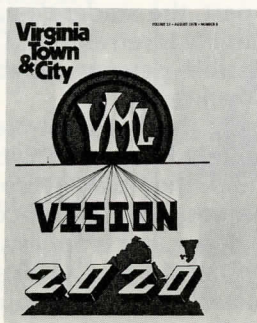
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Our Apologies: In the June, 1978 issue we omitted Robert F. Strohm, co-author of "Libraries: Getting The Most For Your Tax Dollar." Mr. Strohm is Adult Services Librarian, Henrico County.

Statements and opinions presented in this magazine do not necessarily reflect the editorial policy and opinions of VIRGINIA TOWN & CITY or the Virginia Municipal League.

### ON THE COVER

VML VISION: 2020 design was created by Vernon Banks, Library Assistant, Virginia Municipal League.



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## FIFTH GRADERS SAVE LIVES

Fire Safety Education

by DIANE C. ROCHE

There once was a man named Frank,  
Who was smoking by a gasoline tank,  
He huffed and he puffed  
Till the station blew up,  
And now there is no more of Frank.

—Kathy Dwyer, 5th Grade  
Kings Grant School  
Virginia Beach

In September, 1976, the Virginia Beach Fire Department initiated an extensive Fire Safety Education Program for the fifth grade in the public school system. The purpose of this program is to provide children with the vital, life-saving information they need to protect themselves better from fire now, and in the future. An added benefit is that this education will also reach the families of the fifth-graders. This age level is ideal for involving students in fire safety and prevention. The long range goal is to prevent fires and the resulting injuries and deaths in Virginia Beach.

### DEVELOPMENT

Fire Chief Harry E. Diezel brought the idea home when he encountered the program developed by Cathy Lohr, Fire Instructor, Guilford County, North Carolina. Based on the success of the North Carolina program, the number of residential fires in Virginia Beach, and the realization that traditional programs were not effective, Chief Diezel approached City Manager George Hanbury. Chief Diezel proposed that a similar fifth-grade fire safety program be initiated, and as a result, the new position of Fire Prevention Specialist was created and funded as a function of the Fire Prevention Bureau.

In December, 1975, I was hired as the Fire Education Specialist. Having the required degree in education, I began a six month training period to improve my knowledge of fire safety and prevention. Most of this training was self-taught but I attended the Probationary Firefighter's School and assisted Fire Inspectors and Investigators in their duties.

### ABOUT THE AUTHOR

Diane C. Roche is a Fire Education Specialist for the City of Virginia Beach.

### IMPLEMENTATION

To be effective a monthly classroom visit was needed but realizing time constraints and subject matter, the instruction is delivered once a week for six weeks. Each lesson is fifty minutes.

Initially, the School administration had to be approached and following their approval, the fire safety program was made a part of the health curriculum.

The pilot program entered the classroom equipped with a student workbook and audio visual aids. It was a time of trial and error but all agreed that the program was a success. The following year, the program was a formal part of the health curriculum. With the use of Comprehensive Employment and Training Act (CETA) funds, another fire education specialist was hired. Cappy Meredith and I soon became a regular part of the school scene. Appearing in uniform, we became a visible display of the Fire Department's concern for the safety of its community.

### LESSONS

Our program is designed to get the student actively involved with fire safety and prevention in his own home. We chose fifth graders because they are old enough to understand the material, but they are not apathetic to safety. Each student received a 40 page "Sparky's School of Fire Safety" workbook. The National Fire Prevention Association's Sparky, the fire dog, provides fun and motivation for the students. The workbook contains the six lessons with worksheets, a Sparky Safety Pledge, pictures of Sparky and puzzles. The student must read one lesson and complete the corresponding worksheet each week. The lessons teach the student what to do in case of fire. They teach facts about fire, the "Stop, Drop and Roll" technique, how to use a fire extinguisher and, most importantly, how to make a Home Fire Escape Plan. Fire prevention teaches students the chemistry of fire and how to recognize and remove fire hazards in their homes.

Teacher-student rapport is most important and the subject matter is treated with serious concern. We teach so that we may save lives and students must realize that our "fun" lessons are not just games.

The students know that they are also being trained so that they can teach others. For motivation the student is given membership as a Junior Firefighter in Sparky's Fire Department. They realize that this "job" has responsibilities. We hope he carries the message home to his family and friends and for the most part, the student's eagerness to accept this responsibility is refreshing. They enjoy being treated as responsible persons capable of having an effect on their own safety.

During the fire safety section, each student must complete a Home Fire Escape Plan. With their families' help, they plan escape routes and learn escape techniques. They are encouraged to have fire drills in the home and emphasis is placed on the purchase and installation of smoke detectors in the home. Many students report "bugging" their parents until results are received and I am sure that many detectors have been installed due to their efforts.

We received some excellent feedback on the effectiveness of the escape plan in January, 1977. An unknown arsonist started a fire in a storage area of an apartment building. A fifth-grader from our class and her family were housed in the building. By using the escape plan she had completed for class, the family escaped safely from their apartment and met outside at their predetermined location.

Each student must complete a Home Fire Hazard Inspection. With their families, they search for and remove fire hazards. Students report finding overloaded outlets, improper storage and use of gasoline, misused or damaged extension cords and other common hazards. Their faces beam with pride as they tell how the hazards were removed to make their home safer. The completed inspection form is signed by the parents and returned to class. Once they are evaluated, they are returned to the home to be used again periodically.

#### COMPLETION

At the end of the lesson the student will be promoted to the rank of Junior Fire Marshal. Only those students completing their work are promoted, which is usually about 95 percent. Graduation ceremonies are held and found to be exciting for the fifth-graders. The graduates are reminded that a Junior Fire Marshal helps others learn about fire safety. They are encouraged to also help neighbors complete home fire escape plans and hazards inspections. They proudly recite the Sparky Safety pledge together and are officially sworn-in as Junior Fire Marshals.

The success of the fifth-grade fire safety program has been recognized by teachers, students, parents and school officials. Unfortunately, this program does not lend itself to quantitative measurements. A

recent unpublished study indicates that the variables were too great. Due to a high military population, our area is very transitory and at this point, we must rely on other forms of measurement and evaluation. Direct contact with the children does show results and a visit to the classroom easily displays the enthusiasm and determination of the students. Many proudly tell of home fires prevented or handled correctly because of information received from our program.

We also administer a pre and post fire safety test to each student and comparative results show a significant increase in basic fire safety knowledge at the end of the program. Evaluation forms completed by classroom teachers praise the program. In 1977, the Fire Safety Education Program won national recognition in the NFPA "Learn Not To Burn" competition.

#### SATISFACTION

As an instructor, I have received much personal satisfaction from developing and teaching the fire safety program. There is much joy in watching these children learn. To those interested in teaching fire safety to children in your locality, I would give the following advice: it is important that the material you present be correct, pertinent and concise; but, it is more important that you be motivated and enthusiastic and that you successfully motivate the students. Try different approaches and methods until you receive results. Be open to advice from teachers and students. Realize that the fire safety lesson will only be as interesting as you make it for the students. Treat the students as responsible persons and expect results from them. Let the children know that you care about them and their safety, and the concern you show will be returned many times over.

### RATTLEY NEW VML PRESIDENT

The Honorable Jessie M. Rattley, Councilman of Newport News, became President of the Virginia Municipal League on July 1, 1978. Recognized at the national level of government, President Rattley is also Second Vice President of the National League of Cities and serves as the liaison for the Effective Government Committee. She gained attention as a member of the NLC Revenue Sharing Task Force when she effectively assisted in the reenactment of general revenue sharing.

Since her entry into local government, President Rattley has enjoyed a successful record. She was elected to the Newport News City Council in 1970 and was the first black and the first woman ever elected to Council. She became Vice Mayor in July, 1976 and was recently reelected to Council. She chairs the Virginia Municipal League Legislative Committee and is a member of the Effective Government

Committee.

A native of Birmingham, Alabama, President Rattley is an honors graduate of Hampton Institute, with a degree in business education and secretarial science. She established the business department at Huntington High School in Newport News, the first black high school in the city to offer business training. President Rattley founded Peninsula Business Col-

lege in 1952 and since that time has been the owner-director. She is the wife of Robert L. Rattley and the mother of two daughters.

Mrs. Rattley succeeds to the presidency as a result of Bristol Mayor R. L. Light's unsuccessful bid for reelection. The Virginia Municipal League enjoyed Mayor Light's able leadership and regrets that he was unable to serve a full term.



## CAPITAL

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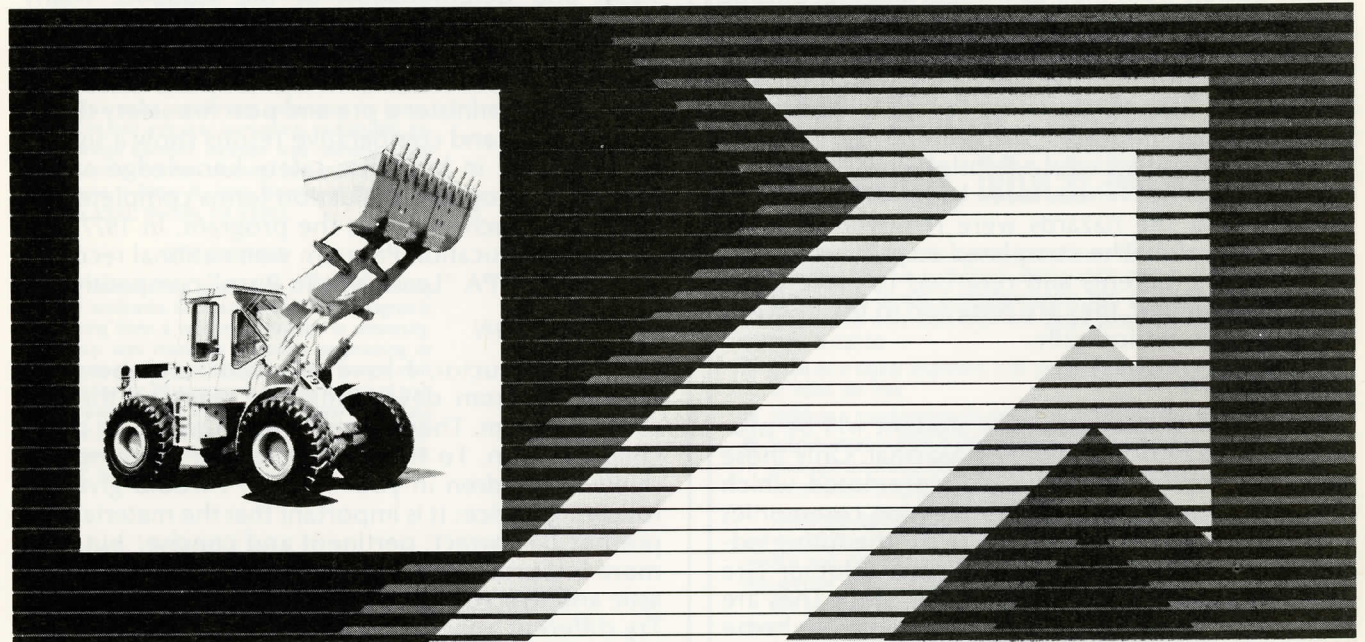
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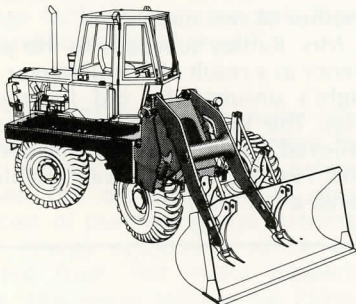
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# People

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## Miesch Appointed

GLENN R. MIESCH has been appointed chief of the recreation services section of the Virginia Commission of Outdoor Recreation. A native of Syracuse, New York, Miesch has been a director of parks and recreation for the Isle of Wight County, and served as the director of recreation for the City of Madeira Beach, Florida. He became affiliated with the State in 1974 when he was employed as a recreation consultant with the Office of Recreation in the former Division of State Planning and Community Affairs. Miesch replaces Philip T. Hester, who became director of recreation and parks for Chesterfield County.

## Trueblood Named Engineer

DONALD R. TRUEBLOOD, P.E., has been named city engineer for the City of Virginia Beach. He holds bachelor's degrees from the U.S. Naval Academy and Rensselaer Polytechnic Institute, and a graduate degree from George Washington University. He is a registered professional engineer in the States of Virginia, Indiana and Connecticut. Trueblood is a former director of public works for the Town of Stafford, Connecticut and has been a public works officer for the Norfolk Naval Shipyard. He is a member of the American Society of Civil Engineers and the American Public Works Association. He assumed his new duties on July 5.

## Fairfax County Names

The Fairfax County Public Library's Board of Trustees announced the appointment of MRS. PATRICIA YOUNG PAINE as deputy director of libraries effective July 1. Paine received a bachelor's degree from George Washington University and a master's degree from Catholic University. She has been affiliated with the Fairfax County public library system for some time and has most recently held the position as head librarian at the Central Library in Fairfax. WILLIAM S. ELLERTON, M.D., has been appointed director of mental health programs of the Fairfax-Falls Church Community Mental Health and Mental Retardation Services Board. A native of Nebraska, Dr. Ellerton received a bachelor's degree from DePauw University and received his medical degree from Northwestern

University. Dr. Ellerton has served in Virginia before in various capacities of the State mental health system. He assumed his duties in July.

## Dugger Dies

EUGENE B. DUGGER, Superintendent of the Light and Power Department, Town of Culpeper, died June 23. He is a past president of the Municipal Electric Power Association and currently a member of the Executive Committee. A native of Dayton, Tennessee, Dugger was a veteran of the Navy. He had been with the Town for twenty years. The Virginia Municipal League and the Municipal Electric Power Association extend sincere sympathy to his wife and family and the Town of Culpeper.

## Jack Appointed

Hampton building official D. PAUL JACK was appointed by the Building Officials and Code Administrators International to serve in a new at-large position on the Executive Committee. A native of Ohio, Jack has been with the City for approximately 22 years. He was appointed chief building inspector in 1957, assistant building official in 1965 and building official in 1973. He is a member of the Executive Committee of the Virginia Building Officials Association and a member of the Plumbing Code Committee of BOCA. He is also a past president of the Plumbing Inspectors Association.

## Announcing VIRGINIA FORMS Volume 1: Civil Litigation

by

W. Clyde Gouldman, II and Amy Morris Hess

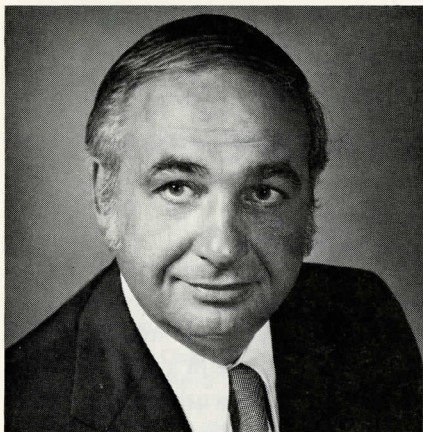
Consultant: T. Munford Boyd

Extensive changes in Virginia statutory and judicial law over the past 25 years have indicated the need for a new Virginia formbook. The book announced here, undertaken originally as a revision of **Gregory's Forms**, 1952 edition, is the result. It retains the basic structure and format of the Gregory book, but provides forms whose style and content are more suitable for current practice.

\$60.00

Approx. 500 pages

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**Bobbs-Merrill Law Publishing**  
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**JOHN ROUSAKIS**  
**KEYNOTE SPEAKER**

On Monday, September 18, VML Convention delegates will have a rare opportunity to hear an outstanding local official who is recognized nationally for his efforts. Savannah Mayor John Rousakis is a former president of the Georgia Municipal Association and currently First Vice President of the National League of Cities.

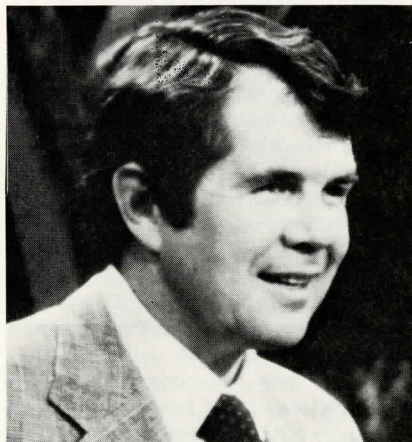
Mayor Rousakis has a long tenure in public service, having been elected county commissioner in 1965. He was elected mayor of Savannah in 1970, reelected in 1974 and is now unopposed in his bid for reelection. This October begins the unprecedented serving of his third term as mayor.

A native of Savannah, Mayor Rousakis holds a bachelor's degree in business administration from the University of Georgia. He is an insurance broker by profession.

He was recently appointed by President Carter to the Advisory Commission on Intergovernmental Relations and also is a member of the Advisory Board of the U.S. Conference of Mayors. He serves on the Board of Directors of the National Training and Development Service and the National Association of Regional Councils.

In recognition of Mayor Rousakis' career in public service, the Georgia Municipal Association gave him the "Motie Wiggins Award," the association's highest honor. In 1972 he was one of the five Outstanding Young Men in Georgia the same year he was named the Outstanding Young Man of Savannah.

The Virginia Municipal League cordially welcomes Mayor Rousakis as Keynote Speaker of the 1978 Convention.



**PAT ROBERTSON**  
**PRAYER BREAKFAST**

Dr. M. G. "Pat" Robertson will deliver the message at the first Annual Prayer Breakfast at the Virginia Municipal League Convention on Tuesday, September 19. It seems fitting for Virginia officials to hear the founder and President of The Christian Broadcasting Network, Inc. (CBN) located in Virginia Beach.

Pat, son of the late U.S. Senator A. Willis Robertson of Virginia, is host of CBN's internationally syndicated "700 Club" program. He is a former marine corps officer and is the author of the bestselling books "Shout It From The Housetop" and "My Prayer for You." Dr. Robertson holds a doctorate of jurisprudence degree from Yale University and a master of divinity degree from New York Biblical Seminary. In 1960 he acquired a run-down UHF sta-

tion in Portsmouth, Virginia and a year later gave his first broadcast. From that time, distinguished guests such as Israeli Prime Minister Yitzhak Rabin, Israeli Defense Minister Shimon Peres, Dale Evans, Pat Boone, Mahalia Jackson and Charles Colson have appeared on his program. The day after the last presidential election, his guest was then President-elect Jimmy Carter. The 700 Club appears in about 90 television viewing areas, including about 40 of the nation's 50 largest markets.

Robertson has been a leader in Christian television viewing and under his guidance, he has provided an alternative to television programming.

You are cordially invited to hear Dr. Pat Robertson's message.



**DR. JAMES H. BOREN**  
**BANQUET SPEAKER**

"When in Doubt, Mumble", is the title of Dr. James H. Boren's bestselling book. League delegates and guests have much to look forward to on Tuesday evening, September 19, during the VML Annual Convention.

Dr. Boren's humorous outlook on the world of government and the bureaucrats has been enjoyed by many audiences. Although his approach to the whole subject of bureaucracy is quite obviously a spoof, he feels that by looking at all of this with good natured humor, perhaps some improvements can be made.

A native of Oklahoma, presently residing in Alexandria, Virginia, Dr. Boren holds a degree in economics and education from the University of Texas at Austin and California State

College at Long Beach. He holds a graduate degree in economics from the University of Southern California and a doctorate degree in history, philosophy and education from the University of Texas.

He is now a chairman of NAVCO, a firm that designs and engineers training facilities and security systems. He also does consulting work and is dean of Peter University. In the past he has been a teacher, a college professor, an administrative assistant to a United States senator, a captain in the Army Reserves and an assistant chemist—there is little that he has not done.

Plan to attend the banquet on Tuesday evening and hear Dr. Boren "poke fun" at the bureaucrats. As he says, "Our red tape is the tape that binds the world together."



## VIRGINIA MUNICIPAL LEAGUE

**73rd ANNUAL CONVENTION  
SEPTEMBER 17-19, 1978  
OMNI INTERNATIONAL HOTEL,  
NORFOLK**

### REGISTRATION

Check registration desired

- |  |   |  |   |  |
|--|---|--|---|--|
| <input type="checkbox"/> <b>PACKAGE REGISTRATION</b> —includes all activities, group meals, and host city entertainment for Sunday, Monday and Tuesday | <b>Delegate<br/>Commercial<br/>Professional</b> | <b>Prepaid<br/>(Before<br/>9/6/78)</b> | <b>Guest<br/>Spouse*<br/>State Fed.</b> | <b>Prepaid<br/>(Before<br/>9/6/78)</b> |
|  | \$60.00   | \$55.00                                | \$30.00                                 | \$25.00                                |
| <input type="checkbox"/> <b>SUNDAY ONLY</b> —Includes all Sunday meetings and Host City Opening Reception  |   |  | \$10.00                                 |  |
|  | \$25.00   |  |   |  |
| <input type="checkbox"/> <b>MONDAY ONLY</b> —Includes all Monday Activities  |   |  | \$10.00                                 |  |
|  | \$15.00   |  |   |  |
| <input type="checkbox"/> <b>TUESDAY ONLY</b> —Includes Workshops, Business Session, Reception, Banquet   |   |  | \$15.00                                 |  |
|  | \$25.00   |  |   |  |

\*REGISTRATION FOR SPOUSE INCLUDES ALL SPOUSES' ACTIVITIES

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### CANCELLATIONS

Cancellations of prepaid or advance registrations will be accepted until 4:00 p.m., Friday, September 15, 1978. Telephone cancellations must be followed by a letter of confirmation.

### MEALS

All meal functions will be ticketed events. An exchange coupon for the Tuesday banquet is included in "package" registration or "Tuesday only" registration. All breakfasts are optional events, and tickets may be purchased at the meal ticket desk.

### IMPORTANT

The registration form should be forwarded to the designated official having this responsibility in your locality. That person should forward all advance registrations and payments to the League office to insure that you receive the proper rate and there is no duplication.

# VIRGINIA MUNICIPAL LEAGUE ANNUAL CONVENTION

## REGISTRATION FORM

NAME \_\_\_\_\_  
 TITLE \_\_\_\_\_  
 LOCALITY/AGENCY/FIRM \_\_\_\_\_  
 ADDRESS \_\_\_\_\_  
 CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_  
 Spouse Attending? ☐ YES ☐ NO  
 FIRST NAME \_\_\_\_\_  
 Guests Attending? ☐ YES ☐ NO  
 NAME(S) \_\_\_\_\_

(Over)

## SUNDAY SEPTEMBER 17

- 10:00 a.m. REGISTRATION AND EXHIBITS  
 1:00 p.m. SYMPOSIA  
   —Liability Insurance  
   —Fiscal Reporting and Property Tax Reform  
   —Flood Plain/Flood Way Management  
 2:30 p.m. POLICY COMMITTEES  
   —Community Development  
   —Effective Government  
   —Employment and Income Security  
   —Environmental Quality  
   —Human Resources  
   —Public Safety  
   —Transportation  
 FUTURE IDEAS  
 6:00 p.m. RECEPTION

## MONDAY SEPTEMBER 18

- 7:30 a.m. BREAKFASTS  
   —Legislative Committee  
   —Affiliate Groups  
 8:00 a.m. REGISTRATION & EXHIBITS  
 9:00 a.m. OPENING SESSION  
   —John Rousakis  
   —Achievement Awards  
   —Time & Place Report  
   —Nominations Report  
 2:00 p.m. CONCURRENT SESSIONS  
   to (Sessions Parallel Policy Committees)  
 5:00 p.m. LIABILITY INSURANCE  
   PUBLIC INFORMATION

FREE EVENING

## TUESDAY SEPTEMBER 19

- 7:30 a.m. PRAYER BREAKFAST  
 8:00 a.m. REGISTRATION & EXHIBITS  
 9:00 a.m. SECTION WORKSHOPS  
 11:00 a.m. BUSINESS SESSION I  
 2:00 p.m. BUSINESS SESSION II  
 7:00 p.m. RECEPTION & PRIZE DRAWING  
 8:00 p.m. BANQUET

(Cut and return above form to Virginia Municipal League, P.O. Box 753, Richmond, VA 23206)

## 1978 CONVENTION REGISTRATION INFORMATION

### ADVANCE PREPAID REGISTRATION

If you register in advance, your badges, programs and other information will be prepared in advance and may be picked up with a minimum of delay at the Registration Desk in the Omni. *IF YOUR ADVANCE REGISTRATION IS ACCOMPANIED BY PREPAYMENT, YOU WILL SAVE \$5 ON THE CONVENTION REGISTRATION PACKAGE FOR EACH PERSON ATTENDING.*

### PREPAID REGISTRATION MUST BE MAILED NO LATER THAN SEPTEMBER 1, 1978

September 1 is the deadline to take advantage of the special rates. Registrations received after that date will be charged at the Convention rates. All other advance registrations must be received no later than Wednesday, September 6, in order that they be ready for you upon arrival in Norfolk. Make checks payable to: Virginia Municipal League.



## VML VISION: 2020

*FUTURE n. 1 The indefinite period of time yet to be. 2 That which will happen in time to come. 3 The perspective condition of a person or thing. 4 Prospects of advancement; chances of success.*

Will local government find a vision? Will it have enough "eyesight" to sort through those things that some leaders call opportunities, not problems? Will those services delivered at the local level be improved, or more importantly, be continued? Is there a future for local government, or will it be up to those departments of the state and federal level to answer to citizens about the loss of their morning shower, street

lights or school buses?

The theme of the VML Annual Convention is looking to the future but also the 20/20 vision that is often times required of local officials when facing a problem or an "opportunity." The program offers new ideas, suggestions or solutions to those old problems and makes a thorough inspection of those things that are coming to local government: liability insurance, fiscal reporting, the Census and House Bill 602.

The future. We can never relive yesterday; we can learn from our mistakes and look forward to what we can do tomorrow.

Come; let's see what we, in local government, can do tomorrow.



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# Legal Guidelines

## MUNICIPALITIES HELD LIABLE FOR UNCONSTITUTIONAL ACTION by HOWARD W. DOBBINS, GENERAL COUNSEL

In 1961, the United States Supreme Court in the case of *Monroe v. Pape*, 365 U.S. 167, held that municipalities were completely immune from suit under the Civil Rights Act of 1871, now codified as 42 U.S.C., § 1983. This doctrine of immunity has now been rejected and overruled by the United States Supreme Court in *Monell v. Department of Social Services of the City of New York*, decided June 6, 1978 (46 LW 4569).

Monell was one of a class of female employees of the Department of Social Services and the Board of Education of the City of New York who complained of official policy of the Board and the Department compelling pregnant employees to take unpaid leaves of absence before such leaves were required by medical reasons. The suit sought injunctive relief and back pay for periods of unlawful forced leave and named as defendants the Department and its Commissioner, the Board and its Chancellor and the City of New York and its Mayor. In each case, the individual defendants were sued solely in their official capacities. The trial court, the United States District Court for the Southern District of New York held moot the claims for injunctive and declaratory relief since the City and the Board, after filing a complaint, had changed their policies relating to maternity leaves so that no pregnant employee would have to take leave unless she was medically unable to continue to perform her job. The district court also concluded, however, that the acts complained of were unconstitutional but nevertheless back pay was not awarded because any such damages would ultimately come from the city and, therefore, to hold otherwise would be "to circumvent" the immunity conferred on municipalities by *Monroe v. Pape*.

The Circuit Court of Appeals for the Second Circuit affirmed the district court, holding that the Board was not a "person" under § 1983 and that although the individual defendants were "persons" a damage action against the officials sued in their official capacities could not proceed. The United States Supreme Court granted certiorari. The majority opinion written by Mr. Justice Brennan contains a

detailed review of the legislative history of the Civil Rights Act of 1871 and an analysis of prior decisions concluding that Congress *did* intend municipalities and other local government units to be included among those persons to whom § 1983 applies; and that local governing bodies can be sued directly under § 1983 for monetary, declaratory, or injunctive relief where, as in *Monell*, the action that is alleged to be unconstitutional implements or executes a policy statement, ordinance, regulation or decision officially adopted and promulgated by that body's officials. The court said further:

"Moreover, although the touchstone of the § 1983 action against a government body is an allegation that official policy is responsible for a deprivation of rights protected by the Constitution, local governments, like every other § 1983 'person', by the very terms of the statute, may be sued for constitutional deprivations visited pursuant to governmental 'custom' even though such a custom has not received formal approval through the body's official decisionmaking channels."

The majority opinion limited its holding to some extent saying:

"On the other hand, the language of § 1983, read against the background of the same legislative history, compels the conclusion that Congress did not intend municipalities to be held liable unless action pursuant to official policy of some nature caused a constitutional tort. *In particular, we conclude that a municipality cannot be held liable solely because it employs a tortfeasor—or, in other words, a municipality cannot be held liable under § 1983 on a respondent superior theory.*" (Emphasis added)

Thus, a local government may not be sued for an injury inflicted solely by its employees or agents except in cases where execution of government policy or custom, whether made by its lawmakers or by those whose edicts or acts may fairly be said to represent official policy, inflicts the injury that the government as an en-


tity is responsible under § 1983.

The majority opinion went further to make plain that the decision in *Monell* goes not further than the actual facts saying:

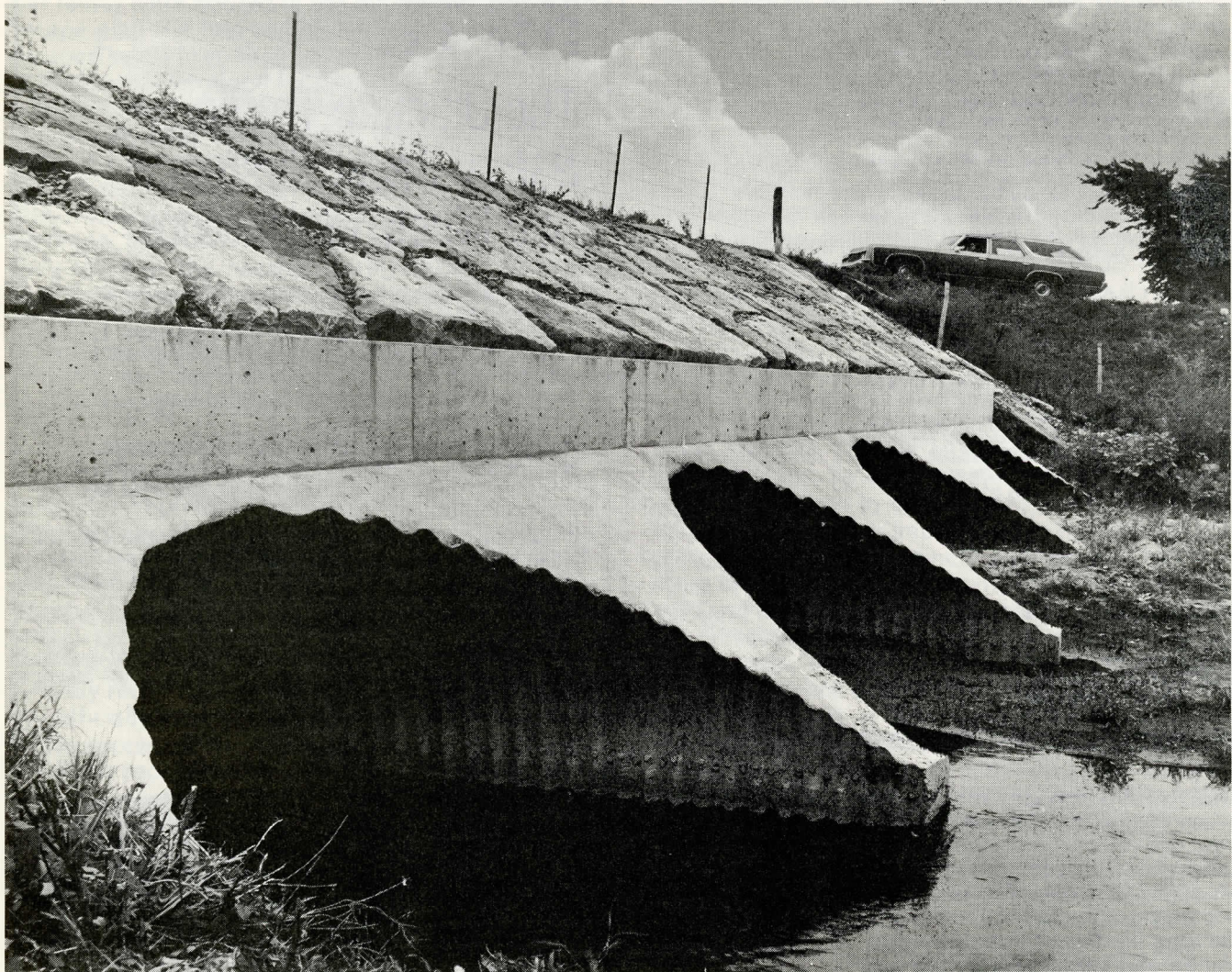
"We have no occasion to address, and do not address, what the full contours of municipal liability under § 1983 may be. We have attempted only to sketch so much of the § 1983 cause of action against a local government as is apparent from the history of the 1871 Act and our prior cases and we expressly leave further development of this action to another day."

Justice Rehnquist and the Chief Justice dissented in a separate opinion written by the former in which the majority is criticized for disregarding the doctrine of *stare decisis* and overruling *Monroe v. Pape*, saying that the doctrine of municipal immunity enunciated in *Monroe* has protected municipalities and their limited treasuries from the consequences of their officials' failure to predict the course of the Supreme Court's constitutional jurisprudence.

The majority opinion in *Monell* is a classic example of judicial flip-flop; it represents a further erosion of municipal immunity and will undoubtedly have substantial financial impact on the management of local governments by governing bodies and officials.

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# Places

**MIDDLETOWN**—A joint meeting between the Town's Planning Commission and the Council produced a comprehensive landuse plan which set some guidelines for the future population of the Town. According to the plan, the Town can expect a population of 1,400 persons by the year 2000 compared with its present population of 551. The main concerns are sewage facilities, the economic forecast and commercial growth.

**FALLS CHURCH**—The Council is considering a possible tax incentive for solar energy equipment in private homes. The ordinance would allow the cost of purchasing and installing solar energy equipment to be exempted from real estate property taxes. This move follows the Fairfax County measure, the only one in Virginia which allows such tax breaks.

**SALEM**—City Council has passed an anti-litter ordinance that includes a jail sentence for violators. Stiff fines for litterers are included in the measure, and for habitual offenders, there is a maximum confinement of 10 days. The proposed ordinance replaces the old litter law which levied a meager \$1 fine on convicted offenders.

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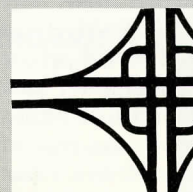
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